Justice and human rights

Interview with Mohna Ansari

Mohna Ansari is a member of the statutory National Human Rights Commission (NHRC). The first Muslim woman lawyer in Nepal, she was previously a member of the National Women’s Commission.

On the NHRC
During the conflict period and afterwards, the National Human Rights Commission has been viewed as an institution that will protect people’s lives. People also expect the Commission to act when their civil and political rights have been violated. There have been a lot of expectations of the Commission from all over the country and the international community has shown readiness to provide support. But, sometimes people may feel disappointed when they hear that the Commission does not execute its decisions: it can only tell the government what to do; there are no clear guidelines on what should happen if the government does not follow through. It is important to keep up the people’s confidence in NHRC.

On the NHRC’s work on transitional justice
We are also looking at conflict-era cases. Cases with NHRC will not just be handed over to the Truth and Reconciliation Commission or the Commission of Investigation on Enforced Disappeared Persons. We have encouraged people to file complaints with both Commissions. We tell them that is their right. But we also tell them that their testimonies are safe with us. We will not give those testimonies to the TRC without the consent of the victims.

But there are many problems, such as with the disappeared. The general understanding is that the NHRC has investigated many cases of disappeared people and it has not taken action on these. When someone goes missing, the family files a report with the police. But, they do not inform the police once that person returns home. Hence, people demand their rights from the state, but forget that they have responsibilities too. So, we are filtering such cases.

On transitional justice
The promulgation of the constitution does not mean the transition has come to an end. It will not be complete
until restorative justice has been provided. There is not much appreciation of the fact that conflict victims are not only from the Maoist side. There are those from the side of the army and others. Until all of these are dealt with and matters of reparations agreed upon, this issue is not going to be settled.

We have been putting pressure on the government to provide resources to the two commissions so that they can function properly. These were formed after eight whole years [since the Comprehensive Peace Accord (CPA)]. If you look at the CPA, it commits to the formation of the Truth and Reconciliation Commission soon after the CPA.

But we at NHRC also have some reservations [about the transitional justice process] as well. The main issue is that of witness protection. The other is the proposed amendments that aim to remove certain categories of crimes from the process. Not everything should be viewed from a political angle. If certain incidents happened in the past, the commissions should be allowed to investigate them and find the truth no matter who was responsible.

Our concern is that there should not be any compromise on the issue of torture, extra-judicial killings, sexual violence against women and also on international principles.

On the behaviour of the state
It is difficult to find real change in the attitude and behaviour of the state bureaucracy towards marginalised communities, and even less so towards women. The laws have been very beautifully framed on the question of women. But, when we try to implement them, we find resistance from the bureaucracy.

I face that myself from time to time in my personal dealings. I don’t know if that is because of my gender or my social background. They tend to treat me flippantly. Perhaps if it had been someone else in my position they would have taken them more seriously. That’s why I have begun to tell people, don’t judge me by who I am, but by what I say.

On Nepal’s international commitments
International opinion matters a lot to Nepal. This is linked to international goodwill, reputation and also aid, since we rely a lot on international funding. But, equally important is how we honour our commitments under various instruments. There is still discrimination, though. Take the case of CEDAW [the Convention on the Elimination of All Forms of Discrimination against Women]. We have signed up to it but according to the current constitution a man can easily pass on citizenship to his offspring, but a woman cannot. In that sense, the constitution accepts me, a woman, as a person, but refuses to recognise my identity and provide equal rights.

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