



## PRESS RELEASE

### **Nepal Takes a Big Step towards a Comprehensive Criminal Law but Current Drafts Fall Short of the Constitution and International Law**

(Kathmandu, 19 April 2011) – Advocacy Forum-Nepal (AF) and the Redress Trust (REDRESS) today welcomed the big step taken by the government to table bills for a new Penal Code, Criminal Procedure Code and Sentencing Act before the Parliament; but raised concern that some of the provisions fall short of international law to which Nepal is a party and of provisions in the Interim Constitution.

After submitting a summary of key recommendations in relation to the proposed bills at the Ministry of Law, Justice and Parliamentary Affairs, AF's Executive Director, Mandira Sharma, said: "The draft criminal code has many improvements on the *Muluki Ain*, which we welcome. Given a country changes its key statutes like these only once in a lifetime, it would be a big missed opportunity if the shortcomings in the bills are not addressed before they become law."

The critical and pragmatic analysis of the draft legislation has been drafted by AF and REDRESS. AF is a Nepali non-governmental organisation (NGO) that works to promote human rights and rule of law and REDRESS works internationally to assist victims of torture and related international crimes to obtain justice and reparation.

The submission to the Ministry of Law, Justice and Parliamentary Affairs (which will also be provided to the Legislative Committee of the Parliament) draws on the extensive experience of both organisations and presents recommendations regarding the right to a fair trial and from the perspective of victims of enforced disappearances and sexual violence.

Advocacy Forum and REDRESS welcome many provisions in the bills, including the criminalization of torture and enforced disappearances, provisions on unlawful detention, the guarantee of due process rights (such as the right to be present during a hearing) and the establishment of a Victim Relief Compensation Fund.

The submission addresses key human rights issues that remain problematic in both the current and proposed criminal legislation: "As organisations active in protecting human rights, both Advocacy Forum

and REDRESS know it is important that we ensure this legislation does not pass without protecting such rights. For instance, the current draft fails to recognise that men, boys and those of third gender also need to be recognised as potential victims of rape.” Carla Ferstman of REDRESS further commented that “The rights of children must be better protected. The proposed maximum penalty for the crime of child sexual abuse of up to 2 years is appallingly low given the particular vulnerability of child victims to intimidation and exploitation.”

Both NGOs are also concerned about the lack of public consultation on the Code, which will affect citizens on both sides of the law. Mandira Sharma explains: “Why is it important that we get this right? Because victims have their lives shattered by crime and the law makes obtaining justice an uphill struggle; because people are denied access to a lawyer for far too long; because enforced disappearances should never be allowed to happen again, and if they do, those responsible should be held to account.”

AF and REDRESS join with other NGOs in requesting the Minister to make a public call for considered inputs on the draft legislation: “We need to ensure that this legislation makes the changes Nepal needs. With recognised national organisations leading consultations on themes of their expertise, soliciting inputs and submitting comprehensive recommendations to the Ministry, we can ensure that these laws do not repeat the mistakes of the past and fulfil their promise to protect the rights of citizens of Nepal.”

**To read Advocacy Forum and the Redress Trust’s key recommendations and full submission on the draft legislation to the Ministry of Law, Justice and Parliamentary Affairs please visit:**

<http://www.advocacyforum.org/downloads/pdf/press-statement/Summary-of-recommendations-and-concerns-on-Criminal-Code.pdf>

**For more information, please contact:**

In Kathmandu, Mandira Sharma (English, Nepali): +977-985-10-48-475

In London, Sarah Fulton (English): +44-20-7793-1777