

Human Rights Accord Prerequisite for UN Role in Peace Process

By BIPIN ADHIKARI

The National Human Rights Commission has finally given its comment on the recent ambiguous press release issued by the Communist Party of Nepal (Maoist) leader Prachanda, regarding the possible role of the United Nations to help resolve the current political impasse. In his press release, Prachanda had expressed willingness for a settlement negotiated under the auspices of the United Nations, and had proposed putting both the Royal Nepal Army and the People's Liberation Army of the Maoists under U.N. supervision while a constituent assembly is elected to draft a new constitution that will define a role for each of the political contestants.

Acknowledging the call of the Maoists, the Commission said that the request made by them regarding the role of the United Nations does not make much sense in the given situation. It said it is of the view that for the United Nations to mediate peace talks in Nepal, the Nepal Communist Party (Maoist) has to show commitment towards lasting peace in the country and also commit itself to the Human Rights Accord that the Commission has recommended to both the Maoists and the state for their consideration. The puzzle at present is that, on one hand, they request the mediation of the United Nations and, on the other, show no commitment towards the signing of the said Accord, which alone can give a basis for it.

The Human Rights Accord as put forward by the Commission clearly states the monitoring role of the United Nations. The Accord not only deals with the disciplining of the behaviour of the parties to the conflict but also lays emphasis on the enforcement of human rights instruments and international humanitarian laws.

Despite the repeated calls from within the country and abroad, the prospect of human rights in the country remains vague and precarious. As specified in international human rights treaties ratified by Nepal, the government is not only held accountable for direct infringements on human rights, but also for failure to enforce the rule of law. The Royal Nepalese Army continues to inflict heavy civilian casualties in its operations, and hundreds of individuals appear to have been killed in army detention. Military pressure on the Maoists may be useful in helping build momentum for a lasting peace agreement, but the curve of the war thus far has demonstrated that unchecked government abuses have only aggravated the already deplorable human rights situation. A common denominator has been the passivity or total inaction of the institutions charged with administering justice in investigating and punishing these occurrences.

The difficulty in getting the government to uphold the rule of law in the present has a lot to do with impunity for the criminal actions of

the members of the security forces. These crimes are directly related to a long-standing state of impunity in which the overwhelming majority of those who commit, order, plan or cover up human rights violations are never brought to justice. The lack of accountability of those responsible effectively means that the perpetrators are free to commit further abuses, without fear of being punished or having to answer for their actions. In contrast, the victims and their relatives, defenseless and without hope of learning the truth or seeing that justice is done, frequently face complete despair.

The National Human Rights Commission considers that it is necessary to bring to justice in the course of fair trials those

Acknowledging the call of the Maoists, the Commission said that the request made by them regarding the role of the United Nations does not make much sense in the given situation. It said it is of the view that for the United Nations to mediate peace talks in Nepal, the Nepal Communist Party (Maoist) has to show commitment towards lasting peace in the country and also commit itself to the Human Rights Accord that the Commission has recommended to both the Maoists and the state for their consideration.

responsible for human rights violations such as extrajudicial killings, disappearances, torture, ill-treatment and death threats, after carrying out immediate, independent, impartial and full investigations into the allegations. It has also repeatedly called on the government to afford remedies and compensation to victims of human rights violations committed by state officials, or by individuals acting with the consent of the state. Such reparation should include restitution, financial compensation and the means of rehabilitation, including care and medical assistance to help the victims and their relatives over-

come the consequences of physical and psychological injury. It should also include the legal means necessary for restoring the victims' dignity and reputation and satisfaction and guarantees of non-repetition.

These interventions apart, it is also necessary to improve state competence and capacity to fully, independently and impartially investigate human rights violations; to ensure that such investigations are carried out without interference by members of the security forces and that those engaged in conducting investigations or providing information to them are protected from outside interference. So far the state has not demonstrated its political will to fight impunity which may prevent the justice being done. Similarly, it has not realized efficient steps to fully implement the international human rights laws, and stop carrying out so called encounter killings, which are the most heinous of military abuses.

The signing of the Human Rights Accord can also ease Nepal's tripolar political conflict among the monarchy, parliamentary parties and republican Maoists in some way. That will give people a feeling that the prospect of democracy has not gone forever, and that if human rights continue to be respected, the good days will be back soon. ■

[Adhikari is a lawyer. He may be accessed at human_rights_nepal@yahoo.co.uk]