

Nepal in 60th Session of UN Human Rights Commission in Geneva

By BIPIN ADHIKARI

The UN Human Rights Commission, the world's most important rights forum has started its 60th session amid mounting calls for reform. Being the world's pre-eminent human rights body within the United Nations, it has the principal responsibility to uphold human rights and denounce violations wherever they occur.

For the next six weeks the 53 member states of the UN Human Rights Commission will work its way through an agenda covering such topics as human-rights violations around the world; racism; the rights of minorities, migrant workers, and indigenous peoples; the rights of women and the prevention of violence against women; the rights of children, the prevention of torture, disappearances, and summary executions; efforts to end religious intolerance; the promotion of economic, social and cultural rights; and the advancement of the right to development. Delegates will hear about the use of torture in Iran, violence against women in Saudi Arabia, and the abduction of children by militias across Africa. Burma may finally come in for a scolding, after years of military atrocities. Israel, as usual, will face numerous resolutions condemning its treatment of Palestinians. Nepal is of course going to be one of such

countries whose treatment to the issue of human rights in its fight against Maoist 'people's war' will be subjected to a rigorous criticism.

Generally, Nepal has immense good faith in the world, and its friends are aware how this country has been made to experience extremely painful living in recent years. But this does not mean that they are prepared to ignore the issue of violation of human rights of the common people and the question of accountability. A key group of Nepal's donor countries are already said to be working to move a resolution against Nepal at the 60th session. The intention certainly is not to disrepute Nepal, but to warn it that its fight against the Maoist rebels must be fought within human rights parameters.

To give strength to the resolution, just on 9 March 2004, citing secret detentions, torture, the harassment of civilians and indiscriminate attacks, three United Nations human rights experts said they were deeply concerned by the "deteriorating situation" in Nepal. In a joint statement released in Geneva, the UN rapporteurs urged the Nepalese Government and the Communist Party of Nepal (Maoists) to sign and implement the Human Rights Accord immediately and respect international human rights laws and norms. The UN Special Rapporteur on torture, Theo van Boven, the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo, and the Chairperson-Rapporteur of the Working Group on arbitrary detention, Leila Zerrougui, said the human rights situation in Nepal has worsened since their last public warning in mid-November. Since then, the three rapporteurs are said to have sent 47 urgent appeals to His Majesty's Government

relating to the alleged detention of about 100 people in unknown locations.

Many reports going out of Nepal refer to an increasing incidence of harassment – including house searches, arrests and detention – of journalists, teachers, lawyers and trade unionists for expressing themselves on the conflict. Moreover, the rapporteurs also added they had received "disturbing reports of impunity of the security forces responsible for human rights violations, which include torture and other forms of ill-treatment of prisoners being held incommunicado. The three experts also said they were "seriously concerned" about indiscriminate attacks against civilians by both sides in the conflict between the Nepalese Government and the CPN (Maoist).

Just five days before the 60th session started, the National Human Rights Commission provided minimum immediate steps for human rights protection to the Government of Nepal based on the main trends it has found since its establishment in April 2000. These trends are indicated by the one thousand eight hundred complaints received as well as the field monitoring carried out in 58 districts of Nepal since June 2002, and most recently in 38 districts (since January 2004). Based on the number of incidents of human rights violations, the Commission has argued that the complaints it receives is only a small proportion of human rights violations suffered. Of the complaints it has received, over 90 percent are related to the Maoist conflict. These trends include grave challenges to the human rights of the people of Nepal, in particular, the demonstrated impunity of the armed services of the state.

The Commission has opined that the current defiance of court orders by the state agents is a constitutional crisis which threatens rule of law. Current procedures have proven inadequate for preventing and prosecuting the crimes of torture, rape murder and disappearances by state agents. Detailed guidance is provided by it for the independent and transparent investigations and prosecutions before the civilian courts which are needed to meet international minimum standards.

This includes the demand that persons alleged to have committed these crimes must be suspended from any official duties during the investigation. The Commission has also asked the government to ensure clear chain of command and control of its armed forces as well as its agents authorised to detain people. It has demanded that superior officers must be held responsible if they know, or should have known, that those under their command are committing these crimes and if they did not take all measures in their power to prevent, suppress or report them to independent investigations. These issues will certainly have some sort of impact on the opinion of those who are critical of what is going on in Nepal. ■

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