

UN Commission on Human Rights: Item 19 Statement on "Human Right's Assistance to Nepal"

By BIPIN ADHIKARI

The UN Human Rights Commission (UNHRC) wrapped up its 60th annual session in Geneva on April 23, amid criticism that it was too soft on governments that abuse human rights. This year, its 53 rotating member states also discussed several thematic issues, including human rights and counter-terrorism, the death penalty and violence against women. Switzerland, which hopes to become a full-member of the Commission by 2007, and which contributes annually to around 100 resolutions to the UN Commission on Human Rights as an observer state, had a crucial role this year to get a clear mention about Nepal in the Chairman's Item 19 statement related to the provision of advisory services and technical cooperation.

This statement has not satisfied everybody. In a way, many critics point out that the Commission has moved away from naming and shaming countries in favor of providing violators with technical assistance and that's very negative. This is the common comment of many critics about this statement is. In fact, the Commission on Human Rights has a mandate to denounce flagrant human rights abuses around the world, but the majority of states are only interested in protecting themselves. Political maneuvering in several cases have

led the majority of member states to take a soft stance on several critical issues. A number of NGOs attending the 60th session had criticism, for example, on handling of human rights matters related with Guantanamo, China and Sudan. In fact, Amnesty International, the European Union and Switzerland also had urged the Commission to establish a mandate to monitor the human rights situation in Nepal and to support a long-term and adequately backed observer presence in the country. That could not materialize in the same spirit. The Commission had, nevertheless, succeeded in passing a resolution on the elimination of violence against women and a chairperson's statement on the human rights situation in Nepal – two issues that Switzerland had lobbied hard for over the past six weeks. With the support of European Union, Amnesty International and other allies, Switzerland was successful to bring Nepal in the fold of the offer of technical assistance.

The Commission on Human Rights approved on April 21 the statement of its Chairman related to the provision of advisory services and technical cooperation under Item 19. In this statement on human rights assistance to Nepal, the Commission had expressed its concern at the human rights situation since the breakdown of the ceasefire on 27 August 2003, and at the growing number of civilian victims because of ongoing violence. It had appealed to the Nepalese Government to strengthen its efforts to ensure the enjoyment of fundamental rights by all people in Nepal; condemned the indiscriminate violence perpetrated by the Communist Party of Nepal (CPN-Maoists), including the use of children in armed conflict, and strongly appealed to the Maoists to respect the human rights of all people and to renounce violence. It had encouraged the Government in its efforts to investigate and prosecute all violations, including those committed by the security and armed forces.

In this context, the Commission had also welcomed the Government's "Commitment on the implementation of human rights and international humanitarian law" of 26 March 2004, in particular, its commitment to promote and protect human rights and fundamental freedoms and to fulfill all its international obligations.

The Commission supported the efforts of the Government and the Office of the High Commissioner for Human Rights aimed at developing technical assistance and advisory services and to facilitate necessary external assistance, especially to the National Human Rights Commission, including through the signing of a memorandum of understanding, and strongly encouraged the Government to continue its efforts to these

ends and welcomed the fact that the Government had extended invitations to the special rapporteurs of the Commission to visit Nepal. It encouraged the Government to cooperate fully with them and to implement their recommendations. The Commission also welcomed the signature by the Government of Nepal of the optional protocol to the Convention on the Rights of the Child over the involvement of children in armed conflict and appealed to the Government to ratify the instrument.

What is notable is that there was no mention in the statement of the Chairman of the UN Commission on Human Rights on the issue of protection of human rights and fundamental freedoms while countering terrorism. It did not call the Government of Nepal to ensure that any measure taken to combat terrorism be complied with the Government's obligations under international law. Similarly, the Maoist violence was not condemned much except in the case of use of minor children. This may give a wrong impression to many people that Maoists are human rights friendly in other matters involving their insurgency.

It is not that there is no impact of the Chairman's statement. There is definitely some impact, and the local institutions in Nepal need to play significant role on that score. Just a day after the approval of Chairman's statement on human rights assistance to Nepal, the United States urged Nepal to restore a multi-party democracy to better the human rights situation. It said it strongly supports restoration of a multi-party democracy through the electoral process.

Emphasizing that Nepal's leaders, the King and its politicians, need to set aside their differences and work together, a statement released by the State Department advised that the government and the military must also establish and maintain an improved human rights record in order to earn the trust of the Nepali people. Emphasizing that there can be no military resolution of this conflict, the statement pointed out that legitimate grievances of Nepalese people must be resolved through peaceful, political means. This statement from a country, which supposedly had a major role in blocking the resolution against Nepal in the 60th session, is certainly encouraging. ■

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