

Mission human rights

By BIPIN ADHIKARI

Louise Arbour, the United Nations High Commissioner for Human Rights, is in Nepal on what has been described as her mission to carry out a "first-hand assessment of the [human rights] situation" in this troubled country.

Arbour's visit is itself a proof of the fact that Nepal has lost its image of a human rights sensitive political system, and serious interventions have become necessary to reverse the ongoing human rights catastrophes. At a time when disturbing information like employment of heinous techniques by the security side to cover up human rights violations, like burying or cremating victims' bodies and coercing locals to sign statements attributing other causes to the executions are originating in the country, the claims of the human rights monitoring bodies like the National Human Rights Commission (NHRC) that they still are struggling hard for unhindered access to the premises of security forces are certainly alarming.

In this context, the eyes of all human rights defenders in Nepal are on Louise Arbour. She has been meeting the King, the Prime Minister and many other officials including the civil society organizations performing key roles in the context of the Maoist conflict that has been the source of serious human rights abuses in the country. Although her visit is set on the background of the Memorandum of Understanding signed on December 13, 2004 between OHCHR and His Majesty's Government, which is aimed at helping the National Human Rights Commission (NHRC) to develop its capacity to deal with the ongoing human rights violations and abuses, her major concern is to warn the state as well as the Communist Party of Nepal (Maoist) of the human rights and humanitarian disaster the country is heading towards. She will also caution the parties to the conflict about the urgency of carrying out nationwide monitoring and investigations of human rights violations in an independent, impartial and credible fashion and end the culture of impunity that has shown pervasive presence in the country since a couple of years.

It needs to be noted here that the High Commissioner is visiting Nepal just after six weeks of the visit of the Working Group of the UN Commission on Human Rights (UNCHR) on Enforced or Involuntary Disappearances. At the end of the visit the group had called on the political and military authorities to honor their international human rights law obligations, the Constitution of Nepal, the Commitments of His Majesty's

government of March 26, 2004, and the existing Human Rights Directives of the Royal Nepalese Army in order to stop disappearances.

It also had demanded that a complete prohibition on incommunicado detention in the army barracks must be enforced. Highlighting that human rights defenders must be protected from persecution for their work, as required under international law, the Working Group had asked the Government to ensure unhindered access to NHRC to all places of detention - without prior notification or permission. It had also advised that "simple acts such as the creation of up-to-date and accessible lists of detainees in each place of detention and a national registry, as well as the granting of access for families and lawyers, would address many of the problems of disappearance in Nepal."

In July 2004, eight independent thematic experts of the UNCHR (which included Special Rapporteur on torture) had indicated that since the beginning of this year, they had transmitted 146 urgent appeals and other communications to the government regarding reported violations of human rights. Many of the communications concerned individuals arrested by security personnel, often on suspicion of supporting or being involved in activities of Maoist groups. It was reported that these individuals were subsequently taken to undisclosed locations, which put the detainees at risk of being tortured or of suffering other forms of cruel, inhuman or degrading treatment, including rape. The experts had regretted that the government had failed to respond to many of their appeals, and that it had provided virtually no information on the fate or location of people detained in unknown places.

Held in Geneva each year from mid-March until late April, the session of the UNCHR is the world's most important annual forum for discussing human rights issues. It is under constant pressure to denounce Nepal for its human rights failures. During its 60th session last year, the Commission had, despite such pressures, leniently adopted a Chairman's statement on Nepal expressing support for the government's efforts and those of the OHCHR aimed at developing technical assistance, advisory services and to facilitate the necessary external assistance to the government, especially to the NHRC, to make it capable of addressing human rights violations.

Without criticizing Nepal, it had just appealed to the government to strengthen its efforts to ensure the enjoyment of fundamental rights and condemned the indiscriminate violence perpetrated by the Mao-

ists. It had also encouraged the government in its efforts to investigate and prosecute all violations, including those committed by the security and armed forces. The government was not really able to appreciate these milder admonitions.

While the 60th session was going on, the acting High Commissioner for Human Rights, Bertrand Ramcharan, had welcomed the March 26 declaration by the Government of Nepal reaffirming its commitment to its international human rights and humanitarian law obligations. He had pointed out that the Government's Commitment on the Implementation of Human Rights and International Humanitarian Law would help protect civilians from the armed conflict and contribute to building confidence. He had stressed that in order to be effective as a tool for human rights protection, the government's declaration needed to be accompanied by a firm commitment to nationwide monitoring of adherence to international standards, under the aegis and mandate of the NHRC. Unfortunately this could not happen.

In the same month, three independent experts of the UNCHR on torture, the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on arbitrary detention - had noted that since November 12, 2003, when they drew attention publicly to reports of secret detention in Nepal, 47 urgent appeals relating to approximately 100 persons had been sent out, most of them concerning detentions in unknown locations. Many reports referred 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. A number of former detainees alleged that they had been tortured or subjected to other forms of ill treatment while being held incommunicado. The experts also mentioned about receiving disturbing reports of impunity of the security forces responsible for human rights violations.

The Office of the High Commissioner has been calling both parties to the conflict to sign urgently the Human Rights Accord as a mark of their commitment to international human rights and humanitarian law. This is also still due.

They all show that Louise Arbour has many things to charge the government and its adversary on. This, of course, includes the emphasis on the resumption of the peace process which is what the people of Nepal want more than any other thing at present.

(The writer is a law...)