



Ref: 457/2009

24 July 2009

Honorable Chairperson,

I am writing further to the meeting that we had this morning to discuss the current political and human rights situation in Nepal. The meeting was very useful and I would like to thank you for your continuing commitment to support action addressing impunity and promoting and protecting human rights in Nepal.

As requested by you, I am hereby providing further information regarding the issues and the cases that we discussed for further consideration and action to be taken.

1. Disappearance Bill

OHCHR views the establishment of the Commission of Inquiry on Disappearances and Truth and Reconciliation Commission as important given their centrality as key transitional justice mechanisms whose establishment was foreshadowed in the Comprehensive Peace Agreement and other political agreements. While sequencing of the two mechanisms may be appropriate, OHCHR would request the UCPN-M to support adoption of a Disappearance Bill in line with international human rights standards (through amendment of the current draft) in the current parliamentary session as a matter of urgency.

2. Emblematic Cases involving UCPN-M

OHCHR recognises the UCPN-M's stated public commitment to cooperate with the civilian authorities in the investigations of cases of serious violations/abuses allegedly involving their cadres. OHCHR urges you as Chairperson, and the UCPN-M, to take concrete steps to ensure that this commitment is extended to full cooperation with the relevant criminal investigation processes.

In this regard, find below the cases that I raised in today's meeting and where specific cooperation is necessary:

Ram Hari Shrestha - Chitwan

Ram Hari Shrestha was abducted on 27 April 2008 and later died, allegedly due to severe ill-treatment received inside the PLA, Third Division in Chitwan. Five CPN-M cadres have been formally charged in connection with the incident: Govinda Bahadur Bataala "Jibit", Keshab Adhikari "Raghu", Ganga Ram Thapa "Atom", Kali Bahadur Kham "Bibidh", and Karki "Sankalpa". Govinda Bahadur Bataala has been arrested and is in pre-trial detention, while the remaining four are still at large. According to the Nepal Police, the PLA has not responded to two letters sent by them (on 23 May and 1 June 2008) requesting an interview with the PLA Third Division Commander. The Nepal Police has stated that they need cooperation from UCPN-M and PLA in order to carry out the Chitwan District Courts order to arrest Kali Bahadur Kham "Bibidh".

OHCHR requests you as the Chairperson of UCPN-M to direct Mr. Kham to surrender himself to the Nepal Police and for UCPN-M and in particular the PLA to provide its full cooperation in order to locate the other suspects and to fully support the investigation of the killing of Ram Hari Shrestha.

Birendra Shah – Bara

Birendra Shah, a journalist, was abducted and allegedly killed by four CPN-M members on 5 October 2007 in Bara. Four individuals, Lal Bahadur Chaudhary, Kundan Phoujdar, Ram Ekbal Sahani and Hari Ram Patel were accused in the First Information Report filed at the District Police Office in Bara. A CPN-M report, under the coordination of Commander Pratik, was issued on 05 November 2007 and only acknowledged the involvement of three CPN-M cadres. Two of these cadres (Kundan Phoujadar and Ram Ekbal Sahani) were reported to have been stripped of their responsibilities in the party and CPN-M further committed to "active cooperation" in identifying other cadres responsible for the murder. Two persons (Ram Ekbal Sahani and Manager Giri) were arrested in November 2008 and are currently detained under pre-trial detention. Although it has been reported that Kundan Faujdar and Lal Bahadur Chaudari are reportedly currently in Bara district the police say that they have not been able to take appropriate steps, including detaining these suspects, due to political pressure exerted by UCPN-M.

OHCHR requests you to direct Lal Bahadur Chaudhary and Kundan Phoujdar to surrender themselves to the Bara Police and that the UCPN-M provides it full support in locating Hari Ram Patel and to support the police investigation into the killing of Birendra Shah.

Madi Bombing - Chitwan

On 6 June 2005, a bomb exploded in a public vehicle in Madi, Chitwan in which 39 persons were killed and 72 were wounded. CPN-M took responsibility for the incident and CPN-M at the central level carried out its own internal investigation of the incident. The CPN-M confirmed to OHCHR that five CPN-M cadres had been identified as being responsible for carrying out the bombing. Four of the five names were released publicly: Anak Bahadur Magar "Khisani"; Chandika Poudel "Sahash"; Ram Bahadur Kumar "Sujan" and "Harka". The full name of a further responsible cadre, referred to as Devendra (a PLA member) was not made public. Although the CPN-M had publicly made commitment to the victims of the Madi incident to ensure accountability for those responsible for the killing of civilians, none of these cadres has been subjected to criminal investigation or detained. The Nepal Police has been reluctant to conduct further investigations or proceedings into the incident without the active support of the UCPN-M.

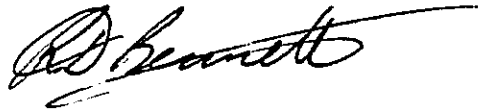
OHCHR therefore requests you to direct the UCPN-M to provide full support to the police investigation to locate those suspects whose whereabouts are not known to the Chitwan Police in order to hold those responsible to account. Reiterating its request made on previous occasions, OHCHR would also appreciate receiving 4 copies of the CPN-M documentation, including on investigations and accountability measures taken, in relation to the Madi incident.

Arjun Lama - Kavre

Arjun Lama was abducted on 29 April 2005, allegedly by CPN-M cadres, and later found dead. Following a Supreme Court Order, on 11 August 2008 the Nepal Police registered a FIR for murder case in which five CPN-M members including a Central Committee member were accused in the incident. After the Supreme Court decision, asking to register the FIR, CPN-M cadres organized a press conference threatening the human rights defenders and lawyers involved in pursuing the case. The CPN-M has also failed to cooperate with the criminal investigation of the Nepal police. OHCHR requests you to direct the UCPN-M to fully cooperate with the Police investigation and to refrain from any kind of threats or intimidation of human rights defenders.

Please do not hesitate to contact me for further information, or to discuss these issues or cases. OHCHR remains ready to support any efforts to address impunity and promote accountability in Nepal.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Bennett', with a long horizontal flourish extending to the right.

Richard Bennett
Representative of the High Commission for Human Rights in Nepal

Mr. Pushpa Kamal Dahal
Chairperson
United Communist Party of Nepal- Maoists
Kathmandu, Nepal