



# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

*" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "*

## **Joint letter from the International Commission of Jurists, Amnesty International and Human Rights Watch to Prachanda, Head of the Communist Party of Nepal (Maoist).**

Pushpa Kamal Dahal (also known as Prachanda) Communist Party of Nepal (Maoist) Nepal

20 May 2005

Dear Pushpa Kamal Dahal,

The undersigned organizations are writing to you in light of a number of statements you have made over the last few weeks regarding the observance of international human rights and humanitarian law by members of the Communist Party of Nepal (Maoist). While we welcome this declared readiness to comply with your legal obligations under internationally recognized rules of war, an ongoing wave of human rights abuses by Maoist forces over the last few months casts serious doubts on the credibility of your repeated public commitments to that effect.

We note that in a press release of 5 April 2005 the CPN (Maoist) publicly called for an international human rights monitoring presence in Nepal, arguing that such a mission presence would bring to light the violations by the Royal Nepal Army (RNA). At that time, the CPN (Maoist) also pledged to cooperate fully with any such mission, if established, and to be answerable for any human rights abuses by CPN (Maoist). On 12 April, you personally reiterated the pledge to fully support and cooperate with any human rights monitors. However, in an interview with Time magazine published on 18 April, you suggested that your party's ideology justified its abuses of international human rights and humanitarian law standards and that these abuses were somehow different - and less blameworthy - than similar abuses by the RNA. Although you also refer to efforts by the CPN (Maoist) to "correct mistakes," we are concerned by your lack of commitment to holding human rights abusers properly to account.

Examples of the lack of commitment to human rights by the CPN (Maoist) are plentiful. Maoist forces have staged several attacks recently on civilians and civilian objects, including political activists and schools. On 15 April, Maoists reportedly surrounded Bargadwa village, Somani VDC, Ward 7 in Nawalparasi district and rounded up all villagers. They then reportedly separated all the boys and men aged between 14 and 40 and summarily executed ten men and one boy. On 29 April, Maoist cadres reportedly abducted and killed Dan Bahadur Shreebastav, chairman of the Kapilvastu District Monitoring Committee, and on 9 May shot dead Bhagwan Das Shrestha, chairman of the Chitwan District Monitoring Committee. None of these victims were legitimate military targets.

Last month, Maoist forces also carried out a spate of attacks on schools in the context of a two-week campaign for the closure of all private schools initiated on 14 April 2005. Among the schools targeted were a school in Nepalgunj, Banke district, on 17 April and another in Kalyanpur, Chitwan district on 21 April. Three children were reportedly injured when the Maoists threw a bomb at students at a school in Khara, Rukum district, on 17 April. Hundreds of schools across the country remain closed due to threats by Maoists. Furthermore, Maoist forces have regularly abducted large numbers of students from schools

for political indoctrination and propaganda campaigns. In a recent example, reports from Salyan district indicate that as many as 200 students from remote villages were abducted around 17 May. None of these targets can be described as military - they were all civilians and civilian objects the targeting of which is prohibited under international humanitarian law.

We are also concerned that Maoist forces have abducted, tortured and killed civilians, whom they accused of "spying" and other crimes, and security force personnel whom they had captured. Among recent cases is Lila Singh, a 23-year-old karate practitioner from Mahendranagar, Kanchanpur district who was abducted from her home on 29 April allegedly on suspicion of spying. To date, her relatives have not heard anything about her fate or whereabouts. On 16 May 2005, Shanker Sarki, a soldier, who had returned home from Congo where he had served in the United Nations Peacekeeping Forces, was abducted from his home in Dhangadi, Kailali district by 12 armed Maoist cadres in civilian dress and killed. Torture and extrajudicial executions are similarly prohibited, under international law, in all circumstances. As you know, further to an agreement reached between the Government of Nepal and the UN Office of the High Commissioner for Human Rights (OHCHR) on 11 April 2005, OHCHR is establishing an office in Nepal to monitor and investigate abuses of human rights by both parties to the conflict. We see this as an important opportunity to improve the rapidly deteriorating human rights situation in the country.

We urge you to take all measures necessary to comply with your obligations under international humanitarian law and to undertake to respect applicable international standards regarding protection of human rights. Specifically, we call on you to publicly prohibit CPN (Maoist) forces from engaging in targeting civilians and civilian objects and carrying out indiscriminate attacks, arbitrary killings, torture and other ill-treatment, taking hostages and recruiting child soldiers. We also call on you to remove from their post any CPN (Maoist) cadres who are responsible for human rights abuses. As an important step in this undertaking, we call on you publicly to pledge full cooperation with the OHCHR mission, to pledge to uphold the rights set out in the Human Rights Accord drafted by the National Human Rights Commission in 2004 and to instruct all (CPN) Maoist forces to do the same.

With reference to your interview of 18 April, we remind you that the civil war in Nepal falls under the purview of international humanitarian law. Among the fundamental protections during internal armed conflicts are those contained in Common Article Three in the four Geneva Conventions of 1949, regarding the treatment of persons taking no active part in the hostilities. This article prohibits, among other things, summary executions, torture and other ill-treatment, the taking of hostages, and punishment without fair trial. Credible information indicates that CPN (Maoist) forces routinely violate Common Article Three by engaging in brutal and abusive activities against civilians and others not taking active part in hostilities.

We point out that Common Article Three binds both states parties and insurgent groups. Adherence is not based on reciprocity and one party to the conflict cannot excuse its own violations of Common Article Three on the basis that the other party to the conflict is also violating it. The arguments set out in the interview published on 18 April that RNA abuses "outnumber" abuses by your forces or that your ideology justifies your actions in no way exempt you and your forces from your obligations under international law.

We call on the CPN (Maoist) to begin immediately to establish mechanisms for cooperation with the UN human rights monitoring mission, including mechanisms to allow transparent and independent investigations by the UN teams in areas under (CPN) Maoist control. We urge you to ensure that this message reaches every cadre in the ranks of the CPN (Maoist) forces. It is only through a transparent and engaged effort by both sides to this conflict that Nepali civilians, who have borne the brunt of this brutality, will have a chance for peace and justice.

The nine-year-old civil war in Nepal has already claimed over 12,000 lives and injured thousands more. It has resulted in massive displacement of people and gross human rights abuses. Both sides to the conflict have systematically flaunted their responsibilities to protect civilians and captured combatants. Yet each side is responsible for the conduct of its own forces and cannot justify abuses by pointing to the poor conduct of the other side.

We call on you to demonstrate that the forces under your command will respect their international obligations and cooperate in full with UN monitors trying to protect the rights of the people of Nepal.

We look forward to your immediate response.

Yours sincerely, ???

Purna Sen ?Director, Asia-Pacific Programme ?Amnesty International

Nicholas Howen?Secretary-General ?International Commission of Jurists

Brad Adams ?Asia Director?Human Rights Watch