
NEPAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

A climate of political stalemate has prevailed in Nepal since the Government's fall in May 2009. Mr. Pushpa Kamal Dahal ('Prachanda'), Chairman of the Communist Party of Nepal (Maoist) (UCPN-M), who had been elected as the first Prime Minister of the Republic of Nepal in August 2008, resigned on May 4, 2009 following differences with President Yadav over the dismissal of the Chief of Army, Mr. Rookmangad Katwal. On May 23, former General Secretary of the Communist Party of Nepal (United Marxist-Leninist), Mr. Madhav Kumar Nepal was elected Prime Minister¹. Since then, the peace process of Nepal, started in 2006, has stalled with Maoists blocking parliamentary proceedings, declaring strikes and protesting in the streets for "civilian supremacy" over the Nepal army². There is a risk that increased violence by political parties and affiliated groups, as well as subsequent retaliation threats, further jeopardise the process³. With the current political crisis, lawmakers are well behind schedule in drafting the new Constitution, which must be completed by May 28, 2010 when the Interim Charter expires⁴.

It is in this turbulent context that the Government of Nepal welcomed in March 2009 the visit of the UN High Commissioner for Human Rights, Ms. Pillay, who took the occasion of her visit to recall that the peace process could be jeopardised if justice was not ensured for the victims of past and

1/ See Delegation of the European Union to Nepal Fact Sheet on www.delnpl.ec.europa.eu.

2/ Maoists want the President to apologise for his move to reinstate the army chief, which they say was unconstitutional, and call for a parliamentary debate over the extent of the President's powers. See Office of the High Commissioner for Human Rights in Nepal (OHCHR-Nepal) and Informal Sector Service Centre (INSEC).

3/ See United Nations Press Release, June 11, 2009 and OHCHR-Nepal Press Release, December 20, 2009. OHCHR-Nepal expressed particular concern about the violence that erupted on December 20, 2009 on the first day of the general strike called by the UCPN-M, especially at New Baneshwor, Kathmandu. A number of police officers and protesters were injured. Police were observed to use excessive force on the crowd, including inappropriate use of lathis (long batons) and tear gas, and even stone-throwing.

4/ The Interim Constitution was passed on January 15, 2007.

ongoing human rights violations⁵. The decision of the Government and the UCPN-M, mid-July 2009, to finally launch the discharge and rehabilitation process for 4,008 Maoist combatants, including 2,973 minors, constitutes in this regard a positive development⁶. However, serious concerns were expressed about the promotion of Major General Toran Jung Bahadur Singh to Lieutenant General and second-in-command of the Nepalese Army despite widespread opposition⁷.

Furthermore, populations in some areas of Nepal continued in 2009 to be subjected to violence by armed groups, which allegedly include members of former vigilante groups created and armed by the Government during the civil war⁸. Thus, 2009 saw a re-emergence of fake “encounter” killings and an increase of incidents of torture in the Terai districts (southern Nepal): from January to December 2009, the human rights NGO Advocacy Forum documented 18 cases of possible extrajudicial executions in Terai districts⁹. Impunity for human rights violations committed by the State security forces has been and continues to prevail in Nepal. Police continue to refuse to file complaints from relatives and to register First Information Reports (FIRs)¹⁰. The poor security conditions and erosion

5/ See United Nations, *UN High Commissioner for Human Rights, Navi Pillay - Statement to the Media*, March 22, 2009. The major issues relate to the return of land seized, as well as to the launching of investigations into cases of arbitrary detention, torture and extrajudicial killings. See OHCHR-Nepal, Letter of July 26, 2009 addressed to the Prime Minister of Nepal, calling upon the Government to take action against perpetrators of arbitrary detention, torture and disappearance that took place at the Nepal Army's Maharajgunj barracks in 2003 and 2004, as well as against perpetrators of violations occurring in Bardiya district between 2001 and 2003.

6/ See United Nations Mission in Nepal (UNMIN) Press Release, July 17, 2009. Government's failure to investigate and prosecute extrajudicial killings during the internal armed conflict (1996-2006) contributes to the ongoing culture of impunity. More than 60 cases of extreme violent extrajudicial killings are listed, but the Government has failed to prosecute anyone. See Human Rights Watch and Advocacy Forum Report, *Still Waiting for Justice - No End to Impunity in Nepal*, October 2009.

7/ On this occasion, OHCHR-Nepal recalled that “those implicated in credible allegations of human rights violations committed by members of the 10th Brigade in 2003 and in 2004, when General Singh was in command, should not be promoted pending completion of a full, transparent and impartial investigation”. See OHCHR-Nepal Press Release, December 24, 2009.

8/ See UN General Assembly, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, UN Document A/64/187, July 29, 2009.

9/ See Advocacy Forum Report, *Torture and extrajudicial executions amid widespread violence in the Terai*, February 2, 2010. The report documents 12 incidents of possible extrajudicial executions, mostly by members of the Nepal Police (NP). Two cases involved members of the Armed Police Force (APF). Eight of the killings concern members of political groups operating in the Madeshi communities in southern Nepal. Each of these is presented by the security forces as killings during “encounters” between the police and the alleged members of these groups. The report also shows that torture is widespread against detainees, and documents violence by armed political and criminal groups, including widespread rape, and highlights the failure of the police to bring those responsible to justice.

10/ In none of the 12 cases of alleged extrajudicial executions documented by Advocacy Forum have FIRs been registered despite repeated attempts by the relatives.

of rule of law have put human rights defenders under threat especially in Terai districts, as underlined by the Office of the UN High Commissioner for Human Rights in Nepal: “The lack of public security, in particular in the Terai, has had a negative effect on the ability of many professionals to operate, including human rights defenders, who are sometimes reluctant to carry out investigations and issue public reports for fear of retaliation, either by State authorities or armed groups”¹¹.

Although the situation for human rights defenders in Nepal has improved greatly since the Peace Agreement of 2006, some concerns remain. To that extent, OHCHR-Nepal urged the Government to put in place mechanisms to protect human rights defenders and allow them to undertake vital human rights work in an environment free from intimidation¹². However despite requests since 2003 from UN Special Rapporteur on Human Rights Defenders to conduct a visit to Nepal, the Government has not issued an invitation so far¹³.

Repression against human rights defenders fighting against impunity

In 2009, human rights defenders denouncing human rights violations and fighting against impunity remained targeted by security forces and other non-State actors. For instance, on April 7, 2009, as he was reaching the court with a witness, Mr. **Nanda Ram Bhandari**, a human rights lawyer working with the branch office of Advocacy Forum in Surkhet district, was manhandled, intimidated, and locked inside Surkhet District Court premises from 12:30 pm to 5 pm by a mob of around 30-35 people led by the leaders of the women’s wing of the UCPN-M and the revolutionary All Nepal Women’s Organisation, with the support of the Young Communist League (YCL). Mr. Nanda Ram Bhandari was then providing free legal assistance to a suspect prosecuted on charges of “murder”. The mob also pelted stone at his left hand, which caused small injury. Later on, he was released with the help of other lawyers from the District Court Bar and police. The mob also locked the main gate of the court and encircled the court till 5 pm when the police at last intervened to disperse it¹⁴. On June

11/ See OHCHR-Nepal, *Remarks by Richard Bennett, Representative of the UN High Commissioner for Human Rights in Nepal, delivered at the launch of OHCHR’s Handbook for Civil Society (in Nepali)*, November 30, 2009.

12/ See Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her office, including technical cooperation, in Nepal*, UN Document A/HRC/10/53, March 3, 2009.

13/ See OHCHR-Nepal, *Remarks by Richard Bennett, Representative of the UN High Commissioner for Human Rights in Nepal, delivered at the launch of OHCHR’s Handbook for Civil Society (in Nepali)*, November 30, 2009.

14/ See Advocacy Forum.

22, 2009, around 40-60 officers from Baglung district police office (DPO) beat up with bamboo stick Mr. **Baburam Adhikari**, a lawyer working with Advocacy Forum, and harassed and intimidated another Advocacy Forum staff, Mr. **Nilkantha Sharma**, who had come to monitor a strike and had urged the police not to use excessive force. One police officer said: “These idiot people of Advocacy Forum always file cases against the police to dismiss us from job. Thrash to these idiot human rights activists and load them into the van. These human rights activists always speak and write against the police”. From eight to ten uniformed police officers also forcefully loaded Messrs. Baburam Adhikari and Nilkantha Sharma to a police van and took them to the Baglung DPO. On the way to the police station, police officers scolded the two defenders with very offensive words. The Baglung district representative of the human rights NGO Informal Sector Service Centre (INSEC) was also arrested by the police¹⁵. Messrs. Baburam Adhikari and Nilkantha Sharma, along with INSEC Baglung district representative, were released about half an hour later following pressures from local human rights organisations. On December 10, 2009, DPO Jhapa in-charge Superintendent of Police Rabindra Prasad Sharma threatened Mr. **Deepak Niraula**, representative of the branch of Advocacy Forum in Jhapa, who had come to the police office to register FIRs on behalf of three victims – one who had been found dead while in police custody and two who were killed by security forces – and accused him of bothering him unnecessarily. He also threatened to take action against him if he continued, and to not allow the branch of Advocacy Forum in Jhapa to visit the DPO from then onwards. Subsequently, the police denied Mr. Deepak Niraula to meet detainees for about two months¹⁶.

Human rights defenders were also subjected to reprisals from members of the UCPN-M. On December 8, 2009, Ms. **Tika Bista**, a General Convention Member of the Federation of Nepali Journalists (FNJ), a member of FNJ Rukum district chapter and correspondent of *Rajdhani daily*, was attacked by a group of unidentified people in Rukum district, western Nepal. She was found unconscious in a bush near her home with a severe head injury and wounds inflicted by a razor blade on four fingers of the right hand. She had been thrown off the side of a cliff. A laptop and two mobile phones belonging to her were found damaged nearby. Documents written by the journalist were also scattered around the area. She sustained injuries to her head, leg and arms. In the past, she used to receive threats for articles she wrote and, on November 29, she had received a threatening call after publishing an article in the local *Jantidhara*

15/ *Idem.*

298 16/ *Idem.*

weekly that denounced the extrajudicial killing of the husband of a Constituent Assembly member by Maoists and criticised local members of the UCPN-M for using intimidation and threats. As of the end of 2009, Ms. Bista continued to undergo medical treatment in Kathmandu and the investigation remained pending¹⁷. Likewise, on June 27, 2009, YCL District Chairperson Bal Krishna Kafle threatened journalists **Labdev Dhungana** and **Kumar Ojha** following the publication of an article in *Kantipur* daily accusing YCL of corruption. The journalists were then taken to UCPN-M office and were kicked and hit with chairs by YCL cadres. On July 8, 2009, the case was finally settled after a discussion with all parties concerned was initiated by the FNJ¹⁸.

Violence against women human rights defenders

While the culture of silence and inaction by the State often results in a complete lack of accountability for sexual violence in Nepal, particularly in the eastern Terai, the police often either refuse to file such cases or to conduct proper investigations. Perpetrators regularly seek assistance from armed groups to intimidate the victims, human rights defenders and lawyers when they try to obtain justice, increasing further insecurity for people to speak out about sexual violence¹⁹. In this context, women's rights defenders in Nepal continued to face barriers to access justice and seek redress for acts of violence, including sexual violence and gender discrimination, and continued to be subjected to reprisals because of their activities. They remained at risk of attack in particular for daring to challenge the patriarchal and caste-based system. On April 9, 2009, Ms. **Kara Devi Sardar**, a women's rights activist, was beaten by relatives of Ms. Lalita Gurung, after she had called for the respect of the fundamental right of any person to marry and to choose freely her/his mate. Ms. Gurung had planned to have an inter caste wedding, which was vehemently rejected by her relatives. Immediately after the assault, Ms. Kara Devi Sardar approached the Illaka police station of Chimdi village, Sunsari district, but Sub Inspector Rajesh Chaudhari denied her legal right to file a complaint. On April 11, the Women Human Rights Defender Network Sunsari, and more than 500 women from eight Village Development Committees (VDC)²⁰, staged a demonstration in front of the police station in Chimdi VDC, in order to call for sanctions against the police officer and to denounce the denial

17/ See INSEC.

18/ *Idem*.

19/ See Advocacy Forum Report, *Torture and extrajudicial Executions amid widespread violence in the Terai*, February 2, 2010.

20/ A Village Development Committee (VDC) is the lower administrative part of the Local Development Ministry. Each district has several VDCs, similar to municipalities.

of access to justice, evoking at the same time the statement made by the Prime Minister on January 25, 2009, in which he committed to establish a complaint centre for women to register cases in order to end all forms of violence against women and criminalise caste-based discrimination against Dalits. The women were then assaulted and attacked with batons and rear end of guns by around ten police officers and four other unknown people. The police beat the women on the head, the chest, the thighs and the legs and some even tried to force the stick into the vagina of some women. At least 14 women were injured²¹. Journalists were also manhandled and their vehicle vandalised by the police²².

Urgent Intervention issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Kara Devi Sardar, Women Human Rights Defender Network Sunsari, Ms. Thakani Mehta, Ms. Sita Kamat, Ms. Bina Chaudhari, Ms. Sunita Sah, Ms. Laxmi Chaudhary, Mr. Rajan Niraula, Mr. Krishna Bhattraï, Mr. Gopal Kolirala, Mr. Sukudev Chaudhari and Mr. Binod Chaudhary	Physical assault / Denial of justice / Repression of a demonstration / Ill-treatments	Urgent Appeal NPL 001/0409/OBS 062	April 16, 2009

21/ Including Ms. Thakani Mehta, Ms. Sita Kamat, Ms. Bina Chaudhari, Ms. Sunita Sah and Ms. Laxmi Chaudhary, who were seriously injured and were brought to the Koshi Zonal Hospital for medical treatment.

22/ Including journalists Messrs. Rajan Niraula, Krishna Bhattraï and Gopal Kolirala, as well as Mr. Sukudev Chaudhari, INSEC representative who had investigated the incident at the police station. Mr. Binod Chaudhary, a member of the Women's Rehabilitation Centre (WOREC) in the Sunsari district, an organisation helping victims of domestic and sexual violence, was also threatened.