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Human rights situations that require the Council's attention

Written statement* submitted by the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 May 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Nepal: Serious concerns for the security of human rights defenders remain

1. The Asian Legal Resource Centre (ALRC) wishes to highlight the continuing need for closer monitoring by the Human Rights Council and the international community of the renewed threats and attacks that human rights defenders working in Nepal have had to face since the beginning of the year. Worries about potential reprisals from the former belligerents have arisen following progress in the investigation and prosecution of cases of human rights violations committed during the conflict. In a submission to the 22nd session, the ALRC had voiced its concern before this council that “Raising voice against impunity puts human rights defenders at risk”.¹ The ALRC regrets to have to say that those risks seem to have continued and even intensified, fuelling the need for urgent involvement from the international community to get the government of Nepal to commit to guarantee the safety of human rights defenders at all times and take legal action against those jeopardizing human rights work.

2. The attacks have intensified following the arrest of Nepal Army officer Colonel Lama in the United Kingdom, in accordance with the UK’s international obligations, on 3 January 2013. Colonel Lama was arrested and he is facing two charges of torture, for acts allegedly committed when he was in charge of the Goringhate Army Barracks in Kapilvastu, in 2005. In spite of the seriousness of the allegations pending against him, no legal action had been taken in Nepal. Instead of taking the opportunity to cooperate with the British authorities in the investigation and prosecution of the case, the government of Nepal has taken an unequivocal stance in favour of the alleged perpetrators. It protested diplomatically against Colonel Lama’s arrest and lobbied the UK government for his release. It did not acknowledge the seriousness of the accusations; neither did it seek to explain why, eight years after the fact, no investigation had been held into the acts of torture committed in the Goringhate barracks.

3. Further, the government has openly taken a stance against justice and accountability in the case of Dekendra Raj Thapa. Mr. Thapa was a journalist forcibly disappeared and murdered by Maoist cadres in Dhailekh District in 2004, at the heart of the decade long internal conflict. His body was exhumed in the jungle on 26 June 2008 and in August 2008 his wife filed a First Information Report on the abduction and murder of her husband. The police did not conduct an investigation under the pretext that the case would be dealt with by yet to be established transitional justice mechanisms. The legal fallacy of this pretext has been repeatedly exposed by Nepali NGOs and the ALRC to this council. Following a writ of mandamus issued by the Appellate Court of Surkhet District, the police eventually arrested five of the accused on 5 January 2013. This has triggered a wave of indignation from the ranks of the government and its supporters, with the then Prime Minister being reported to have ordered the Attorney General’s Office and Police Headquarters to stop the investigations into the case. His orders were not followed through though and the police are continuing their investigation into the case. In a public intervention, the former Prime Minister deplored the arrests and asserted that conflict-related cases should be dealt with by transitional justice mechanisms. Those arrested remain in judicial custody.²

¹ See A/HRC/22/NGO/77

² See NEPAL: Prime Minister’s order to halt investigation into the abduction, torture and murder of a journalist is of serious concern, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-003-2013>

4. Both cases have triggered a series of attacks against human rights defenders, accused of acting against the interest and the sovereignty of Nepal and being detrimental to the peace process. Since the end of the conflict, executive interference to shield government supporters from prosecutions has been routine and has considerably damaged the capacity of the criminal justice system to provide remedies to victims of human rights violations, and has exposed victims of human rights violations and human rights defenders to increasing pressure and threats to stop raising their voices for justice.

5. The ALRC wishes to bring to the attention of the Human Rights Council the following events:

- Public attacks by politicians and members of the former government against the work of human rights defenders, trying to turn the popular opinion against them. This puts the human rights defenders in a precarious situation, exposes them to attacks and jeopardizes their work on the ground. Following the arrest of those suspected of involvement in Dekendra Thapa's murder, the Prime Minister has publicly deplored the work of human rights defenders.
- The spokesperson of the Maoist party, Agni Sapkota has also accused the NGOs, specifically referring by name to a leading human rights NGO, Advocacy Forum and its Chairperson Mandira Sharma, of working against national interest in the search for profit, and blamed them for being behind the arrest of Colonel Lama in the UK and of Maoist cadres in Dailekh district. A senior government official warned Mrs. Sharma to be careful in relation to Col. Lama's case, leading the human rights defenders to worry about possible reprisals from the army.
- The ALRC is extremely concerned by reports that call for action against human rights defenders were carried out through several media outlets affiliated to the Maoist party, including the weekly magazine Lal Rakshak (Red Defender), the blog Krishnasenonline and various local FM radio stations. They have run programmes throughout January 2013 denouncing the work of human rights defenders, claiming that it is detrimental to the peace process. Further, they called for violent action to be taken against human rights defenders. The attention of the ALRC has been particularly caught by an article published in the January-February 2013 edition of Lal Rakshak, which targeted Mandira Sharma, the chairperson of Advocacy Forum-Nepal, Subodh Pyakhurel, Chairperson of the Informal Sector Service Centre (INSEC), and Kanak Mani Dixit, a journalist and editor of several magazines of acting against the Maoists, their political agenda and the peace process. Three other human rights defenders were also named, all active members of the Accountability Watch Committee, a committee formed to ask for accountability for human rights violations committed during the conflict. The article accused human rights defenders of having committed various crimes and contained several slanderous statements such as accusing them of involvement in corruption, labour exploitation and sexual violence. The article called for "People's action" against them. "People's action" was a term used by Maoist combatants during the civil war to refer to violent action taken as punishment against those seen as opposing the Maoist party. Throughout January 2013, three other newspapers and a radio station have relayed that call for violent action against human rights defenders. This has put the named human rights defenders at serious risk of attack and in fear for their lives. That those programmes were allowed to carry on without interruption is a serious breach of Nepal's international obligations to guarantee the security and working conditions of human rights defenders on its territory. The fact that high profile politicians publicly blamed human rights defenders as being destabilizing to the peace process indirectly condoned and supported those calls for attacks.

- Worryingly, those calls for “direct actions” against human rights defenders have translated into acts of violence. On 28 February 2013, in the jungle of Srinagar in Vidhyapur VDC-05, Surkhet district, Mr. Yadav Prasad Bastola, 32, Executive Director of the Human Rights Alliance, was assaulted and beaten with iron rods by 4 unidentified persons at around 7:30pm. His assailants had asked him whether he was the human rights defender who had published an article in a local newspaper earlier that week (an article denouncing the impunity surrounding the murder of a teacher in 2002 by a group of Maoist cadres, who accused the teacher of spying against them, and asking for compensation for the teacher’s family). The assailants threatened to kill him and only stopped beating him after being interrupted by the arrival of vehicles on the road. A police investigation is under way in this case. The ALRC is concerned that the attack on Mr. Batsola is likely to have stemmed from those repeated calls for attacks against human rights defenders spread through the media, condoned by the attitude of politicians.
- Attacks against journalists and the freedom of expression also form part of that renewed crackdown on voices rising to denounce impunity and crimes committed during the conflict. On January 26, newspapers reported that a group of twenty two journalists based in Dailekh district fled the district after being threatened by local Maoist cadres on the eve of a visit by the Prime Minister. They were threatened to stop covering the legal development in Mr. Thapa's case.

6. In light of the seriousness of the elements presented above, the ALRC urges the Human Rights Council, the Special Rapporteur on human rights defenders and the international community to pursue their engagement with the government of Nepal to guarantee the protection of human rights defenders on its territory. Individuals or organizations having issued or transmitted threats against human rights defenders should be brought to justice. Human rights defenders have played a leading role alongside the victims in the fight for justice and accountability. We renew our call for a commitment from the government of Nepal that they should enjoy the full protection of the rule of law while doing so.
