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تنفيذ قرار الجمعية العامة ٦٠/٢٥١ المؤرخ ١٥ آذار/مارس ٢٠٠٦ المعنون "مجلس حقوق الإنسان"

تقرير المفوضة السامية للأمم المتحدة لحقوق الإنسان عن حالة حقوق الإنسان
والأنشطة المتعلقة بمكتبها في نيبال، بما في ذلك التعاون التقني

إضافة

الزيارة التي قامت بها المفوضة السامية إلى نيبال*

موجز

زارت المفوضة السامية للأمم المتحدة لحقوق الإنسان نيبال في الفترة من ١٩ إلى ٢٤ كانون الثاني/يناير ٢٠٠٧ لتقييم عمل مكتبها الميداني في نيبال، ولتسلط الضوء على الأهمية البالغة لحقوق الإنسان في عملية السلام، ولتساعد على تركيز الاهتمام على قضايا التمييز التي أهملت لوقت طويل، والتي من المحتمل أن تؤثر سلباً في المرحلة الانتقالية الحالية. ويشمل مرفق هذا التقرير النتائج التي توصلت إليها المفوضة السامية، بما في ذلك التقدم الهام المحرز في عملية السلام ووقف انتهاكات حقوق الإنسان المرتبطة بالتراع، ولكنه يشمل أيضاً النتائج المتعلقة بعدم إحراز تقدم في مواجهة الإفلات من العقاب، وبالخاصة إلى التصدي لقضيي الاستبعاد الاجتماعي والتمييز بصورة عاجلة. وأثناء زيارة المفوضة السامية، اندلعت في منطقة تيراي مظاهرات عنيفة من جانب المادھيس، وهم السكان الأصليون الذين يعيشون في السهول مقارنة مع أولئك المقيمين في المرتفعات، وذلك تعبيراً عن الإحباط من العملية السياسية. وأبلغت المفوضة السامية أيضاً عن هذه المظاهرات. ودعت المفوضة السامية لحقوق الإنسان قوات الأمن إلى ضبط النفس، والمتظاهرين إلى العودة إلى الوسائل السلمية للاحتجاج، كما دعت الحكومة إلى البدء في الحوار بخصوص هاتين القضيتين على كافة المستويات.

* يُعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه فيرد في مرفق هذا الموجز ويُعمم باللغة التي قدم بها فقط.

Annex

**REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR
HUMAN RIGHTS ON HER VISIT TO NEPAL**

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I. THE VISIT OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS TO NEPAL IN JANUARY 2007

1. The High Commissioner visited Nepal from 19 to 24 January 2007 to review the work of her field office in Nepal and to highlight the centrality of human rights in the peace process - at this critical juncture - as well as to call attention on a number of longstanding discrimination issues which have come to the fore since the end of the peace process and recently led to demonstrations, to lethal confrontations with the police, and to communal violence.
2. During her mission, the High Commissioner met with key government officials and travelled to Nepalgunj in the mid-western region and Sindhupalchowk in the central region. In the mid-western region, she toured a village in Bardiya district where the indigenous Tharu community has suffered a large number of disappearances reportedly committed predominantly by State security forces, but also Maoists. In the district of Sindhupalchowk, the High Commissioner met with women affected by the conflict and visited an under-equipped and under-staffed police post recently re-established to serve a population of 300,000.
3. The High Commissioner found that, while conflict-related violence has greatly declined, impunity remains prevalent in Nepal. Both the State and the Communist Party of Nepal (Maoist) (CPN-M) leadership have yet to make serious efforts to hold to account those responsible for past or current violations. The human rights community is eager to see some form of accountability introduced for past violations. The Comprehensive Peace Agreement envisages a truth-telling process but it is silent on the issue of criminal accountability. On this point, the High Commissioner took the opportunity of her visit to reiterate the need to avoid granting any amnesties at this stage so that the possibility of trials at a later date is not precluded. OHCHR is committed to ensuring civil society and the authorities available appropriate transitional justice assistance to help determine the best course of action in this regard.
4. During the High Commissioner's visit, the Minister of Home Affairs and the Chief of the Army Staff committed themselves to ensuring a full civilian investigation into the case of Maina Sunuwar, a 15-year-old girl who died as a result of torture while in the custody of the then Royal Nepalese Army in 2004, and guaranteed that the armed forces would fully cooperate with the investigation. While OHCHR will continue to press the authorities to deliver on their commitments in the Sunuwar case, it is understood that bringing justice in this instance must signal the beginning of the Government's commitment to address past violations, not an end to it. Shortly after her visit, the High Commissioner provided a first submission to the Department of Peacekeeping Operations of cases involving Nepalese military units and individuals against whom there is prima facie evidence of having committed human rights violations, with a recommendation that such units or individuals be barred from service with the United Nations.
5. The lack of accountability on the part of CPN-M is equally disturbing. In Nepal, the High Commissioner made both public and private appeals to CPN-M to end continuing abuses by their cadres and she urged the authorities to bring to justice those responsible for violations. During the course of her mission, the CPN-M leadership stated that it had issued instructions for its parallel systems of governance to be dissolved. The onus is now on CPN-M to deliver on this commitment and on State authorities to ensure that they can effectively fill the law enforcement vacuum that exists in much of the country.

6. The peace process has brought new urgency to addressing longstanding human rights issues revolving around discrimination and social exclusion. Demonstrations in the Terai region organized by the Madhesi,¹ voicing their frustration at the lack of inclusion in the political process, erupted into violence during the High Commissioner's visit to Nepal.

7. The absence of an effective national strategy, with concomitant commitment, to combat discrimination is emerging as one of Nepal's greatest challenges during the peace process. Such grievances need to be actively and imaginatively addressed by the Government and the political parties, in consultation with civil society, through open and public debate regarding all aspects of the political transition.

II. UNREST IN THE TERAI REGION

8. OHCHR is deeply concerned about the recent violence in the Terai area of southern Nepal (see A/HRC/4/97, paragraphs 65 and 66) in the context of demonstrations by Madhesi, and the often excessive responses from the Nepal Police and Armed Police Force.

9. After the arrest of a group of Madhesi protestors in Kathmandu on 16 January 2007 for burning a copy of the Interim Constitution, an organization called the Madhesi Peoples' Rights Forum organized a Terai-wide strike (bandh), requesting that the Government amend the Interim Constitution so that it provide for (a) a federal State structure with autonomy for component states, including the Terai; (b) the redrawing of electoral constituencies based on population; and (c) proportional representation of Madhesis in government bodies, including the legislature and the security forces. The bandh was widely observed and resulted in a shutdown of commerce and transportation throughout large areas of southern Nepal.

10. Following the fatal shooting of a protestor by a CPN-M cadre on 19 January 2007 and of four demonstrators by the Nepal Police and Armed Police Force on 22 January, both in Siraha District, demonstrations quickly spread throughout the Terai areas of the central and eastern regions. The demonstrations resulted in extensive damage to public and private property, widespread threats to journalists and human rights defenders, serious injuries to demonstrators and police, and substantial loss of life. At the time of writing, OHCHR had confirmed 24 deaths (23 civilians and 1 police officer) and hundreds of injuries, resulting primarily from confrontations between demonstrators and the police.

11. OHCHR field teams were deployed to monitor the demonstrations, to engage in preventive protection work and to investigate instances in which the Nepal Police and the Armed Police Force had responded to the demonstrations with excessive, and sometimes lethal, force. For example, OHCHR teams documented cases of the Nepal Police and Armed Police Force beating protestors on the head with metal-bound bamboo sticks (lathis), entering homes to beat residents, obstructing the passage of ambulances and emergency vehicles and firing live ammunition directly into crowds of demonstrators when there was no credible threat to life. It is acknowledged that the police were, on several occasions, confronted with violence and severe provocation. Nevertheless, many aspects of the police response mirrored the excessive and unnecessary use of force employed by the security forces in response to the protests of April 2006, documented in OHCHR public report

¹ See 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 (A/HRC/4/97, paras. 38-41).

of September 2006,² which indicates that the relevant recommendations made in that report have yet to be acted on by the law enforcement agencies and the Interim Government.

12. The violence subsided after the Prime Minister made a public announcement on 7 February 2007 that the Interim Constitution would be amended in such a way as to satisfy a number of the Madhesi demands. However, the atmosphere remains tense in the Terai areas of Nepal, and OHCHR has serious concerns that the Nepal Police, and in particular the Armed Police Force, lack the capacity to respond effectively to such demonstrations using only the minimum necessary force.

13. During the unrest, OHCHR publicly and repeatedly called on the Government and Madhesi leaders to engage in immediate dialogue to stop the violence and to identify solutions to restore peace and respect for human rights. OHCHR believes that, as well as addressing Madhesi demands for representation, there must be prompt and credible investigations into all killings and injuries to determine those responsible. It is essential that those responsible for the violence should also be held fully accountable in accordance with the law, whether it be security forces personnel, CPN-M cadres or demonstrators.

III. CONCLUSION

14. **The issues of impunity and social exclusion, and the violence surrounding demonstrations need to be urgently addressed to ensure respect for human rights as a foundation of the peace process. Concerted efforts will need to continue to ensure that there is effective accountability for past crimes, whether committed by the security forces or CPN-M. The political leadership on all fronts needs to ensure that every sector of Nepalese society is effectively engaged in the political transition. It will be crucial for security forces to learn from their past experience of policing demonstrations. Most significantly, police should ensure that they avoid excessive use of force. At the same time all segments of society should engage only in peaceful forms of protest.**

² *The April Protests: Democratic Rights and the Excessive Use of Force - Findings of OHCHR Nepal's Monitoring and Investigations* (September 2006), available online at <http://nepal.ohchr.org/reports.htm>.