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FOR HUMAN RIGHTS IN NEPAL**



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**OHCHR-Nepal releases report on Gaur investigation**

OHCHR-Nepal is today releasing findings of its investigation into the killings in Gaur and surrounding VDCs on 21 March. This report is the culmination of more than 170 interviews by OHCHR teams in and around Gaur and in Kathmandu with eye witnesses, human rights defenders, journalists, medical personnel, government officials, security forces personnel, CPN-M cadres, political party members, representatives of the MPRF (*Madheshi Janadhikar Forum*), the *Janatantrik Terai Mukti Morcha* (JTMM) (Jwala Singh faction), detainees in police custody, and others.

The 27 individuals, most of them linked to the CPN-M, who died on 21 March were killed in a brutal manner. OHCHR's investigations show that MPRF representatives were preparing themselves and their supporters for a possible confrontation with CPN-M cadres, following several previous incidents in Gaur and elsewhere in which CPN-M had attacked MPRF gatherings. Many individuals associated with the MPRF rally in Gaur, including young children, were armed with *bhaatas* (spliced lengths of broad diameter bamboo) which, if used, could – and did – have lethal consequences.

The incident on the Rice Mill field was sparked when about a dozen young men destroyed the CPN-M stage. In response, supporters of the CPN-M charged the MPRF stage. After initially fleeing, MPRF supporters turned on the largely outnumbered CPN-M cadres. In the ensuing attacks, 27 individuals– including four women and a 17-year-old girl – were killed, all but one with blows from *bhaatas* and *lathis*.

There can be no doubt that most, if not all, of the killings in Gaur could have been prevented. First and foremost, the incidents highlighted once more the weaknesses of law enforcement agencies who, aware of the potential for clashes and other violence, were grossly ill-prepared to ensure effective crowd control. The NP and the APF failed to prevent the violence from happening by persuading the organizers to move or postpone the rallies. They failed to stop the violence when it broke out. They failed to protect those who came under attack, and they failed to carry out any arrests. The mechanism to coordinate security and law and order, the district security committee chaired by the Chief District Officer, broke down and failed to function on the day of the rallies.

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A prime obligation of the State is to carry out immediate and thorough investigations into killings. To date, no First Information Report has been filed for these killings and to OHCHR's knowledge criminal investigations into the killings have yet to be launched. The high-level commission of inquiry set up by the Government had not, as of 19 April traveled to Gaur to begin its investigations. While this commission is important, its work cannot in any way substitute for criminal investigations and prosecutions to bring those responsible to justice. Any investigations must look not only into individual perpetrators, but whether the violence and killings were pre-planned and by whom, as well as any omission by the State authorities.

The incidents in Gaur emphasized once more the need to fundamentally strengthen and reform law enforcement. OHCHR has noted that on 2 April, the Home Minister announced that local authorities and security forces had received instructions to use all means available within the law to deal with armed groups and acts of violence which disturb peace and security, particularly in the context of the elections. However, OHCHR believes that additional immediate measures need to be taken in the short term to enable the State to guarantee security, protect life, freedom of assembly and expression in the context of the peace and electoral process. These should include a review of the current role and use of the APF, including its role in crowd control and riot situations, the role and functioning of the CDO and district security committees, and the coordination at the local and national level of law enforcement activities. It is also essential that the make-up of the police be reviewed to ensure the adequate representation of Madheshis and other marginalized groups in the forces. This would facilitate police operations and dialogue with communities in the Terai.

In September, OHCHR-Nepal made a series of recommendations for strengthening law enforcement in its report on excessive use of force during the April 2006 protest movement, which have yet to be implemented. At the same time, it is deeply regrettable that the report, findings and recommendations of the Rayamajhi Commission – set up in July 2006 to investigate, inter-alia, violations committed during the April protest movement – have never been made public.

International human rights instruments require that individuals and groups, in exercising their own rights, also have duties and responsibilities to respect the rights of others. On 21 March the MPRF itself allowed hundreds of its supporters to file into Gaur armed with prepared *bhaatas*, knowing that if used they could be lethal. It also cannot be excluded that MPRF supporters were carrying firearms. OHCHR was not able to substantiate allegations that the killings themselves were pre-planned but this cannot be ruled out. At minimum, the MPRF supporters were prepared to use lethal weapons. Forum leaders must unequivocally renounce any use of violence and take all steps in their power to prevent supporters, however loosely associated with the Forum, from carrying weapons and using violence. They must prevent the carrying of *bhaatas* and bamboo sticks during rallies. They must also cooperate with the authorities

investigating the incidents in Gaur to help in determining who was responsible for the killings.

Nothing can justify the killings which occurred. However, the CPN-M action in organizing a rally at the same time and place as the MPRF, as it has done in other locations, was provocative. Its cadres also brought at least one weapon and at least one socket bomb to the rally. Such actions are incompatible with declarations of respect for the right to life, freedom of expression and assembly. The CPN-M leadership must give clear directives to its cadres not to disrupt rallies and political activities by organizations with different political opinions. It too must ensure that CPN-M cadres do not carry weapons or explosives, and do not engage in violent or intimidating actions prior to or during demonstrations.

Both the CPN-M and the MPRF exposed children under 18 to the possibility of harm by including them in their rallies, in contravention of international child rights standards; one girl died. Both organizations must fully respect those principles and ensure that young people are not used in political rallies where violence is possible.

Many reports have claimed that some or all of the five female victims were raped and/or sexually mutilated before being killed. In the course of its many interviews with witnesses and others, OHCHR found no evidence of rape or sexual mutilation. According to medical experts, there were no external signs of rape on any of the female victims. OHCHR is concerned that the public diffusion of such allegations without proper verification only served to augment the anguish of the victims' relatives.

The Government and State have the obligation to ensure a secure environment for its citizens, and to ensure respect for life, freedom of expression and assembly. The Gaur incidents have demonstrated the fragility of respect for those rights and the capacity of the State to protect them. It is essential that all parties and organizations involved in campaigning for the fulfillment of certain rights and interests during that process respect the opinions of others and allow political activities of others without interference, threat or intimidation.

It is the duty and responsibility of all actors in the peace and electoral process – and especially the State - to ensure that the events of 21 March are not repeated. Tolerance of peacefully expressed political views and demands must be a core principle adhered to by all actors. The electoral and peace process can only be successful if there is a sincere recognition on all sides that dialogue and respect for others must prevail over violence and intimidation.