



**UNITED NATIONS
OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS IN NEPAL**



Press Release - 25 March 2010

**United Nations concerned with the death of three females including
a child in Bardiya**

25 March, Kathmandu.

United Nations Human Rights Office in Nepal (OHCHR-Nepal) remains very concerned about the deaths of three females, including a 12 year-old child, in the Bardiya National Park on 10 March 2010 and considers that it is essential that the relevant authorities complete proper investigations with the full cooperation of the Nepalese Army and National park authorities.

Two weeks after Nepal Army and National Park officials were involved in an incident where lethal force was used against alleged poachers in Bardiya National Park the relevant state authorities have been unable to complete their investigations in accordance with the law and their mandates. The Nepal Army Act, as amended in 2007, provides the Nepal Police with jurisdiction to investigate incidents of alleged unlawful killings by Nepal Army officials.

This follows on from other incidents where civilian authorities have not been able to properly investigate cases concerning the Nepal Army as per the law. For more than a year and a half the Parsa District Police Office have unsuccessfully attempted to interview army personnel involved in the shooting of Mahendra Masrangi Magar in August 2008. Similarly, in the case of Rajkumar Darai, who was killed by army personnel in Chitwan in November 2009 after reportedly throwing stones at an army patrol, none of the army personnel have yet been interviewed by the police. In each incident the army has carried out its own investigations, but this cannot substitute for the official investigations of civilian authorities. OHCHR urges the Nepal Army to fully cooperate with the police investigation, as per the Nepal Army Act and international law.

The National Human Rights Commission (NHRC) is also investigating this recent case, in accordance with its constitutional mandate, and OHCHR urges the Nepal Army and the Park Authorities to fully cooperate with the NHRC's investigation, including by facilitating interviews with all personnel who participated in the patrol on 10 March, so that it is able to properly assess whether excessive force was used by the security forces and whether or not the killings were lawful.

While the protection of Nepal's unique wildlife is an international priority, the Bardiya incident also highlights shortcomings in legislative, operational and accountability provisions in the National Park framework. The relevant national legislation – the National Parks and Wildlife Conservation Act of 1973 – permits the use of firearms in situations where there is no immediate threat to life, including if a person tries to escape arrest. It also states that if a person dies as a result of this use of force it should not be seen as an offence. These provisions are incompatible with Nepal's international obligations, including the International Covenant on Civil and Political Rights, and appears to have contributed to a number of unnecessary deaths.

OHCHR is further concerned with the Nepal Army's operational guidelines for the use of firearms while providing security in the National Parks. Both the National Park Act and the operational guideline are in urgent need of review to ensure they are consistent with Nepal's international human rights obligations to protect the right to life.

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“It is of the utmost importance that the Nepal Police and the National Human Rights Commission are able to conduct full, independent investigations with cooperation when Nepal Army personnel or any other authorities are alleged to have committed human rights violations”, stated Richard Bennett, the OHCHR Representative in Nepal. “Furthermore, inconsistencies of the National Parks Act with Nepal’s human rights commitments appear to have contributed to a number of unnecessary deaths and injuries in the past few years, and I recommend the Government urgently reviews the National Park Act and the operating procedures of state officials in national parks, to ensure the right to life is properly respected and protected.”