

From the President

Prime Minister Khil Raj Regmi
Office of the Prime Minister and Council of Nepal
Singha Darbar
Kathmandu
Nepal



The Law Society

By email: info@opmcm.gov.np

26 March 2013

Dear Prime Minister

Ms Mandira Sharma and others – Lawyers at risk

The Law Society of England and Wales is the professional body representing more than 160,000 solicitors in England and Wales. Its concerns include upholding the independence of the legal profession, the rule of law and human rights throughout the world.

The Law Society is concerned about threats of death and violence against Ms Mandira Sharma, a lawyer, the Chairperson of Advocacy Forum-Nepal and a member of Accountability Watch Committee (AWC), which is a forum of leading human rights defenders fighting against impunity in Nepal. Threats of violence and death have also been made against several other members of AWC. These threats were issued recently through the media in Nepal, by the Maoist magazine *Lal Rakshak* (Red Defender), the blog *Krishnasenonline* and various other local Maoist-affiliated papers and FM radio stations. In an article published in the January-February edition, Ms Mandira Sharma, Mr. Subodh Pyakhurel and Mr. Kanak Mani Dixit were accused of “*going against the Maoists, Maoist political agenda and change*”. Other human rights defenders named were Mr. Sushil Pyakhurel, Mr. Charan Prasai and Mr. Kapil Shrestha. They were all accused of being “traitors, enemies of the people, peace spoilers, and dollar mongerers”, among other insults, and the article suggested that “*people’s action should be taken against them*”.

This appeal was repeated in a number of local Maoist newspapers, including in *Gandaki Awaj* published from Pokhara on 21 January 2013 under the headline (translated): “Real face of Kanak, Subodh and Mandira”. A newspaper *Taja Khabar* published from Rupandehi on 22 January 2013 repeated the same story with the headline (translated): “Dollar-mongers search murderers”. A similar article was published in an online news portal *Onlinekhabar*. Furthermore, the appeal for “people’s action” was also broadcasted repeatedly on Maoist FM radio stations around the country. This expression was commonly used during the Conflict Period as a justification for violence and killing.

On *Krishnasenonline*, the main Maoist news portal, Unified Communist Party of Nepal (Maoist) - UCPN Spokesperson, Agni Sapkota, commented that “some NGOs supposedly working for human rights are acting against national interest”. He added that these NGOs “prefer dollars to nation and nationalism” and that “for green dollars, some people have called imperialist Britain to have Colonel Kumar Lama arrested”. He named Ms. Sharma and Advocacy Forum as being responsible for the arrest of Mr. Kumar Lama, a Nepali army colonel, who was charged with two counts of torture by the authorities of the United Kingdom on 4 January 2013 under universal jurisdiction law.

As an example of what could happen as a result of these threats, the Law Society is concerned to learn about the physical assault at about 7:30 pm on 28 February 2013 on Mr. Yadav Prasad Bastola, Executive Director of Human Rights Alliance. He was beaten by four men with iron rods more than 40 times, accusing him of attempting to jail and prosecute Maoists cadres for human rights violations committed during the conflict period (1996 - 2006) by writing articles and organising programmes on human rights violations and impunity in different parts of Nepal. Mr Bastola was returning home from Birendranagar municipality, Surkhet district, where he had organised a workshop on "Impunity and Post-conflict Justice" on behalf of Human Rights Alliance the day before. He required hospital treatment for his injuries. On 1 March 2013, Mr Bastola filed a First Information Report (FIR) at the District Police Office of Surkhet. According to the police, an investigation is currently in progress. The National Human Rights Commission (NHRC) of Nepal subsequently condemned the assault.

The previous day, a local newspaper, the *Pahichan Daily*, had published an article written by Mr. Bastola on impunity in an extra-judicial killing of a man from his VDC named Surya Prasad Poudel by Maoists cadres during the conflict period in Nepal. The article had focused on the need to provide compensation to the victim's family members and to investigate thoroughly the conflict era crimes.

We recall that Nepal acceded to the International Covenant on Civil and Political Rights 1966 (ICCPR) on 14 May 1991. The ICCPR provides in Sections 19 and 22 as follows:

19(1) Everyone shall have the right to hold opinions without interference

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

22. Everyone shall have the right to freedom of association with others...

Article 12 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998) states that:

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Articles 16, 17, 18 and 23 of the UN Basic Principles on the Role of Lawyers (1990) state that:

16. Governments shall ensure that lawyers

(a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference;

(b) are able to travel and to consult with their clients freely both within their own country and abroad; and

(c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. *Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.*

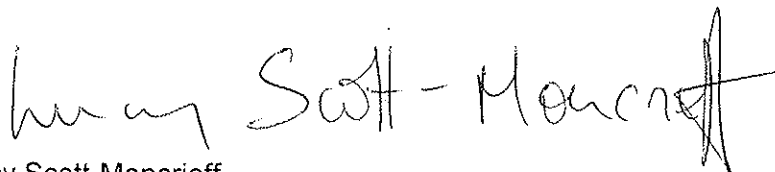
18. *Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.*

23. *Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights...*

We urge you to:

1. Guarantee in all circumstances the physical and psychological integrity of Ms Mandira Sharma and the others noted above, their relatives and all human rights defenders in Nepal;
2. Carry out a thorough, impartial and transparent investigation into the above mentioned facts in order to identify all those responsible, bring them before a competent and impartial tribunal and apply to them the sanctions provided by the law;
3. Put an end to any act of harassment against Ms Mandira Sharma and all other human rights defenders in Nepal, and ensure in all circumstances that they are able to carry out their legitimate activities without any hindrance and fear of reprisals;
4. Conform with the provisions of the UN Declaration on Human Rights Defenders, which places on you the obligation to take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in that Declaration.
5. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Nepal.

Yours sincerely



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