The decision of the Commission Over the incidents of Janakpur and Kotvada, January 30, 2008

NHRC Press Release

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Following the complaint lodged at the Commission pleading for the publicizing the condition of Sanjeev Kumar Karn, Durgesh Labh, Pramod Narayan Mandal, Shailendra Yadav including Jitendra Jha who were allegedly disappeared ever since a patrolling team of security forces took them from Biswakarma Chowk of Ward no 4 of Janakpur Municipality on 21st Asoj, 2060, the Commission has found them to be caused disappeared as per the spot investigation report of the Commission and the statements of the witnesses.

As per the name list of the letter received from the Human Rights Division of Nepalese Army HQ on 10/10/2062, Sailendra Yadav was stated to have been killed in a single police action on 21/6/2060/ and as per the letter received from HR division of Nepalese Army HQ on 20/10/2060, respectively, Sanjeev Kumar Karn (Dipu), Durgesh Labh, Pramod Narayan Mandal and Jitendra Jha (Machali) were stated to have been killed in a single police action.

Thereupon, a five member enquiry committee was formed to investigate that incident as per the information furnished in the letter received from the Police Head Quarter, Naxal on 12/11/2062 and as per the letter received by the Police HQ on 4/3/2063, the receipt the report of the team was unveiled and as per the reporting of the patrolling team of the regional police unit, the suspected persons including the five were seen to have been arrested by the team of Senior Superintendent of Police, Superintendent of Police and Army Officials. Some of the arrested were released on the same day after necessary investigation whereas the other five people were handed over to the Army by the Police, it is learnt.

Whereas it has been found that the human rights such as the right to life has been hideously violated with extra judicial killing executed by the security forces against the provisions existed in the then constitution of the Nepal state, Nepalese Law including the rights provisioned in the international treaties and conventions to which Nepal state is a party without even fulfilling the necessary legal process for legal action against the persons under custody. It may be noted that the then constitution has the provision that no personal freedom of the persons shall be abducted except pursuant to the law of the constitution and the same provision has been retained in the Interim Constitution of Nepal, 2063. It has been found that Jay Kishore Labh has been found to have registered the FIR on 25/3/2063 as per the registration no. 1288 and Jibachi Devi Mandal has been found to have registered the FIR on 25/3/2063 as per registration no. 1289 regarding the same matter as seen in the FIR register. The report produced by the team of the commission and the letter including the report received form the police HQ unveils the involvement of the SSP, SP and Army Officials of the Joint Security Force to giver order in
the arrest and at the same time the report of the commission unveils that the then SSP Chuda Bahadur Shrestha, SP Kuber Singh Ranamagar, the then police inspector of District Police Office, Dhanusha, the then Major Anup Adhikari, Army Barrack (Shree No. 9 Barrack field) situated at Dharapani VDC, Dhanusha District, the then Chief District Officer, Rewati Raman Kafle were holding their respective offices.

Whereas, since the persons involved failed to have fulfilled the designated responsibilities to protect the lives of the citizens involving in the violation of human rights, it was written to the GoN to take action against the accused pursuant to Section 13 (1) of HR Commission Act 2053 for the compensation for the livelihood of the victims and the dependants as per the Section 13 (2) of the same Act and also forwarded the recommendation to the GoN to provide the compensation RS 3,00,000/- (In words: Rupees Three hundred thousand only) per head to the victims as per the Law 17 of NHRC Act 2057 (Complaint, Action and Compensation Delineation Regulation) in accordance with the decision of the Commission resolved in the meeting held on 15/10/2064.

Likewise, the innocent laborers working in the under construction air field situated in Kotvada VDC of Kalikot including the general public were killed in the firing of the security forces on 12/11/58. The laborers were hired by the Shubha Karki Group Construction Service (P) Ltd from Jogimara VDC of Dhading district. The Commission had forwarded a recommendation on 6/3/63 on the decision to take action against accused security forces and to provide compensation RS 2,75,000/- (In words: two hundred seventy five thousand) per head to the victims and the dependants of the victims.

In this regard, once again, the Commission has forwarded a letter dispatch no 231 /Protection/ dated 23/32063 to the Prime Minister and the office of the Council of Ministers as the information with regard to the implementation of the decision has not yet been conveyed.

It is acutely necessary to deliver the punishment to the perpetrators of human rights violation as per law and the compensation as a relief to the victims for the sustainable peace and to bring impunity to an end. Contrarily, the delay in the implementation of the recommendation of the Commission has given rooms to retain impunity.

Whereas, the recommendation forwarded by the Commission has to be implemented within three months as per the section 13 (4) of HR Commission Act 2053, the attention of the GON responsible for implementing the recommendation is hereby drawn to the implementation of the recommendations lying unimplemented.

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