



FS02/CPR-HRD- 02/2008

ATMM Killed an Advocate

Nature of Incident:	Killing
Date of Incident:	22 May 2008
Incident Place:	Kalaiya Municipality-8, Bara
No of Victim/s:	One
Identification of Victim/s:	Jagadish Acharya, 50
Address	Kalaya Municipality-8, Bara
Identification of Perpetrator/s:	Akhil Tarai Mukti Morcha(ATMM)

Background

Even though the Communist Party of Nepal (Maoist) joined the mainstream politics by renouncing their armed activities, the armed conflict has not been over in the country. As the country is into the transitional phase, different armed groups have emerged out in the country, mainly in terai region. These groups claim that they are fighting for the rights of people residing in terai region. However, their acts are always beyond the principle of human rights. They have escalated violence in the terai region in the present days violating people's fundamental rights as guaranteed by the constitution and different international human rights instruments.

In this course, Human Rights Defenders, as in the past, have been targeted by such armed groups and even the other non-armed groups. This has risked the life of HRDs who have been performing their duty for the protection and promotion of human rights of the people. Meanwhile, the state that has the prime responsibility of providing security to the citizens has failed to do so specially in the terai region. This has raised question if HRDs can perform their duty in fearless environment in the terai region.

Details

Law professional Jagadish Acharya, 50, of Madarsa tole, Kalaiya municipality-8 in Bara district was shot injured by a person while he was on the way to his home on 22 May 2008. Acharya was heading to his home along with Bishnu Thapa, inspector at National Investigation Department, at around 9:15 p.m. after taking meal at Dangol Restaurant that is situated near by his house.

Reportedly, two persons were already waiting for Acharya besides the wall of Shree Nera Secondary School Madarsa that lies 50 meters west from the house of the victim. When Acharya approached near, one among the two persons opened fire at him. The bullet hit him on his back. Both the persons fled towards east direction after shooting Acharya.

Acharya was immediately rushed to the District Hospital Kalaiya and after the primary treatment he was taken to Narayani Sub-Regional Hospital Birgunj. But, failing to receive treatment there, Acharya was again taken to Kathmandu for further treatment on 23 May 2008. Acharya succumbed to his injuries on 24 May 2008 while undergoing treatment in Kathmandu. Since all the family members of the victim had reached Kathmandu, the last rites of the victim was performed in Kathmandu. On 25 May 2008, the dead body of Acharya was kept at the central office of Nepal Bar Association to pay last tribute and the last rites was performed at Pashupati Aryaghat on the same day after taking out a rally from the office. The victim is survived by his wife, two daughters, one son, his mother and his father. All the family members are still residing in Kathmandu after the incident. According to the neighbors of Acharya, he

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had been receiving threat calls from unidentified group for sometimes but the reason was not known to anyone.

Though the police arrested 11 persons on the day of incident, all of them were released after investigation. The police had confiscated 2 sets of locally made pistol and 3 bullets needed for it, 1 piston and 5 bullets needed for it and one used bullet from the incident site and its surrounding.

On 23 May 2008, Naya Birat Awatar, Bara coordinator of Akhil Terai Mukti Morcha- a group carrying out armed activities in terai-talking to local media persons over phone had owned up the responsibility of the incident.

Law professionals associated to Nepal Bar Association in different parts of the country including Kathmandu, Bara took out rally protesting the killing of Acharya and demanded action against the perpetrators, declaring Acharya as martyr and compensation to the victim family.

In Bara law professionals submitted a memorandum to Chief District officer Dr. Kamleshwor Sinha demanding action against those involved in the incident, guarantee of security to law professionals, declaring Acharya as martyr and compensation to the victim family. They have also declared the protest programme of 'pen-down' till 05 June 2008 to pressure the government to heed their demands.

Concern

Peoples' right to life is very essential in any circumstances. But such act violated the right to life of human rights defenders. It also violated the rights of human rights defenders that provisioned in the UN declaration on HRD. State has failed to protect the right to life of its citizens. Such case is the straight violation of different National and International human rights law which Nepal is the state party.

The Interim Constitution 2007 under the fundamental rights ensures the Right to Freedom under article 12, which states that every person shall have the right to live with dignity and no law shall be made which provides for capital punishment. The article 12(1) also states that no person shall be deprived of his/her personal liberty save in accordance with law.

Civil Rights Act 1955, Article 12 states: The life or individual liberty of any person shall not be taken away except in accordance with current Nepal law.

Armed groups and others are targeting HRDs every day as they always protest of their inhuman and violent activities. So, HRDs are in risk while performing their duty for the protection and promotion of human rights. The culture of impunity in Nepal is increasing insecurity in the country day by day. State always fails to investigate and punish the perpetrator involved in such crimes. Government is yet to start the proper investigation on this case. The prime duty of the state is to protect its citizens. So that the local administration authority should investigate the case and bring the perpetrator to justice.

10 June 2008

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