

PARLIAMENT WATCH – NEPAL

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The Legislature-Parliament witnessed as many as 08 meetings convened in the reporting period. The Tenth Session continued and *fifty-sixth* to *sixty-third* meetings were held during the month of September.¹ The major highlight of the month is as follows:

In one of the meetings of the Legislature-Parliament,² Hon'ble Prakash Man Singh of Nepali Congress party expressed serious concern over two pertinent issues which had created a great turmoil in contemporary Nepali politics. The first related to the statement of the Attorney General who made it public that the Bhattarai government³ had a plan to withdraw all cases filed against UCPN (Maoist) leaders and cadres during insurgency period. And the second was all about the "Good-governance and Relief Package" introduced by the Government of Nepal (GoN).⁴

Newly appointed Attorney General (AG), Mr. Mukti Pradhan,⁵ on 13 September 2011, had said that the GoN will withdraw all cases filed against leaders and cadres of UCPN-Maoist, and will review Maoist lawmaker Balkrishna Dhungel's conviction on murder charges.⁶ Various national and international human rights watchdogs including the National Human Rights Commission (NHRC), however, had asked the GoN in writing not to take any decision to withdraw criminal cases under the pretext that they are political in nature.⁷ The Office of the United Nations (UN) Nepal and Office of the High Commissioner for Human Rights (OHCHR), the same day AG had spoken his mind, had jointly issued a press statement asking the government not to go for retracting cases. The statement read, "We urge political parties and the government to refrain calling for pardons and the withdrawal of any criminal cases which would be contrary to Nepal's commitments under international human rights law."⁸

Not only had the Nepali Congress, the other political parties in the Constituent Assembly (CA) also expressed their dissatisfaction over AG's remarks. In a subsequent meeting,⁹ a lawmaker, who was also a lawyer by profession, from third largest party in the CA¹⁰ made it clear that the AG's remarks were illegal because the Truth and Reconciliation Commission (TRC) Bill, already tabled in the parliament, prohibits amnesty for serious violation of human rights such as killing and others.¹¹ The AG's statement, according to him, was against the

¹ These meetings were convened on different dates starting on 5th and ending on 22nd September 2011.

² This bears to the fifty-eighth meeting of the Legislature-Parliament that was held on 14 September 2011, at 11:15 hours, presided by the Speaker, Rt. Hon'ble Subas Chandra Nembang.

³ Dr. Baburam Bhattarai of UCPN (Maoist) was elected as the new prime minister of Nepal previous month.

⁴ Based on the information supplied under the flyer published by the Parliament Secretariat after every meeting held which they call it a Bulletin, 14 September 2011.

⁵ Mr. Pradhan was sworn in as AG on 8 September 2011. Dr. Bhattarai's government made a political appointment of Mr. Pradhan because he had a good relation with Maoist leader Hisila Yami (wife of Dr. Bhattarai) which made him a close aide of PM Baburam Bhattarai. The details were retrieved from the *Himalayan Times* online gateway, www.thehimalayantimes.com, last accessed on 14 September 2011.

⁶ Media reports, 13 and 14 September 2011.

⁷ Media reports.

⁸ See basically Bimal Gautam, *AG discloses plan to retract cases*, the Republica Portal, www.myrepublica.com, last accessed on 15 September 2011.

⁹ The fifty-ninth meeting was convened on 15 September 2011, Thursday at 11:15 hours in the Parliament.

¹⁰ The third largest party in the CA is the Communist Party of Nepal (United Marxist-Leninist), and the lawmaker was Hon'ble Agni Kharel.

¹¹ For further details on category of crimes as well as the human rights issue, please refer to the separate section "Human Rights Concern and the Governance Issues" below at the closing of the report.

spirit of sovereign legislature as it was aimed at influencing the matter pending in the parliament.¹²

Similarly the good governance and relief package, entitled "Immediate Relief Package-2068 B.S.", which was introduced by the Bhattarai government, invited criticisms from all major political parties branding the same as 'cheap popularity' because key tasks of constitution drafting and completing the peace process were being sidelined and other insignificant issues prioritized.¹³ The Nepali Congress party had denounced even the process. The package was declared through a press meet at a time when parliament session was ongoing. This, according to the Congress lawmaker Hon'ble Prakash Man Singh, clearly surpassed the jurisdiction of sovereign legislature.¹⁴

Human Rights Concern and Governance Issues

The human rights concern and the governance issues raised during the reporting period are the following:

On withdrawal of criminal cases, AG Pradhan was framing his argument on the basis of a provision contained in the Comprehensive Peace Agreement, 2006 (CPA). According to the AG, the provision incorporated under 5.2.7 of the CPA can be invoked because it allows the government to retract political cases. Critics on the other hand, however, were opposing this view citing the provisions of the TRC Bill – already a subject matter of the Legislature-Parliament – so far as the withdrawal of criminal cases is concerned.

The Bill has the provision, *inter alia*, that no amnesty can be granted for such crime which is the serious violation of human rights or amounts to the crimes against humanity. The following crimes are strictly categorized as disentanglement for amnesty:¹⁵

- a) Any types of killing, taking any person under control;
- b) Killing of an unarmed person;
- c) Torture;
- d) Rape;
- e) Disappearances; and,
- f) Abduction and Hostage Taking.

¹² Based on the information supplied under the flyer of Parliament Secretariat, 15 September 2011.

¹³ One of the influential lawmakers in the CA and the Secretary of the Communist Party of Nepal (United Marxist-Leninist), Hon'ble Shankar Pokharel, on different occasion had alleged that Dr. Bhattarai was running after easy popularity by which, as Mr. Pokharel opined, peace process wouldn't complete in time. For further information, please refer to the news story, *PM running after easy popularity*, published in Republica Portal, www.myrepublica.com, on 10 September 2011, last accessed on 15 September 2011.

¹⁴ Based on the information supplied under the flyer of Parliament Secretariat, 14 September 2011.

¹⁵ Section 25 (2) of the cabinet approved TRC Bill, 2007.