

Kathmandu, 7 September 2010

His Excellency, Mr. Ban Ki-moon
Secretary-General of the United Nations
New York

Dear Secretary-General Ban:

As former Ministers of Foreign Affairs of Nepal at different times, from different political parties, we are all united in our deep commitment to the principles and ideals that guide the work of the United Nations. Nepal has always been an active member of the UN. It has benefitted much from the UN's support, and contributed significantly to achieving the organization's noble mission throughout the world.

Our attention has been drawn to the latest report, S/2010/453, of the Secretary-General to the Security Council on the request of Nepal for UN assistance in support of Nepal's peace process. The Government of Nepal will surely offer its official response to the contents of this important document which refers to the work of the United Nations Mission in Nepal (UNMIN).

As strong supporters of the United Nations, we would like to register our objection to the tone and content of the report (in particular, paragraphs 30, 31, 32, 34) which go against the letter and spirit of Nepal's Comprehensive Peace Accord of 2006 and related agreements. Neither do we agree with the report's treatment of Nepal's national army on par with the former rebel force, whose members are in temporary cantonments awaiting integration and rehabilitation. We also cannot concur with the report's insistence on treating the Government of Nepal on par with the Unified Communist Party of Nepal (Maoist).

Without going deeper into the other objectionable matters, here we would like to share our concerns regarding a specific segment of the Secretary-General's report. Paragraph 34 of the report states, "The present situation whereby Nepal is

governed by a caretaker government and the main focus of the political parties is on government formation has not been conducive to sustained engagement over the future role of the Mission. Under these circumstances, I recommend that the current mandate of UNMIN be rolled over by the Council in order to permit the necessary discussions to take place with *a duly formed government.*" (our emphasis)

This statement seems to imply that the Secretary-General does not consider the present caretaker coalition government of Nepal as "duly formed", thus questioning its legitimacy. It appears that the Secretary-General does not even see the need to wait for an official request or recommendation from the Government of Nepal for submission of his report on Nepal to the Security Council.

We are at a loss as to how this report is considered "Report of the Secretary-General on the request of Nepal for UN assistance in support of its peace process..." as the title states, if your office can make recommendations without consulting with, or waiting for an official request from, the Government of Nepal.

It is quite normal in any country for there to be a period of transition in between outgoing and incoming governments, and the United Nations does not question the legitimacy of outgoing governments that are legally constituted. Until there is a duly constituted new government, the UN must respect and deal with any legally constituted incumbent government as fully representing a sovereign Member State. For the Secretary-General to imply otherwise in the case of the current Government of Nepal raises serious issues of constitutionalism as applies to a Member State.

We would urge the Secretary-General to look into this matter, possibly seeking the advice of the UN Office of Legal Affairs. If the parts we have highlighted are found to be inappropriate, we would ask your office to retract the relevant paragraphs, as well as investigate how they came to be presented in the name of the Secretary-General of the United Nations. Furthermore, through you, we would ask the Security Council itself to look into the legality and appropriateness of statements of such nature which seem to question the legitimacy of a duly constituted government of a sovereign Member State.

It is our understanding that, according to the Charter of the United Nations, the Security Council only takes up issues at the request or concurrence of the

government of a concerned Member State, except in cases involving serious threats to international peace and security. As that is clearly not the case with Nepal, we count on the Secretary-General and the Security Council to fully take account of the views of the Government of Nepal.

In conclusion, we do wish to register our serious objection to the implied questioning of the legitimacy of the legally constituted government of Nepal in an official UN report. As ardent supporters of the United Nations, we count on appropriate corrective action by the Secretary-General in relation to the report in question, including an investigation into how paragraphs that show disrespect for the government of a Member State have got included. As far as the UNMIN leadership in Kathmandu and New York is concerned, a more respectful and balanced approach towards the peace process of Nepal is urgently needed.

Sincerely,

KP Sharma Oli

Chakra Prasad Bastola

Ram Sharan Mahat

Prakash Chandra Lohani

Handwritten signature: KP Sharma Oli

Handwritten signature: Ram S. Mahat
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