



# तराई मानव अधिकार रक्षक सञ्जाल

## TERAI HUMAN RIGHTS DEFENDERS ALLIANCE

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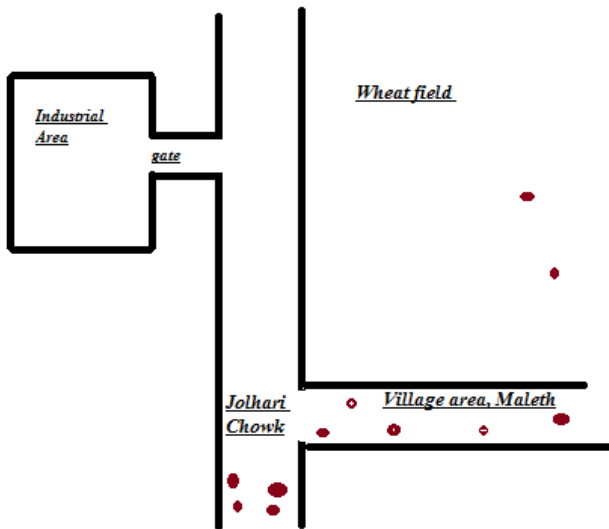
Date: 14th April 2017

### Killings in Maleth: Excessive use of force by security forces

On 6 March, five persons were killed and dozens were injured in a clash with police in Maleth VDC of Saptari district during a confrontation between security forces and cadres of the Madhesi Morcha who were trying to disrupt the CPN-UML mass assembly being organized in the Industrial Area of Saptari situated in Maleth.

The government of Nepal has formed a three-member investigation committee, and the parliamentary human rights committee has also undertaken a fact finding visit. However, neither of the committees has made their report public so far. The government has awarded NPR 1,000,000/ to the families of those who were killed and free treatment to the injured. However, none of the families have received the compensation so far. THRDA has met with the family members, visited the spot and interviewed eye-witnesses, journalists and injured victims. General observations are:

- More than five thousands police including APF and NP had surrounded the Industrial Area and none of the Morcha cadres or locals were allowed to enter the area from around 2pm.
- Around 2,000 Morcha cadres went to Maleth Chowk at around 4pm from southern part of the road and they were shouting slogans (*KP Oli murdawad*) waving black flags. They were blocked by the security forces at the Chowk.
- The speeches of the UML leaders concluded at around 5pm and they left the Industrial Area under heavy police escort. At that time, security forces started firing killing five persons and injuring dozens. Out of five deaths, one person was shot dead on the spot while others died while undergoing treatment in hospital.
- Out of the 43 people injured, nine had bullet injuries and all were above the waist. Post mortem report says bullets were jacketed bullets which is very lethal bullets. One person was killed by the security forces from very near (one eye-witness says, he was killed by a police officer after being taken under control).



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### Details of the incident

On 6 March 2017 the security forces (Nepal Police and Armed Police Force, reportedly more than 5,000 in total) had surrounded the Industrial Area of Maleth, Saptari from around 2pm as the CPN-UML was to organize a mass meeting in the Industrial Area compound. Around 2,000 Madhesi Morcha (MM) cadres came protesting with black flag. The security forces stopped them at the Jolhari Chowk. There were scuffles going on between the security forces and the protestors. It is reported that the protestors and police both pelted stones at each other. At around 4.15pm, KP Oli (the chairperson of CPN\_UML) entered into the Industrial Area and the protestors started their protest loudly and tried to break the security cordon. One of the MM cadres who tried to show black flag going in front of Industrial Area gate was beaten severely by the security forces. The police resorted to baton charge resulting in injuries to more than two dozen protestors, travelers and local bystanders. The police reportedly fired more than one hundred rounds of tear gas. The Jolhari Chowk area was full of smoke of tear gases. Due to the spread of tear gases locals were forced to come out of their houses. Yes, people were come out to get rid of teargas effect. The protestors, however, threw the same tear gas shells at the security forces. The wind blowing in opposite direction affected the security forces too with tear gas effect.

At around 5.15pm, Mr. K.P. Oli was to leave the Industrial Area after finishing his speech. At that time all the security forces were centralized to the gate of the Industrial Area. At the same time a stone hit one of the police near his eye. The security forces then opened fire and the first bullet injured Anand Sah. The security forces then run towards the Jolhari Chowk area randomly firing bullets which injured more than 9 people. This indiscriminate bullet firing continued for around 10-15 minutes. Eye witnesses claimed that Mr. Sanjan Mehata was shot in the head by a policeman after he was taken under police control. Thus, Sanjan Mehata died on the spot. Two others (Pitamber Mandal and Anand Sah) died while being taking to the BPKIHS Dharan for treatment. Birendra Mahato and Inar Yadav died later while under treatment at BPKIHS Dharan. Other protestors, who were beaten up by security forces with batons and rifle butts, received treatment in the Gajendra Narayan Singh Zonal Hospital, Rajbiraj and were later discharged. Out of nine bullet injured persons one is a minor of 13. All the bullet injuries are above the waist and jacketed bullets have been used. It is reported that the security forces had brought a water canon at the place; however it was not used during the whole incident.

The injured persons have been discharged from the hospital; however some of them have required follow up treatment. The families of the deceased persons have not yet received government awarded compensation of NPR 1,000,000.

Nepal Police has claimed that 31 police officers were also injured in due course of confrontation; however, THRDA was not given the details of the injuries of the police by the DPO Saptari. The then CDO of Saptari Mr. Uddhb Timilsena, SP of Nepal Police, Mr. Dibas Lohani as well as SP of APF, Mr. Jay Bahadur Khadka were transferred from the district immediately after the incident on 7 March 2017.

### Interview Details:

**Shyam Sundar Yadav, Journalist:** On that day from 2 pm, I was in that Industrial Area. There were very few people around 200 UML cadres inside the Industrial Area before KP Oli came. However, the security was very tight and the whole Industrial Area was surrounded by security forces (Nepal Police and Armed Police Force (APF)). We assume the APF was brought from all the districts of eastern region. When KP Oli came there were a big number of buses and other vehicles full of people and thus there were around five thousand UML cadres in the compound. When KP Oli was to speak on the stage, I received a call that there is firing going on outside of the Industrial Area. I came out. I saw, a police officer thrashing a person and beating him. There was firing going on at the Jolhari Chowk area. The police stopped us to go to that area. What I saw was some red dressed youths (probably they were UML cadres) also went with the police to beat the protestors. The then SP Diwas Lohani was at the site and he ordered them to go back. When the police went towards the village and started beating randomly, we, some of the journalists joined our hands and made bar to stop the police doing so. I also told the SP to stop it.

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**Ravi Kumar (changed name), 35 years, Boriya VDC, Ward No 8 Katti, runs a tea shop at Rajbiraj, one of the bullet injured victim:**

I was in the protest rally of the Madhesi Moracha on that day and reached to the Jolhari Chowk of Maleth at about 2.30pm. The protestors were around 4-5000 in numbers. The security forces around in 2000 numbers had barred the Industrial Area from the southern belt at Jolhari Chowk of Maleth. The protestors had only black flags and none of them had any weapons or any guns or ammunitions. When the UML leaders' speeches were ending, there was stone pelting from both side (the protestors and the police). The police used tear shells in uncounted numbers. People could not see and some of them fell down. I washed my face but even then I found it difficult to see. Probably it was the time of KP Oli's departure, the police were centralized at the gate of the Industrial Area and from there they fired bullets. The protestors were at the Chowk which is around 200 meters south from the gate. One of the bullet injured me and I fell down. I felt as if my right hand got separated from my shoulder but after taking medical checkup doctors said that some of the internal veins and internal parts are slightly separated which would be re-fixed on completion of treatment. My right arm was separated. I think I was hit by two bullets. I was sent to BPKIHS Dharan from Rajbiraj Hospital. After eight days, I was discharged; however, I have to go to BPKIHS for regular follow-up.

(Medical examination summary: entry and exit wound (laceration) at right axillary, entry wound 1x1 c.m. multiple exit wound.)

**Dillip Yadav Bindeshwar (name changed), 22 years, permanent resident of Barahi Birpur 1, Hati, one of the bullet injured victim:**

On that day I was watching from 300 meters east from the Jolhari Chowk from around 2.30pm. At around 5pm when I was standing in a wheat field about 200 meters far from the Industrial area gate I was injured by a bullet. After receiving the bullet injury, I run towards the road of the village. The police were obstructing me to go there. Once the police returned back, the villagers took me to the Rajbiraj Hospital. The doctors put a bandage and sent me to the BPKIHS Dharan. I was discharged from there on 14 March. The bullet is still inside. The bullet has injured my stomach area. I am married and have a 1.5 years baby. I cannot do my work now.

(Medical report summary: Entry wound in left flank, rupture of spleen, left sided haemorrhax)

**Ram Jivan (name changed) 38 years, Malekpur 5, Khurhuriya, associated with Nepal Sadbhawana Party:**

We came in a protest rally of about 2,000 persons with black flags. At Jolhari Chowk, the police barred us. We requested them to let us enter. Me, Bhimraj Yadav and Subas Yadav went in front of the Industrial Area gate taking another route. We showed black flags. The police started beating Subas like a buffalo. Red Cross Ambulance came and took him to the hospital. I run towards the east. Women were also with black flags. The police said "attack" and they started beating randomly. I was discharged from the Hospital after three days.

**Ram Babu Sah (name changed), 13 years, student of grade 7 at Happyland School Rajbiraj, permanent resident Hariraha Pato VDC, at present residing at Rajbiraj. Father's Name Satya Narayan Sah.**

On that day as it was strike and my school was closed. I with two other friends went to observe the protest program. We were watching the protest from the western side of the Chowk. We heard that some person was injured by bullet. When I turned back a bullet injured me in the back of the neck. Someone took me to the Rajbiraj Hospital on a motorbike and then I was sent to BPKIHS Dharan. I was discharged from there after three days.

(Medical report summary: bullet injury on the back of the neck 5x6 c.m. depth up to muscle)

**Ashok Kumar Mehata Prameshwar Kumar (name changed) Eye witness:**

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I was there at Jolhari Chowk just to see the situation. From 2.30 to 3pm there was a protest rally and a confrontation with police, who conducted a **lathi charge**. The protestors were around 4,000 in numbers while security forces were double in numbers than the protestors. Around 4.15pm, KP Oli entered into the Industrial Area compound. The security forces then went back from the Jolhari Chowk. Due to the tear gases people were not able to see anything at the chowk. At around 5.15pm, KP Oli was to leave out from the compound and at the same time police opened fire. The police fired indiscriminate. Birendra Mehta was at the Chowk and he run away towards the east, the police shot Birendra and Pitamber both. All those police were Armed Police Force and were not from the local police posts. They were brought from Jhapa. When more than five persons fell down with bullet injury at Chowk area, the police returned from that area. After that the injured persons were taken to Rajbiraj hospital and then taken to BPKIHS Dharan. Birendra Mehata died after a few days after the doctors had completed the surgery.

### **Bhogendra Raut (name changed) Maleth 4, eye witness:**

My house is west from the Jolhari Chowk. I was going to my house at around 3pm. When I reached to the Chowk, the police were standing at the Chowk barring us from going forward. The whole Jolahari Chowk (which is of 22 Bigha land) was surrounded by security forces. The police had made a barrier standing very near to each other. The police had a scuffle with the protestors who were trying to break the police barrier and then the police conducted a lathi charge injuring many protestors. The police were not allowing anyone to cross their line, so I was stuck there. The police were throwing tear shells every minute and thus the people in the area could not stay in their home. When KP Oli finished his speech at around 5.15pm and was to leave, the police opened fire from the gate of the Industrial Area. The first bullet hit Anand Sah on the road near the Chowk which is around 200 meter south from the gate. I caught both of his feet and was trying to put him on a motorbike. By this time, the security forces had reached to Jolhari Chowk and they shot Sanjan Mehata on his head. They shot Digamber Yadav also there. I was afraid, but loaded Anand Sah on motorbike and told Govinda Yadav to take him to the Hospital. Sanjan Mehata was going to his shop from his house, the police put the gun on his ear and shot him. He died on the spot. At the same time, Inar Yadav also was shot nearby. The same group of police then returned and went towards the village (east from the Chowk). They shot Birendra Mehata and Pitamber Mandal near his house. I was also hit with a stone in my stomach.

### **Bindeshwor Mandal (name changed), 33 years, (Malekpur VDC ward no 5, Khurhuriya, affiliated with CPN-M, Baidya Group):**

I was there in the protest rally to show black flag. We joined the protest rally at Nahar Chowk, the police stopped us there. We went in front of the stage of the UML program by taking a back route. The police chased us. We were six persons who were surrounded by about 100 policemen. The police fired tear shells and bullets indiscriminately. We came to the road running. We were severely beaten up in the wheat field. When I reached to the road, many people were injured by bullets. I was admitted to the hospital for a day and then discharged. I had injury of baton charge.

### **Rajan Yadav(name changed), 30 years, Basbitti 3 (associated with MPRF):**

I was there in the protest rally. I was in the eastern side of Jolhari Chowk. I was slightly injured by bullet when I fell down. I was admitted in Rajbiraj Hospital and was discharged after three days.

### **Ajit Yadav (name changed), 42 years, Prasbani VDC Ward No. 7, temporarily residing at Rajbiraj 5, lawyer:**

I went to see the situation after the Court was closed at 4 pm .on my motorbike. I stopped at the crossroad of Maleth. At that time protestors were pelting stones and from the police side also stones were pelted towards the protestors. There were situations when at some points police were chasing the protestors and at the other the protestors were chasing the police. I

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did not go inside the Industrial Area. After half an hour many vehicles reached to the gate of the Industrial Area. The police fired tear gas shells and the protestors run towards south. The area was full of tear shell smoke and at the same time around 20-25 rounds of bullets were fired from the police side. In front of me, one person was injured by bullet, I was approaching to him but before I reached him I was also injured by a bullet. I received treatment in BPKIHS Dharan. The bullet is still inside. The doctors has said that they will decide later whether to take out the bullet or not.

(Medical report Summary: Bullet fragment present on right side of 10-11 rib. Entry wound of bullet on mid back.)

### **Pankaj Yadav(name changed), 38 Years, Maleth, 3:**

My house is near the Jolhari Chowk. When I hear the noise, I came out. I went to my kitchen garden and police started beating me. About 10-15 police beat me with baton. I had a head injury. I got treatment from Rajbiraj hospital. The doctor referred me to BPKIHS but I could not go.

### **Shiv Raj Yadav(name changed), 48 years, (CC member of Sadbhawana Party) and a local resident of Maleth-7:**

On 6 March I went to show black flag to the UML's top leaders who were supposed to come to Maleth as part of their Mechi-Mahakali campaign. When I reached the Industrial Area of Maleth around 3.30pm, I saw the area was barricaded by Nepal Police (NP) and Armed Police Force (APF). Then I tried to approach the venue from the eastern side via a wheat field. I stepped up alone. Suddenly a group of APF ran towards me and started to beat me with their batons. I fell down in the wheat field but they did not stop beating me. They kicked me with their boots and beat me with bamboo sticks on the back of my neck and waist until I fainted. Moreover, they also shouted abusive words, racial and vulgar slurs on me.

When I got conscious I found myself in a bed at the Zonal hospital, Rajbiraj. For a week I was under treatment and I had to take bed rest for fifteen days.

### **Bhagwan Yadav (name changed), 26 (student leader associated with CPN-UML) and a local resident of Rajbiraj-10, Dumari:**

Since I am a student leader in the CPM-UML I joined the Mechi-Mahakali campaign of my party and went to Maleth by 10 am on 6 March.

On that very day security personnel were deployed in huge numbers on the spot and its vicinity. Nepal Police (NP) and Armed Police Force (APF) had blocked the road in its southern part of Maleth in the distance of 200m (approx) where cadres of Madhes based parties were protesting with black flags.

I was standing at the main gate of the industrial area of Maleth where all the security frontliners also stood. What I could see is, by 2.30pm (approx) Dibas Lohani, SP of NP whispered to Jay Bahadur Khadka, SP of APF and Khadka instantly went from the spot and did not come back.

I thought no incident would take place. But it was around 5pm when the programme of UML was completed and the leaders had started coming out of the premises of the industrial area at that time a confrontation was going on between security force and protesters. Both pelted stones at each other. In the meantime, I thought that I should leave for my home. When I rushed to the southern side of Maleth to take my bicycle I had kept in the house of one of the local residents' cow shed, a group of police came towards me and asked me not to go due to the tense situation. An APF officer came and abused me and asked the police to beat me but most of the police told the APF that I was from the UML side. But, I was beaten mercilessly by APF with a stick. I had my hand cut. Some other APF came there and circled me and inflicted force on me. From somewhere, Shyam Sundar Yadav, a journalist came and asked the police whether they wanted to kill me. Then they stopped beating. Within a few minutes a van of police came and brought me to Rupani hospital. I can say that police brought me to hospital because I was a cadre of UML.

After receiving primary medical treatment in Rupani, I was referred to BPKIHS for further treatment now I have eight stitches in my hand.

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**Shivendra Yadav(name changed), 29 years, student leader of Madhesi People Right Forum, Republican, a local resident of Jhutaki, 4:**

I along with some of my friends went to show black flags to UML leaders at Maleth. I went by 2.30pm. The area was blocked by the security forces. But we tried to go closer to the venue with black flags. We thought that police would arrest us. We had not imagined that police could be brutal up to the level that they killed peaceful protesters. But when I went on going to the programme venue from the eastern side of programme venue, we were chased by a group of police (NP and APF). They started beating me with sticks. I could not count how many times they beat me. Some local people took me to Rajbiraj hospital. My leg, basically the back part of patella of right leg got swollen. I cannot move now without support.

### Political Situation Analysis and Local Administration

The CPN-UML had announced its Mechi Mahakali Campaign. The Madhes based parties (United Democratic Madhesi Front) had decided to protest against it. The Saptari chapter of UDMF, had already announced that they will not allow the UML to organize its program in Saptari. Due to this threat, the pre- scheduled program of the UML which was to be organized in Rangshala which is in the Rajbiraj Market, was shifted a day before to the Industrial Area which is about 4km north from Rajbiraj.

Looking at the difficult political situation, the district administration could have issued a prohibitory order or a curfew. However, it seemed that the local administration was supportive to organize the UML program at any cost. It is also said that the then Chief District Officer Uddhab Timalsena was one of the active member of CPN-UML-affiliated Intellectual Group. Similarly, the then Nepal police SP of the district, Diwas Lohani has very bad record of suppressing Madhesi movement during the 2015 Madhes movement when he was in Birgunj.

### Conclusion/Recommendations

Looking upon the facts found during interviews and medical reports as well as the distance and spot of bullet firing, it seems that there was no necessity of using lethal force. The heavy deployment of security forces had allowed the NP and APF to control the crowd for almost four hours by using tear gas and lathi charges. The bullets used are jacketed bullets, which are lethal and very dangerous to use for crowd control. The available water canon has not been used. Indiscriminate firing of bullets by the security forces is clearly excessive. This incident of excessive use of force is a violation of international standards of use of force, international human rights law and the legal provisions on use of force in Nepal as well as the Supreme Court order. Thus, THRD Alliance would like to recommend the concerned authorities to:

- Initiate a fair and impartial criminal investigation.
- Take necessary legal action against the security forces involved and also on the basis of command responsibility.
- Provide justice and reparation to the victims.
- The political parties must restrain from violent protests and confrontation.

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