

**Nepal
One Hundred Days after Royal Takeover
and
Human Rights Crisis Deepens
February 1– May 11, 2005**

12 May 2005

**Published by
Asian Forum for Human Rights and Development (FORUM-ASIA)**



This report is a compilation of contributions coming from different organizations and individuals, both within Nepal and outside. Due to security reasons, the names of the contributors, editors and their institutional affiliations are not disclosed.

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EXECUTIVE SUMMARY

The tumultuous political and deteriorating human rights situations that started with an initiation of armed revolt of the Maoists in 1996, has taken a sudden up-turn when King Gyanendra seized the executive powers, thanks to the military force backing.

Nepal is currently recording a record of human rights gross violations, which undermines the very dignity of humanity and letting aside the basic principles of democracy after the February 1, 2005 Royal Coup D'état. By pretending to control nearly a decade long of Maoist insurgency that started on 13 February of 1996 and restoring peace in the country, King Gyanendra of Nepal removed the prime minister and the entire council of ministers from their jobs. Following this, the king assumed all the executive powers in accordance with Article 27(3) by 'royal proclamation' and imposed an order of State of Emergency throughout the country by invoking Article 115(1) of the Constitution of the Kingdom of Nepal (1990). Military forces were instantly mobilized to round up the members of the incumbent council of ministers, political parties' prominent leaders, human rights defenders, journalists, student leaders and other independent opinion builders. Since then, the country has been virtually run by the army and the administration is increasingly being militarized. Almost all fundamental human rights guaranteed by the constitution remain suspended.

Even though the king has reiterated on several occasions his "commitment" to multi-party democracy, constitutional monarchy and full respect of human rights, the ground realities are totally different. Along with the "royal proclamation", leaders of different political parties including the members of the council of ministers, journalists and human rights defenders, some 3,284 individuals were arrested and arbitrarily detained during this period. Although some of them were released on different occasions, about an estimated 1,516 individuals are still under house arrest or in detention centers. Those put under house arrest included the deposed prime minister, and top leaders of the main political parties who believe in a multi-party democracy, constitutional monarchy and rule of law. The cycle of arrest/re-arrest and release kept on occurring even after the Court's intervention for lifting the State of Emergency. For instance, Mr. Gagan Thapa, a student leader, and Mr. J. P. Gupta, a former minister, were re-arrested immediately after their release, due to an order issued by the Supreme Court on 5th May 2005¹.

The right to life is continuously challenged. These 100 days of king's direct rule saw an increased rate in the killings of the people. On a daily basis, more than 6 people were killed, for a total of 599 people that lost their lives either to security forces or to the Maoists from 1st February till 3rd May 2005. These killings were reported in 58 of 75 districts of the country.

The right to information is also challenged. Because of the media censorship, news that would be considered as important and of people's interest are not reported. Media operators are under the continuous threat of receiving orders to close down or summon to the administrators, publishing any material that may be in contravention to the royal proclamation or other notifications issued by the government in this effect. The FM radios are prevented to broadcast news items and any other materials that may, by interpretation of the rulers, demoralize the security forces or boost up the morale of the insurgents. The newspapers published outside of the Kathmandu valley have to pass through strict instructions of the district administration and the security forces. They are highly vulnerable to both types of gun owners- the state and the insurgents. The fear inspired by security forces and Maoists has not decreased. To the contrary, it has been exacerbated and propagating the culture of fear and insecurity has taken over possible attempts to establish peace and security.

The freedom of movement was curtailed during the period. About 35 individuals were not allowed to travel out of the Kathmandu valley in the pretext of barring them to participate in different programs. Among them

¹ Kantipur daily, 6 May 2005.

were people traveling only to meet family members or participate in religious and family rituals elsewhere within the country. Even if the Supreme Court issued an order for not barring free travel of Mr. Daman Nath Dungana, senior lawyer and former Speaker of the House of Representatives, he was not allowed to leave the valley.

The rights to food, education, health and information have remained increasingly encroached by both the State and the Maoist insurgents, due to an increase in their activities to act and counter act. Censorship on media has remained a bottleneck for getting information about the rights being enjoyed by the people in rural Nepal. As a way of opposing the royal move, Maoists have called on general strikes and highway blockades, which have had severe impacts on the smooth functioning of educational institutions, supply mechanisms and transportation systems.

The State and the insurgents' direct actions and the indirect actions provoked by the royal takeover had a tremendous impact on the socio-economic development of the country. Several donors have suspended their military aid, and some have also stalled development aid. As the king has an intention to strengthen the security forces rather serving the development needs of the people, there are probabilities of development fund being used for military purposes, aggravating further the already vulnerable condition of people.

The humanitarian crisis is alarming. The conflict has affected the poor and marginalized people are deprived of their basic rights to food, clothes, shelter and peaceful environment. As a counter to the Maoist atrocities, State-sponsored vigilante groups are being organized in a number of places, which have added injuries to the already ailing misery of the local people. Several hundred families are forced to live a life of internally displaced people after they came across Maoist and vigilante fighting in Kapilvastu district. In two incidents in Kapilvastu on 17th and 24th February 2005, 680 houses were burnt down. The vigilante mob killed three suspected Maoists. These are some examples, which may be considered as seeds sown for civil war.

The Constitution of the Kingdom of Nepal 1990, which was first publicly encroached when the king removed the elected prime minister from office in October 2002, was thrown into the thrash can in February 2005, although different articles of the Constitution remain cited for every 'royal action'. In accordance with the Constitution, the king has no authority to remove the elected prime minister. Neither can he make any proclamations or orders on his own, but as per the recommendation of the prime minister. The military can only move as per the orders of the Security Council, headed by the prime minister, and not by the king's order. On February 1st, the army was arrested the incumbent prime minister without his notice. Also, the State of Emergency can be ordered only upon the recommendation of the council of ministers. In regards with the episode of Feb 1, the council of ministers was constituted on 2nd of Feb whereas State of Emergency was announced the day before. The selection or election of the prime minister and council of ministers is the job of the Parliament, as per Article 36.

Evidences on the ground reveal that the effect and implications of Maoist insurgency for which the 'royal proclamation' was announced, has not shown any sign of retreating, and is expanding instead. Many observers argue that this move has strengthened the cause of Maoist insurgency and weakened the forces active within the premises of the Constitution. The State of Emergency was used to silence dissent and detain those opposing the royal takeover. In this respect, an unconstitutional body by the name of Royal Commission for Corruption Control (RCCC) has been constituted, granting immense powers to arrest, investigate, prosecute and execute decisions as per the regulations prepared by it. Observers argue that there was no need of this Commission when the highly empowered Commission for the Investigation of Abuse of Authority (CIAA), a constitutional body was effectively carrying out the kind of works that the Royal Commission is thought to perform.

In a bid to help restore multi-party democracy, human rights and rule of law in Nepal, different civil society organizations, intergovernmental and governmental organizations including independent people within the country and abroad have carried out different programs through these 100 days of royal takeover. The

activities have been effective to inculcate critical understanding about the human rights situation in Nepal. As a result, Nepal has become a prominent agenda of discussion in different international fora including the 61st Session of the Commission on Human Rights in Geneva.

After a thorough assessment of the human rights situation, the United Nations High Commissioner for Human Rights and the Government of the Kingdom of Nepal have agreed to establish an office of High Commissioner in Nepal to monitor the human rights situations. Similarly, resolution on agenda item 19 on Nepal was also adopted during the 61st Session of the Commission on Human Rights.

Having briefly discussed about the human rights situation in Nepal through the 100 days of royal takeover of the executive powers, we would like to request the esteemed readers to go through the whole document that follows and propagate at your level best for the cause of ordinary Nepali people.

1.0 INTRODUCTION

1.1 General overview of the country

Rich with cultural heritage, natural amazing landscapes, endowed with abundant natural resources - productive lands, nourishing waters, caring forests and scenic beauty of the serene topography, peace loving and friendly people from diverse communities, Nepal is bestowed with almost all evocative amenities enjoyed by a heavenly setting elsewhere. The territory of Nepal is proud of having given birth to Gautam Buddha – the Light of Asia and symbol of tranquility and non-violence, housing Sagarmatha (Mount Everest) - the highest peak on earth, and maintaining independence throughout its History. Nepal is predominantly a mountainous country situated on the southern slope of the great majestic Himalayas, sandwiched in-between two highly populous gigantic countries of Asia –People’s Republic of China in the north and Republic of India in the south, west and east.

Nepal at a glance²:

Area: 147,181 square kilometer

Total population (estimate 2004): 25 million

Composition of the population: more than 60 ethnic or caste groups having their own mother tongues.

Human development index, 2002:0.504

Life expectancy at birth (2002): 59.6 years

Adult literacy rate (% , 15 years and above age group) (2002): 44

Percentage of population living below the national poverty line (2003): 38

System of governance: multi-party democracy with constitutional monarch³ (but after 1st Feb 2005, the king has assumed all executive powers imposing military rule by abandoning almost all pillars of multi-party democracy).

The mainstay of the Nepalese people is agriculture, supplemented by tourism, foreign remittances, and trade of mainly agro-based products.

1.1.1 Socio-political development

As the leadership of late King Birendra Bir Bikram Shah Dev failed to lead the country towards economic prosperity and balanced development of all sectors respecting fundamental rights of the people, a popular uprising led by a coalition of different political parties reinstated the multi-party democracy in 1990, prompting promulgation of broad based democratic constitution.

With the reinstatement of the multi-party democracy, there were expectations of increased human rights protection, social inclusion, stability and development. However, despite some improvements, there has been little progress in bringing existing legal and administrative provisions fully in line with international standards and principles enshrined in the constitution of the Kingdom of Nepal.

² Human Development Report 2004, published by UNDP and Cunningham, D., A. Karki, M. Kattel, R. Lohani, R. Segal and L. de Vries (eds), 2003. Nepal poverty report. In Poverty in South Asia-2003: civil society perspectives. Published by SAAPE Secretariat, Kathmandu.

³ HMG 1990. His Majesty’s Government, Ministry of Law, Justice and Parliamentary Affairs, Law Books Management Board. The Constitution of the Kingdom of Nepal 2047 (1990).

Although the city centers and district headquarters are relatively well served by the government, the rural areas have remained isolated by the development endeavors. Hence, the disparity and discrimination in terms of development, endowment of resources and access to power politics, among others, is distinctly visible between urban and rural settings in Nepal⁴.

On February 13, 1996 the 'People's war' was declared by the Communist Party of Nepal (CPN) (Maoist) against the Nepalese government, with the main goal of establishing a republican state. Human rights violations by both the government security forces and CPN (Maoist) cadres have been continued and intensified then after. It is estimated that more than 11,000 lives have been claimed so far by this insurgency⁵.

Following the June 01, 2001 massacre of the royal family including King Birendra, violence escalated and the government brought in the army in addition to national police forces to fight the rebels. After the death of his brother Birendra in royal massacre, that also claimed 10 other lives including the queen, crown prince, prince and princess, Gyanendra was enthroned within hours of royal mourning.

The government and the Maoists held peace talks in three rounds in August, September and November of 2001. However, these peace talks failed and the Maoists resumed their violent insurgency, which was followed by a declaration of State of Emergency in November 2001 to contain them. As per the constitutional provisions, the State of Emergency was discussed at the House of Representatives and approved by two-third majority.

In May 22, 2002, the House of Representatives was dissolved upon the recommendation of the then elected Premier Sher Bahadur Deuba and fresh election was called over the political confrontation of renewing state of emergency.

In 4 October 2002, King Gyanendra removed Nepal's elected government, allegedly in order to bring about stability, postponed elections indefinitely and assumed *de facto* control of the state. These actions and the lack of political reform further alienated the Maoist rebels and the political opposition from the Nepalese Government. The king appointed his nominee Lokendra Bahadur Chand as the Premier of Nepal; the first prime minister of Nepal that was not a member of House of Representatives. According to the Constitution of the Kingdom of Nepal, only elected Member of Parliament (House of Representatives), which gets supports from the majority of the members of House of Representatives, can be appointed as the Premier.

Lokendra resigned from the post of Prime Minister in May 2003, and the king's own nominee Surya Bahadur Thapa was appointed as next premier. After nearly one year in office, Surya Bahadur Thapa also resigned from the post of premiership in May 2004, and Sher Bahadur Deuba was brought in as the third nominee of the king in June 2004.

After alleged successive failures of three governments to bring the Maoists into negotiation rounds for culminating violence and bringing peace in the country, the king ultimately took all power into his hands for three years as declared, by chairing the council of ministers himself. A royal proclamation to this effect was aired on 1st of February 2005. This proclamation was followed by a 'State of Emergency' order that imposed a total ban on all fundamental human rights, including all political activities of the parties committed to multi-party democracy and rule of law as well as the activities of the human rights organizations and pro-democracy civil societies.

⁴ Arjun Karki and David Seddon (eds), 2002. People's war in Nepal: a left perspective. Adroit publishers, New Delhi, India.

⁵ INSEC, 2005

The declaration or order of State of Emergency should be laid before Parliament (House of Representatives, if it is in dissolved state then to the National Assembly) within three months of its issuance for approval to extend it for another three months. The order may be approved by a majority of two third members present in the meeting of the House of Representatives.

Nepal is one of the least developed countries and is suffering from structural poverty, marginalization, low economic growth rate and low level of achievements of socio-economic development. About 38% of the population is living under the line of absolute poverty. The development endeavors, even if inadequate, are more skewed towards urban centers and district headquarters. The western hills and mountains of the country receive less development aids in comparison to other areas. The greater part of the Dalits comprises about 15% of the total population of the country lives in this area. This region abode also a significant number of ethnic minority groups such as Tharu, Magar, etc. The forgotten region - Karnali Pradesh, which has no access to the national development agenda, also falls in this region. Both gender and caste-based discriminations are prevailing here. All the amenities including health, education and communication are out of the reach of the people living in the hills and mountains of western Nepal. People have to look for other options for subsistence, since the ailing agricultural sector is unable to meet their family needs round the year.

Thus, the most pertinent development issues;

Improvement in system of governance, improvement in livelihoods opportunities, reduction or elimination of absolute poverty, improvement of health services, increase in awareness and education, establishment of infrastructure supporting development, formulation and implementation of rule of law.

1.1.2 Human rights regime

After the restoration of multi-party democracy in 1990, Nepal promulgated a Constitution, ensuring the source of sovereign authority of the country inherent in the people of Nepal and guaranteeing basic human rights. The adult franchise, the parliamentary system of government, constitutional monarchy and the system of multi-party democracy for the promotion of liberty and equality among all the citizens of Nepal are the milestones of the constitution⁶. Therefore, several laws have been enacted to protect and promote human rights and social justice in Nepal.

1.1.2.1 Constitution of the Kingdom of Nepal 1990

Fundamental rights protected by the Constitution of the Kingdom of Nepal.

As documented under Part Three from Articles 11 through 23 of the Constitution of the Kingdom of Nepal, following fundamental rights have been guaranteed:

Article 11: Right to Equality

- (1) All citizens shall be equal before the law. No person shall be denied the equal protection of the laws.
- (2) No discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe or ideological conviction or any of these.
- (3) The State shall not discriminate among citizens on grounds of religion, race, sex, caste, tribe, or ideological conviction or any of these.

⁶ The Constitution of the Kingdom of Nepal 1990.

Provided that special provisions may be made by law for the protection and advancement of the interests of women, children, the aged or those who are physically or mentally incapacitated or those who belong to a class which is economically, socially or educationally backward.

(4) No person shall, on the basis of cast, be discriminated against as untouchable, be denied access to any public place, or be deprived of the use of public utilities. Any contravention of this provision shall be punishable by law.

(5) No discrimination in regard to remuneration shall be made between men and women for the same work.

Article 12: Right to Freedom

(1) No person shall be deprived of his personal liberty save in accordance with law, and no law shall be made which provides for capital punishment.

(2) All citizens shall have the following freedoms:

- (a) freedom of opinion and expression;
- (b) freedom to assemble peaceably and without arms;
- (c) freedom to form unions and associations;
- (d) freedom to move throughout the Kingdom and reside in any part thereof; and
- (e) freedom to practice any profession, or to carry on any occupation, or trade.

Provided that -

(1) nothing in sub-clause (a) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities, or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act which may be contrary to decent public behavior or morality;

(2) nothing in sub-clause (b) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act, which may undermine the sovereignty, integrity or law and order situation of the Kingdom of Nepal;

(3) nothing in sub-clause (c) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act, which may undermine the sovereignty and integrity of the Kingdom of Nepal, which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities, which may instigate violence, or which may be contrary to public morality;

(4) nothing in sub-clause (d) shall be deemed to prevent the making of laws which are in the interest of the general public, or which are made to impose reasonable restrictions on any act, which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities;

(5) nothing in sub-clause (e) shall be deemed to prevent the making of laws to impose restriction on any act which may be contrary to public health or morality, to confer on the State the exclusive right to undertake specified industries, businesses or services; or to impose any condition or qualification for carrying on any industry, trade, profession or occupation.

Article 13: Press and Publication Right

(1) No news item, article or any other reading material shall be censored.

Provided that nothing shall prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities; or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act against which may be contrary to decent public behavior or morality.

(2) No press shall be closed or seized for printing any news item, article or other reading material.

(3) The registration of a newspaper or periodical shall not be canceled merely for publishing any news item, article or other reading material.

Article 14: Right Regarding Criminal Justice

(1) No person shall be punished for an act, which was not punishable by law when the act was committed, nor shall any person be subjected to a punishment greater than that prescribed by the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted or punished for the same offence in a court of law more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

(4) No person who is detained during investigation or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhuman or degrading treatment. Any person so treated shall be compensated in a manner as determined by law.

(5) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his choice.

Explanation: For the purpose of this clause, the words "legal practitioner" shall mean any person who is authorized by law to represent any person in any court.

(6) Every person who is arrested and detained in custody shall be produced before a judicial authority within a period of twenty-four hours after such arrest, excluding the time necessary for the journey from the place of arrest to such authority, and no such person shall be detained in custody beyond the said period except on the order of such authority.

(7) Nothing in clauses (5) and (6) shall apply to a citizen of an enemy state, and nothing in clause (6) shall apply to any person who is arrested or detained under any law providing for preventive detention.

Article 15: Right against Preventive Detention

(1) No person shall be held under preventive detention unless there is a sufficient ground of existence of an immediate threat to the sovereignty, integrity or law and order situation of the Kingdom of Nepal.

(2) Any person held under preventive detention shall, if his detention was contrary to law or in bad faith, have the right to be compensated in a manner as prescribed by law.

Article 16: Right to Information

Every citizen shall have the right to demand and receive information on any matter of public importance;

Provided that nothing in this Article shall compel any person to provide information on any matter about which secrecy is to be maintained by law.

Article 17: Right to Property

(1) All citizens shall, subject to the existing laws, have the right to acquire, own, sell and otherwise dispose of, property.

(2) The State shall not, except in the public interest, requisition, acquire or create any encumbrance on, the property of any person.

(3) The basis of compensation and procedure for giving compensation for any property requisitioned, acquired or encumbered by the State for in the public interest, shall be as prescribed by law.

Article 18: Cultural and Educational Right

(1) Each community residing within the Kingdom of Nepal shall have the right to preserve and promote its language, script and culture.

(2) Each community shall have the right to operate schools up to the primary level in its own mother tongue for imparting education to its children.

Article 19: Right to Religion

(1) Every person shall have the freedom to profess and practice his own religion as handed down to him from ancient times having due regard to traditional practices;

provided that no person shall be entitled to convert another person from one religion to another.^[3]

(2) Every religious denomination shall have the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts.

Article 20: Right against Exploitation

(1) Traffic in human beings, slavery, serfdom or forced labor in any form is prohibited. Any contravention of this provision shall be punishable by law;

Provided that nothing herein shall be a bar to providing by law for compulsory service for public purposes.

(2) No minor shall be employed in work in any factory or mine, or be engaged in any other hazardous work.

Article 21: Right against Exile

No citizen shall be exiled.

Article 22: Right to Privacy

Except as provided by law, the privacy of the person, house, property, document, correspondence or information of anyone is inviolable.

Article 23: Right to Constitutional Remedy

The right to proceed in the manner set forth in Article 88 for the enforcement of the rights conferred by this Part is guaranteed.

1.1.2.2 International human rights instruments⁷

Nepal is the state party to the following major international human rights instruments; hence she needs to abide by them⁸.

1. International covenant on civil and political rights (ICCPR), 16 December 1966 including optional protocols 1 and 2.

2. International covenant on economic, social and cultural rights (ICESCR), 16 December 1966

3. Convention against torture and other cruel, inhuman or degrading treatment or punishment (CAT), 10 December, 1984

4. International convention on the elimination of all forms of racial discrimination (CERD), 1965

5. Convention on the elimination of all forms of discrimination against women (CEDAW), 18 December 1979

6. Convention on the rights of the child (CRC), 20 November 1989

7. International convention on the prevention and punishment of the crime of genocide (CPPCG), 9 December 1948

Similarly, Nepal has become the party to the following ILO conventions

1. freedom of association and collective bargaining – convention 98

⁷ <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=121#121>

⁸ Cunnington, D., A. Karki, M. Kattel, R. Lohani, R. Segal and L. de Vries (eds), 2003. Nepal poverty report. In Poverty in South Asia-2003: civil society perspectives. Published by SAAPE Secretariat, Kathmandu, Nepal

2. Elimination of forced and compulsory labor – convention 29
3. Elimination of discrimination in respect of employment and occupation – convention 100
4. Elimination of discrimination in respect of employment and occupation – convention 111
5. Abolition of child labor –convention 138
6. Abolition of child labor –convention 182

2.0 GROSS VIOLATIONS OF HUMAN RIGHTS

2.1 An overview of the violation of human rights after the royal-military takeover

The royal proclamation dismissing the incumbent government led by Sher Bahadur Deuba and assuming executive power was announced at 10:00 hours on February 1, 2005 through Nepal Television and Radio Nepal – both state-sponsored media. Telephone lines, including mobiles and Internet services were severed immediately after the announcement, and fully-armed military censors took control of the media premises. The fixed line telephone service was restored after six days. Cell phones with post-paid facilities were restored only on 5th of May 2005. However, many of the leaders of political parties, human rights activists, journalists and lawyers are barred from using them.

The security forces had begun rounding up of political leaders and student activists even before the takeover was announced. The journalists and human rights defenders were also detained. Those put under house arrest included the deposed prime minister, and top leaders of the main political parties believing in the multi-party democracy, constitutional monarchy and rule of law. From February to mid March the government arrested or detained 3,284 party and student activists and human rights defenders, of whom 1,516 are still in arbitrary detention or under house arrest as of 3rd May 2005. The following scores were found to be still in arbitrary detention or house arrest:

- 1,480 politicians of 3,188 arrested and/or detained
- 36 journalists and human rights defenders out of 96 those were arrested and/or detained.

Violence in Nepal continued during this period, too. In total, 599 were killed after 1st February till 3rd May 2005, almost double of the daily and monthly average killings before the takeover. The deaths were reported in 58 of 75 districts of the country. The killings by the security forces averaged about five persons daily. Similarly, killings committed by Maoists were estimated at approximately two persons daily. Out of 443 persons killed by government forces after February 1st of 2005, 425 corpses were labeled as "Maoists", 17 were identified as civilians and one corpse has remained unidentified. The highest number of Maoist deaths was reported on February 28th. Governmental forces recovered 50 bodies, including three civilians, after a battle in Ganeshpur area of Bardiya district on the Gulariya-Nepalgunj road sector. In a different incident that took place in Khara village of Rukum district, the government forces claimed that they recovered 115 bodies in the battle with Maoists.

The Maoists have also continued targeting civilians. They killed 93 civilians after 1st February until May 3rd, 2005. The number of police and military personnel killed during the period was 39 and 21, respectively.

A government-backed "resistance mob" has set fire to houses belonging to 20 families suspected of being Maoist sympathizers on February 23 in Singhokhor, Parshoia and Labani Village Development Committees of Kapilvastu district. The mob also beat a Maoist cadre to death in Lalbani. Three government ministers, who visited Ganeshpur village on February 21st, have hailed and supported the local resistance. Among them were Home Minister, Dan Bahadur Shahi, Minister for Labour, Ramnarayan Singh and Minister for Education, Radhakrishna Mainali. Their speeches as broadcast on state-run media were full of praises of the "resistance mob" and also they assured of continued support to the "local efforts" to nullify Maoist atrocities. The heads of the Armed Police Force, Nepal Police and the National Investigation Department had accompanied the ministers⁹. In total 31 persons were killed in the district on February 17 and 24; and 680 houses of the villagers have been burnt down to ashes. Three of the dead—suspected Maoists—were burnt

⁹ www.kantipuronline.com, dated 22 February 2005.

alive by making pyre by the "resistance group". State media reported that eight Maoists were beaten to death by villagers on Jabamari VDC on February 18th and 19th.

The government had released nine political party leaders on February 25th but political activities including non-violent street protests against the takeover were continuously suppressed. Telephone lines of about two dozens political leaders still remained severed on May 3rd. Telephone lines that are still disconnected belong to NC President Girija Prasad Koirala, CPN (UML) General Secretary Madhav Kumar Nepal, People's Front Nepal (PFN) leader Amik Sherchan, among others.

Dozens of activists from different political parties and student organizations were arrested on different dates. Most of the arrests have taken place after parliamentary parties launched protests demanding the restoration of multi-party democracy on February 22nd. Figures provided by the government undercount detentions, especially for people held overnight and released without charges the next day.

On 1 March 2005, US Ambassador to Nepal, James F Moriarty was prevented from meeting Nepali Congress President Girija Prasad Koirala, who was under house arrest. This was the second time that Ambassador Moriarty had been denied access to Koirala since 1 February 2005.

2.1.1 Restrictions on media

The armed military censors have camped at different media establishments during the first week of February, instructing editors what to publish and what not to. On February 2nd, the Government issued a notice asking the media not to report anything that would lower the morale of the security forces or that could contravene to the "spirit" of the royal proclamation. The notice has been enforced and interpreted by district-based local administration officials. The government has arrested journalists, and has continuously harassed others in less visible but more humiliating ways.

The Chief District Officers (CDOs) at the District Administration Offices (DAO) across the country have continued to summon, harass and threaten editors and journalists after February 1 (individual instances have been well-documented by different national and international groups active to protect press freedoms). Restrictions are stricter in districts outside the Kathmandu valley, where the local army, police chiefs and CDOs take all the decisions.

On March 1st, the Ministry of Information and Communication (MOIC) issued fresh orders directing the media not to publish any information on the Maoists other than that approved by the security forces. The notice was a response to press coverage on the lifting of a transport closure announced by the Maoists on February 12th.

The government has completely gagged thought provoking talks on radios, in addition to banning independent news and current affairs programming. The government decision has continuously threatened the existence of 46 independent FM radio set up after Nepal began licensing them in May 1997.

In a different development reported by the Nepal Samacharpatra (newspaper) on March 7th issue that the Defense Ministry had asked the ministry in charge of overseeing NGOs "to prepare and enact code of conduct for controlling and managing the activities of NGOs and INGOs operative in the country", which the later is now said to be working on. The move is suspected to be primarily aimed at the human rights and civil society organizations that have been critical to the excesses of the security forces.

2.1.2 Restrictions on travel

Rumors—many of which have later turned out to be true—have filled the vacuum caused by restrictions on free flow of information. The government has imposed travel restrictions on many human rights defenders—who, however, have not been informed of it in advance and were consequently sent back to their point of departure. The government is now said to be considering restrictions on activities for all human rights organizations, including international organizations such as the International Committee of the Red Cross.

On February 26th airport police barred a human rights defender to travel to Nepalgunj to attend a workshop on humanitarian law. Ironically, the human rights defender was to have traveled at the request of the security forces there, who were participating in the meeting. In a similar manner, security forces at the airport prevented a former Supreme Court justice from flying to Mumbai to attend a conference on women's rights and anti-trafficking on February 21st.

Similarly, two honorable members of National Human Rights Commission were stopped from flying out of the valley at the Tribhuvan International Airport in Kathmandu.

Even after the SoE was lifted, the Deputy Speaker of the House of Representatives was halted by the security forces traveling out of Kathmandu on 7th May. This was the third time that she was not allowed to board any outbound aircraft¹⁰. Similarly, two representatives of political parties and civil society organizations were also stopped by the security personnel at the Kathmandu airport on 7th May 2005, from boarding an aircraft bound to Delhi. They, including the Deputy Speaker, were going to participate in a SAARC level regional workshop. One political party cadre was also stopped at the airport on 7th May 2005 from going to Jankapur (a town located in the southern part of Nepal) to participate in a political gathering of Nepali congress Party there¹¹.

One prominent journalist and the senior women leader of Nepali Congress Party were also asked to return from the airport in Kathmandu, barring them to travel to India/Sri Lanka and in country, respectively on 6th May 2005¹². These are the first instances of restricting mobility after revoking the state of emergency on 29th April 2005.

2.1.3 Violations by the Maoists

The Maoists have killed 156 persons between 1st of February and 3rd of May 2005. They also have enforced a blockade on all major highways for two weeks, starting February 12th, a move against Feb 1st royal takeover. Here are some examples of atrocities committed by the Maoists during the review period:

On February 20th, the Maoists opened fire at a passenger bus in Charaudi, about 70 kilometers west from Kathmandu. The driver of the bus, carrying 40-50 passengers, was critically injured. A passenger took over from the injured driver and drove the bus to Pokhara where it was headed. Two other passengers also suffered bullet wounds.

On February 24th, suspected Maoist insurgents shot and killed Chandra Prakash Rathaur, member of the World Hindu Youth Federation. He was shot at the gates of his residence at Bulbule Gate of Birendranagar Municipality in Surkhet district.

On February 25th, suspected Maoists shot and killed Ghar Baran Teli at Labani VDC in Kapilvastu district. The next day they killed another three persons by the name of Bedullah Jolha, Maksoor Alam and

¹⁰ <http://www.kantipuronline.com>, 7 May 2005.

¹¹ Kantipur daily, 8 May 2005.

¹² <http://www.kantipuronline.com>, 6th May 2005.

Mohammed Hakik in Jahari VDC of Kapilvastu. The victims were accused to have been involved in organizing the "resistance" against Maoists.

Also on February 26th, suspected Maoists killed three brothers of a family at Masina VDC in Rupandehi district. The deads were charged as members of another local resistance committee.

Pundit Narayan Prasad Pokharel, the President of World Hindu Federation (WHF) Nepal chapter, was shot dead by a group of unidentified gunmen on 6th May 2005. The Maoist-affiliated Dalit Mukti Morcha (Dalit Liberation Front) has owned up responsibility for the killing of top Hindu priest¹³. BBC Nepali Service on Friday quoted a Maoist leader as saying that their organization had decided to 'eliminate' Pokhrel for allegedly "indulging in various crimes in the disguise of religion." Maoists have blamed late Pokhrel—a charismatic religious leader—of indulging in sexual exploitation, amassing property illegally and trying to garner popular support in favor of monarchy, according to reports.

The preferred modus operandi of Maoists has been to kill certain persons first and accuse them later.

2.2 Constitutional and legal issues

On February 1st King Gyanendra dismissed the incumbent government he had appointed on June 2nd, 2004 and took over the executive powers. The king said he was taking action in accordance with Article 27 (3) of the constitution, which gives him the undefined responsibility to preserve and protect the Constitution¹⁴. The king dismissed the government and promised to form a Council of Ministers under his chairmanship—for which there is no provision in the Constitution of the Kingdom of Nepal 1990. The specific exclusive powers granted to the king under the Constitution include making laws on succession to the throne, appointing a royal representative, guarantees that royal expenditures are not reduced by law, a tax-free status, and immunity from litigation at the courts, among others. Given that Article 27 (3) is open to interpretation, there are questions on the constitutionality of the royal proclamation, especially given that Article 35(2), specifically says, "Except as otherwise expressly provided as to be exercised exclusively by His Majesty or at his discretion or on the recommendation of any institution or official, the power of His Majesty under this Constitution shall be exercised upon the recommendation and advice and with the consent of the Council of Ministers. Such recommendation, advice and consent shall be submitted through the Prime Minister." With the Constitution now suspended for all practical purposes, it can be said that all the powers therein have now passed on to the monarch.

2.2.1. Accountability

Article 31 of the Constitution says that the king's actions are above law and cannot be questioned in Courts. In other words, the king is accountable to neither people nor institution and the question on who would he be responsible for everything taking place after February 1st remains unanswered, especially in the absence of elected representatives, which is the basis of the 1990 statute. The Constitution's preamble states: "Guarantee of basic Human Rights to every citizen of Nepal, the Parliamentary system of government, Constitutional monarchy and the system of multiparty democracy by promoting amongst the people of Nepal with the spirit of fraternity and the bond of unity on the basis of liberty and equality; and also to establish an independent and competent system of justice with a view to transforming the concept of Rule of Law into a living reality."

2.2.2 State of Emergency

¹³ <http://nepalnews.com/>, 7 May 2005 edition.

¹⁴ Article 27(3), the Constitution of the Kingdom of Nepal 1990.

The government lifted the State of Emergency on April 29th, 2005, which was announced immediately after the royal takeover of February 1st. The order was derived from Article 115 (1) of the Constitution. However, the time limit of the Emergency law—which legally has to be approved by Parliament after three months—was not specified. The following rights remained suspended under the State of Emergency:

Fundamental rights under sub-clauses (a), (b), (d) and (e) of Clause 2 of Article 12; Clause 1 of Article 13; Article 15; Article 16; Article 17; Article 22 and Article 23 (except the right to the remedy of *habeas corpus*) (please see section 1.1.2 for details).

Nepal's constitution was suspended in October 2002 when the king sacked the elected prime minister and begun ruling with prime ministers of his choice. The inability of successive government's to hold parliamentary elections (due in November 2002) led the king to change prime ministers three times. The deposed prime minister, Sher Bahadur Deuba, was appointed on June 2nd, 2004 and had been given a time frame to initiate elections before mid April 2005.

Constitutionally, the king can declare a State of Emergency in situations where sovereignty, integrity or security of Nepal or of any part thereof is threatened by "war, external aggression, armed rebellion or extreme economic disarray". This, in accordance with Article 32 (2) had been done upon the recommendation of the prime minister in November 2001—but not this time, even though the prime minister held all executive powers.

According to article 115(2) every proclamation or order shall be laid before the meeting of House of Representatives for approval within three months from the date of issuance. However, Nepal does not have a House of Representatives, since it was dissolved in May 2002 and that election to constitute a new one have been postponed since November 2002.

According to the Article 115(6) during the period of dissolution of the House of Representatives, the National Assembly exercises the power of approval of the emergency. It still has majority members from the political parties, and whether it would be asked to approve the emergency, is something that would have been clear after April 1st, if the State of Emergency had not been lifted before that date. The National Assembly was not convened after the lower house was dissolved in May 2002, after which the king dismissed the prime minister in October 2002.

The government has not publicly said if it has informed the UN General Secretary about the rationale for imposing the state of emergency as required by Article 4 of International Covenant on Civil and Political Rights of which Nepal is a signatory.

Article 115(7) says, "After a State of Emergency has been declared, His Majesty may issue such orders as are necessary to meet the exigencies. Orders so issued shall be operative with the same force and effect as law so long as the state of emergency is in operation." Using this power, the king constituted a Royal Commission to Control Corruption (RCCC) with power to probe and decide corruption complaints, bypassing the statutory Commission for the Investigation of Abuse of Authority (CIAA). The RCCC flouts the fundamental principle of justice of the separation of the investigating and prosecuting bodies and the adjudicator. The king's commission has been given all functions—even though its verdict can be appealed at the Supreme Court (see: section on judiciary).

The Article 35(1) declares: "The executive power of the Kingdom of Nepal shall, pursuant to this constitution and other laws, be vested in His Majesty and the council of ministers." It is an established convention, under constitutional monarchy that the king has no political prerogative and functions entirely upon the advise of the elected prime minister. But King Gyanendra has been different and has on different occasions bypassed the prime ministers and spoken directly to the press, formally or at informal meetings (which were extensively reported). After the takeover, the king who is also chairman of the council of ministers met

editors on February 24, where he delineated government policy—calling on all to choose between 'peaceism' and 'terrorism' (see: *The Rising Nepal*, February 25, 2005) and effectively erasing the middle ground, the traditional space occupied by human rights defenders and major political parties.

The emergency declared on February 1 was not set a time limit. If the Constitution is to be the basis, then it would come up for a vote on April 1. However, the king lifted the State of Emergency two days before its expiry.

2.2.3 Legal standing of government

Article 36 provides the rules for government formation. Article 42 can be invoked in situations where the condition under Article 36 is not met. According to Article 36(1) King appoints the leader of a political party that commands a majority at the House of Representatives as Prime Minister, who forms and heads the council of ministers. This Article has remained suspended since October 2002.

Article 42 provides the basis for government in situations where no party has a parliamentary majority. Article 42 (1) says, "If no one party has a clear majority in the House of Representatives, His Majesty shall appoint as Prime Minister a member who is able to command a majority with the support of two or more parties represented in the house."

Article 42 (2) outlines government formation where Article 42 (1) does not serve the purpose, it says, "If no member is able to command a majority in the House of Representatives even pursuant to clause (1) above, His Majesty shall appoint as Prime Minister the leader of the parliamentary party that holds the largest number of seats in the House of Representatives." The Constitution does not have a provision where the king can chair the council of ministers.

After the takeover, King Gyanendra invoked Article 127, which gives the monarch extraordinary powers to remove difficulties in the implementation of the Constitution, and appointed ten ministers. He expanded cabinet by appointing two vice-chairmen of the cabinet on February 14th. There is not provision of appointing vice-chairmen of the council of ministers in the constitution. The only provision on a deputy to the executive, Article 36(2), says, "The council of Ministers, in addition to the Prime minister, shall consist of a Deputy Prime Minister if required and such other Ministers may be required." Likewise Article 36(3) says who can be a deputy prime minister and ministers—they must be members of Parliament or be elected to Parliament within six months of appointment. None of the king's ministers, except the foreign minister, is a member of Parliament (the foreign minister was nominated to the Upper House by the king). CHK. Governments appointed under the 1990 Constitution were responsible to Parliament; the accountability question now remains fuzzy, especially in a situation where the king himself heads the government he formed.

2.2.4. Suppression of dissent

The government has used emergency powers to silence dissent and arrest and detain those opposing the royal takeover. This is a violation of Article 14 (5) of Constitution, a right that is not suspended even during a state of emergency. According to Article 14(5), "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his choice." The article requires the detainee to be presented in court within 24 hours of arrest. This article relates to criminal justice and has been flouted under the emergency restrictions, not acknowledging the detention or informing the next of kin.

2.3 State of Emergency and international obligations

Nepal is a party to the International Covenant on Civil and Political Right (accession date 14 May, 1991) and its First and Second Protocols (accession date 14 May, 1991 and 4 March 1998 respectively); the Convention against Torture and other Cruel Inhumane or Degrading Treatment or Punishment (accession date 17 May 1991); the International Covenant on Economic, Social and Cultural Rights (accession date 14 may 1991); the Convention on the Elimination of all Forms of Racial Discrimination (accession date 30 January 1971); the Convention on the Elimination of all Forms of Discrimination Against Women (ratification date 22 April 1991) and its optional protocol signed 18 December 2002 and the Convention on the Rights of the Child (ratified 17 September,1990 together with the two Optional Protocols both signed on 8 September, 2002)¹⁵.

Treaties can be signed by the king, the Prime Minister and the Minister of Foreign Affairs, and ratification occurs upon approval of treaties by Parliament. The Treaty Act 1990 upholds international laws not only as a law of morality but as binding (see: Section 9, clause 1). An where the national laws and international treaties contradict each other, the provisions of the treaty prevail for treaties ratified, acceded and approved by the parliament and to which the Kingdom of Nepal is a party.

International human rights laws allow States to limit the rights of its citizens provided there are reasonable causes for the curtailment of the rights. However, such measures may by no means be arbitrary and disproportionate. Rights can be limited (or restricted) in situations of public disorder or national security, the derogation (or suspension) of rights, a much more radical measure, can be taken only during situations where the life and welfare of the nation is under peril. Such derogation of rights usually follows the declaration of a State of Emergency.

David Johnson, Senior Human Rights Advisor to UNDP Nepal revealed at an interaction program organized by INSEC (February 25, 2005) that the UN had been notified of the State of Emergency on February 16th only. The notification was required under Article 4(3) of the ICCPR. However, Nepal did not state the rationale for the restrictions imposed upon the freedom of expression and media, which contravene Article 19 of the ICCPR. According to Article 4 of ICCPR:

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin.

No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

2.3.1 Pre-conditions for declaring a State of Emergency

Article 4 of ICCPR also lists the following possible pre-conditions for declaring a state of emergency:

- Existence of a public emergency that threatens the life of the nation
- Officially proclaimed

¹⁵ <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=121#121>

- Communication to the other State Parties through the UN Secretary General
- According to law
- Non-discriminatory
- Not inconsistent with international obligations
- Strictly necessary and proportionate
- Non-derogatory of certain obligations

It shows that to declare a State of Emergency, the situation needs to be of a particular serious character. The UN Human Rights Committee has made it clear that it is for the State party to substantiate the allegation that it is indeed facing exceptional circumstances that may justify derogation under Article 4 (1). It is not sufficient for the country concerned simply to invoke "the existence of exceptional circumstances". Rather it is duty bound in proceeding "to give sufficiently detailed account of the relevant facts to show that a situation of the kind described in art. 4(1) exists in the country concerned".

Two unidentified gunmen have shot dead Bhagwan Das Shrestha, Coordinator of the District Monitoring Committee in Chitwan, Monday morning, 9th May 2005¹⁶. Shrestha is the second such royal appointee to be shot dead in the past few weeks. After the royal takeover of February 1, 2005, the King Gyanendra had appointed 69 such district committees with a hidden purpose of strengthening his grip in the power. On April 30, 2005, another Coordinator, Dan Bahadur Shrestha was killed after abduction in Kapilvastu district. Maoists had taken the responsibility of killing him.

The District Monitoring Committees are reportedly tasked with monitoring political activities, including those of the Maoists and administration officials, as well as efforts to root out corruption and promote development, regularly reporting back to the Home Ministry and the king¹⁷.

If they had not been appointed to the position of District Monitoring Committees by the king, they would not have been killed in the pretext of being the king's men, it is argued.

2.3.2 Notification under ICCPR Article 4

The Principal Press Secretariat of the Royal Palace announced the declaration of the state of emergency and suspension of rights after the king's takeover proclamation was broadcast through the state-run media. The government chaired by the king notified the Secretary General of UN two weeks after the order took effect. The notification said:

"In view of a grave emergency threatening the sovereignty, integrity and security of the Kingdom of Nepal, His Majesty the King has, in accordance with clause (1) of Article 115(1) of the Constitution of the Kingdom of Nepal, 1990 (2047), issued an order of a State of Emergency in respect of the whole of the Kingdom of Nepal on 1 February 2005 with immediate effect. As the situation in the country had reached a point where the survival of multi-party democracy and the nation's sovereignty had been seriously threatened and the people of Nepal had to go through a miserable period of time due to untold sufferings brought about by the rise in terrorist activities throughout the country, and as the governments formed during the past few years had not been serious enough about initiating a dialogue with terrorists, His Majesty had no alternative but to declare a state of emergency to meet the exigencies in exercise of His State authority and in keeping with the spirit of the Constitution of the Kingdom of Nepal, 1990 and taking into account Article 27(3) of the Constitution, to protect and preserve the sovereignty of the Nation. His Majesty the King has also, in accordance with clause (8) of Article 115 of the Constitution, suspended sub-clauses (a) freedom of thought and expression, (b) freedom to assemble peaceably without arms, and (d) freedom to move and reside in any

¹⁶ Ibid, 9 May 2005.

¹⁷ Ibid

part of Nepal, of clause (2) of Article 12; clause (1) of Article 13 press and publication right which provides that no news item, article or any other reading material shall be censored; Article 17: right to property; Article 22: right to privacy; and article 23: and the right to constitutional remedy (with the exception of the right to the remedy of Habeas corpus) of the Constitution of the Kingdom of Nepal, 1990."

No information elaborating and explaining the threat to the life of the nation has been provided to date. Instead the government has listed the following to justify the State of Emergency, as was expressed in the brief to the UN:

- serious threat to survival of multiparty democracy
- serious threat to sovereignty of the nation
- people of Nepal had to go through a miserable period of time due to untold sufferings brought about by the rise of in "terrorist activities" throughout the country
- the governments formed during the past few years were not serious enough about initiating a dialogue with "terrorists"

The statement is self-contradictory. The argument that political freedoms have been suspended in order to strengthen multi-party democracy doesn't stand because democracy is an evolutionary process and not a "switch on-off" political formula. The statement does not state the source of the threat to sovereignty or shows greater seriousness for initiating dialogue with the "terrorists". Instead, the royal proclamation calls on the Maoists to surrender before other considerations can follow¹⁸.

2.4 Judiciary and constitutional institutions under trial

The Supreme Court of the Kingdom of Nepal, as stated by the Constitution, has authority to adjudicate the legality of the declaration of the State of Emergency vis-à-vis the constitutional provisions. Articles 84 (Courts to exercise powers related to justice), 96 (Orders and decisions of Courts to be binding), 88(1) and 88(2) (Jurisdiction of the Supreme Court) of the Constitution of Nepal 1990 provide the Supreme Court with such authority. Even under an emergency imposed under Article 115(1) of the Constitution, the Supreme Court has the right to ensure the rights under Articles 11, 12(1), 12(2) c, 14, 18, 19, 20, 21, right to *Habeas Corpus* as per Article 23 and the extra-ordinary power under the Articles 88(1) and 88(2). The rights to expression, form union and associations, mobility and peaceful assembly are also provided under the Civil Rights Act 2012—rights not expressly suspended by the government.

The king imposed the State of Emergency on November 26th, 2001 at the recommendation of the Prime Minister. The full bench of Supreme Court, comprised of five justices had then decided there was no barrier to judicial remedy for writs concerning rights that were not suspended and those filed before the imposition of the emergency order. On a writ demanding that the court keep to the earlier decision, the Supreme Court on March 7th postponed its decision until March 31st, but gave no reason for deferring the verdict on something so important for the protection of basic rights.

As a result, judicial redress for human rights violations under Articles 88(1) and 88(2) remain suspended. There was also an instance where the Appellate Court of Biratnagar, citing the State of Emergency, has refused a *Habeas Corpus* application following the arrest of a legal professional. The court's denial of legal redress on non-suspended rights under Article 88 is a major obstacle to the Human Rights movement in Nepal.

Article 88(1) & (2) on the jurisdiction of the Supreme Court say: (1) Any Nepali citizen may file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with this

¹⁸ [Full Text of King's address to the Nation](#)

Constitution because it imposes an unreasonable restriction on the enjoyment of the fundamental rights conferred by this Constitution or on any other ground, and extraordinary power shall rest with the Supreme Court to declare that law as void either *ab initio* or from the date of its decision if it appears that the law in question is inconsistent with the Constitution. (2) The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern, have the extraordinary power to issue necessary and appropriate orders to enforce such rights or to settle the dispute. For these purposes the Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including habeas corpus, mandamus, certiorari, Prohibition and quo warranto:

Provided that:

- (a) the Supreme Court shall not be deemed to have power under this clause to interfere with the proceedings and decisions of the Military Court except on the ground of absence of jurisdiction or on the ground that a proceeding has been initiated against, or punishment given to, a non-military person for an act other than an offence relating to the Army.
- (b) except on the ground of absence of jurisdiction, the Supreme Court shall not interfere under this clause with the proceedings and decisions of Parliament concerning penalties imposed by virtue of its Privileges.

On February 7th the Supreme Court refused to register a *habeas corpus* writ by a group of lawyers led by Nepal Bar Association president Shambhu Thapa seeking release of senior advocate Sindhu Nath Pyakurel. Pyakurel was arrested on February 1st. The court registered the writ on February 8th, arguing delay in notification as a reason. Pyakurel was eventually released on February 14th.

On February 20th, Chief Justice Hari Prasad Sharma said the Nepal Bar Association's plea to the Supreme Court to accept writs on basis of non-suspended constitutional Articles as "politically motivated". Thereafter on February 25th, it rejected a writ petition seeking legal remedy under rights not expressly suspended by the emergency order. There have been instances where the Court has issued orders under *habeas corpus* writs. Human Rights activist Gauri Pradhan was released by a court order on February 29th, after about a week in detention. However, Pradhan was re-arrested briefly from the main intersection about 100 meters away from the courthouse, and released again later the same evening. On the same day the Appeals Court in Dang issued an interim order asking the local administration to lift restrictions and allow Narayan Prasad Sharma, editor of Yugbodh newspaper to resume publication of the paper that had been barred by the Chief District Officer.

2.4.1 Royal Commission for Corruption Control (RCCC)

The king appointed the Royal Commission on Corruption Control (RCCC) on February 16th, superseding the extremely powerful existing anti-corruption body in Nepal that had proven major steps towards corruption control. The Commission for Investigation of Abuse of Authority (CIAA) is the constitutional agency for investigating corruption, and the Special Court, formed in 2002, hears the cases. The Royal Commission has been given powers to even investigate Supreme Court judges and office bearers of constitutional bodies, which by law, could be done only by parliament. The RCCC may proceed prosecute the "corrupt" at these agencies, after getting a nod from the monarch. Such a provision has added to widespread fears even at the courts, which have in the past issued orders on cases of Human Rights violations that were not taken very well by the security agencies, especially the military.

The royal edict announcing the formation of RCCC forbids any criticism of the body. The RCCC is also empowered to set its own working procedures, and according to reports on state-run Nepal Television, it has given itself the powers to detain suspects being investigated for up to 30 days, among others.

2.4.2 Violation of Economic, Social and Cultural Rights

The scenario of Economic, Social and Cultural (ESC) rights has been bleak by all standards even in normal times. The *February One* coup has added to it a new dimension. Imposing media censorship and banning the movement of human rights observers and media watchdogs have made it difficult to observe and report cases of deaths due to the lack of basic medicines, cases of starvation deaths, destruction of schools and hospitals. Suspension of media freedom and the criminalization of any news criticizing the inaction or over-action of the current military regime have denied an opportunity to exchange news and views which would otherwise trigger some form of protective measures. Nepali people now suffer an additional form of violation: the denial and cover-up of violation itself. This is as true of civil and political rights as of economic, social and cultural rights.

To oppose the royal move of Feb 1st, the Maoists had called weeks long general strikes bringing ordinary situation in a halt. Almost all roads, hotels, academic institutions and industries except those in few urban centers were shut down for nearly 4 weeks. It caused a panic to the ordinary people, in terms of unavailability and/or skyrocketed prices of the food materials.

Major donors of both military build up and development efforts have declared suspension of their financial aid after the royal proclamation of Feb 1st, 2005. Hence, the heavily donor dependent economy of the country is at the cross road of ruin. As the king has proclaimed to contain the Maoist insurgency militarily, it may need more aid, which is severely curtailed after Feb 1st. There is an increasing fear that the allocated fund for socio-economic development of the country could be used up for sustaining military activities in the country – cutting down funds for education, health, food, infrastructure development and other social expenses.

2.4.2.1 Right to food, health and education

The right to food:

Even in the best of times, livelihoods are risky and uncertain for majority of Nepalese; horrendously so in rural areas, where about 20 percent of the population is estimated to be generally food secure.¹⁹ These rural areas have now become an epicenter of the conflict, hit regularly by aerial bombardments (by military), blockades and strikes (by Maoists), instead of the supply of food. Excessive focus on the military aspect of governance has left the current regime completely blind to its socio-economic obligations. The dearth of data and information makes it impossible to speak of a true picture, but there is an unfortunate possibility of a new pattern of ‘starvation deaths’ in these areas if the current scale of conflict continues for some time.

Because of restrictions and rationing on food supplies to the rural areas by the state, the food scarce villages are undergoing severe pain of food shortage. Ready made food materials such as noodles, cookies, beaten rice, etc are restricted to supply to the villages in a fear that Maoists could consumed them. Similarly, the Maoists have also imposed a ban in several districts for taking their products from rural to urban centers.

This horrific conclusion can be drawn based on the fact that agricultural production has stagnated because of the displacement of working age population; there are no other employment options available and no initiatives have been made by the state to supply food in the food-scarce areas. Forced donation and extortion by Maoists also forced these families lose whatever they have. But all this does not feature in the state own

¹⁹ Seddon and Adhikari, 2003:39.

media while the private media have been paralyzed by threats of suspension if they reported anything that would ‘downgrade morale of security personnel’.

The right to health:

The situation of health services is no better. Most of health centers are out of ordinary functions due to the lack of medicines and absenteeism of the health professionals owing to the perceived threat of the Maoists. Others are emptied of health professionals in fear of their security resulting in a situation where ‘peons’ are seen working as ‘health professionals’.²⁰ It is dangerous, but in the face of life and death, this is an only option.

Where health workers are still operative, they are under threat of persecution both by the Maoists and the security forces, each suspecting them of helping the other party. On 3 April 2005, around 15 armed men (security personnel in plainclothes) entered the village of Laxminiyapur in Rautahat, and started to beat everyone around, whether elderly or children. Phuluwadevi Kurmi was one of them, aged around 60. In a house nearby, Bidur Kharel, a health worker from Kolahami 4, Bara, was treating Rambha Devi Patel, seriously dehydrated due to acute diarrhea. After two hours of the incident, after Ms Patel felt better, Mr. Kharel came out of the house and took a shortcut to his office. On the way, he was spotted by the villagers and was asked to treat Phuluwadevi who was beaten injured—punched, kicked and baton-charged. While Mr Kharel was checking the wounds, the army personnel came again in Phuluwadevi’s house. This time, they turned to Mr. Kharel. He was immediately beaten, his money-purse was taken away (which was given after hours) and threatened with death. He was seen as ‘the doctor of Maoists’ and was alleged that he was there, immediately after the incident, ‘to take out bullets from the bodies of Maoists.’ He repeatedly explained why he was in the village, but to no avail. He was taken to the nearby army camp, questioned and held for hours. He was then released on condition that he would present before the designated official every three days. “It is difficult to work in the village”, he says “we are suspected by both sides (state and the Maoists).”

Frequent blockades, strikes and vandalism have badly affected the movement of ambulances, and cut the supply of medicine and oxygen. According to *The Asian Age* (23 April 2005), a hospital in mid Tarai was forced to suspend operations due to the shortage of oxygen,²¹ but such information is rarely reported in Nepali media.

The right to education:

Maoists welcomed the news of the royal coup by closing schools immediately, adding insult to the already ailing system. The destruction of schools, abduction of students and extortion from teachers feature regularly in the methodology of the Maoist ‘just war.’ On 14 April 2005, Maoists warned the operators of all private schools nationwide either to close all boarding schools or face stern actions. Following the warning, the rebels ‘attacked schools in Nepalgunj, Taplejung, Dang, Pokhara, Rukum, Butwal and Chitwan, among others.’ In Nawalparasi, they ‘exploded bomb in a private school—Namuna Boarding School—(situated in Gaitakot)’ destroying ‘property worth Rs 1.5 million’.²² Following the Maoist warning, most of the boarding schools outside Kathmandu remained closed until 28th April. On 29th, most of media in Kathmandu quoted the ANNFSU/R leader Lekh Nath Neopane as saying that the organization has decided to let the private schools open. Given the history of broken promises, Maoists cannot be trusted. What is real is the fact that the future

²⁰ See, ‘Peons Providing Health Services’, *Samacharpatra Daily*, April 11, 2005

²¹ See, ‘Nepal Hospital hit by blockade’, *The Asian Age*, 23 February 2005

²² www.nepalnews.com, April 24, 05

of some 1.5 million students in over 8,500 private schools is getting elusive with the employment of over 175,000 teachers being uncertain.²³

As per the news report of The Kathmandu Post dated April 25th, 2005, Maoist rebels bombed three schools in western Nepal over the weekend, wounding five students in the latest in a spate of attacks aimed at pressuring educational institutions to close. Two students were wounded on April 24th when a bomb exploded at a secondary school, a day after three students were hurt by a bomb blast at another school.

A third school was bombed on April 22nd in southwest Nepal, causing several thousand dollars in damage. The Maoist's student wing has already attacked at least six other schools outside the capital Kathmandu following an April 14th order from the rebels that educational institutions should close.

The rebels, who are fighting to overthrow Nepal's monarchy and install a communist republic, want school fees cut and portraits of Nepal's king removed in a bid to implement their own "people's education" system, reports The Kathmandu Post²⁴.

The above discourse only shows the tip of the iceberg. The deep reality is far horrible.

The online publications of Kantipur²⁵ and Mercantile²⁶ communications have reported that more than 200 schools in remote villages of Baglung district have been shut down since the last week under the pressure of the Maoist aligned All Nepal Teachers Association (Revolutionary). Because of the forced closure of the schools, hundreds of teachers are reported fleeing to the district headquarters owing to the Maoists threat. The main reasons of closing the schools as given were the threatening order from the Maoist insurgents to impart the students with Maoist-education and recruit them in Maoist militia. The schools in almost all the village development committees in the district have been closed down for uncertain period.

2.4.3 Torture in detention

The detainees were not allowed to meet with human rights activists, lawyers and their family members. They were not allowed to read newspapers except the state sponsored newspapers. Telephone lines of all the persons under arbitrary house arrest were cut off. Several of the detainees have complained of poor meals served to them. Detainees that got sick were not given proper health check up and care. For example, suggestions given by a team of government employed health professions to move Mr. Ram Chandra Paudel, former Speaker and minister from the Nepali Congress Party, to well facilitated hospitals in Kathmandu from Pokhara to treat his ailing health were ignored. Several numbers of detainees are put in a space barely sufficient to move around. The detention centers are poorly managed and filthy.

2.4.4 Judicial reluctance to engage in human rights protection

According to the Constitution of the Kingdom of Nepal, 1990, Nepal is a constitutional monarchy with a parliamentary form of government. The democratically elected parliament consists of the House of Representatives (lower house) and the National Assembly (upper house).

²³ www.nepalnews.com, Apr 29 05

²⁴ <http://www.zeenews.com/links/articles.asp?aid=213610&sid=SAS>, The Kathmandu Post, 25 April 2005.

²⁵ <http://www.Kantipuronline.com>, 8 May 2005

²⁶ <http://www.nepalnews.com>, 8 May 2005.

The judiciary is legally separate from the executive and legislative bodies. It has the right to judicial review under the Constitution. The Supreme Court is the court of last appeal, hence all lower court decisions, including acquittals, are subject to appeal²⁷.

In one of the occasions, the Chief Justice of the Supreme Court of Nepal Mr. Hari Prasad Sharma, in his recent address in Australia, supported the February 1st royal move, and urged the world community to understand it in the context of intensified threat of terrorism and failure of political parties "busy in the power game" (The Kathmandu Post, 7 April 2005).

"...Even though some international media reports on recent developments in Nepal might have amused some of you, my submission is that reality in Nepal is totally different and the whole exercise [the royal move] needs to be examined in the context of mounting terrorism and immediate need to curb the same; the cry of helpless people for safety and peace, the need to rectify bad governance, eradicate corruption and instill transparent public life," Sharma said. CJ Sharma made these remarks in his speech at the recently held 11th conference of Chief Justices of Asia and the Pacific at Gold Coast, Australia. Chief justices from 32 countries of the region had participated in the event.

As reported by the on line service of Nepalnews.com in its edition of 7th May 2005, half a dozen justices at the Supreme Court have said that CJ's views do not necessarily represent the country's judiciary

During a meeting between representatives of Nepal Bar Association and half a dozen justices of the Supreme Court in the capital, Kathmandu, Friday, justices said that CJ's controversial remarks in Australia a few weeks back did not represent the country's judiciary. They also urged lawyers not to do anything that would undermine dignity of the apex court.

Justices Dilip Kumar Poudel, Kedar Prasad Giri, Min Bahadur Rayamajhi, Anu Raj Sharma, Ram Nagina Singh and Khila Raj Regmi took part in the discussions. Similarly, senior advocate Daman Nath Dhungana, Basudev Dhungana and NBA officials including its president, Shambhu Thapa, took part in the meeting.

2.4.5 Militarization of the governance system

Militarization is the use force in order to deal with political, social and legal issues. It is a process in which militaristic values are given prominence over civil and political considerations. In a militarized state, authority is not seen; it is insulated from public eyes, public judgment and opinion.

From *February One*, if there is any sign of governance in Nepal, it is only *militarization*. King Gyanendra gives orders, and the Royal Nepal Army (RNA) executes them. The King judges what is right or wrong, and his men (army) announce the verdict. King Gyanendra's *February One* address to the nation was all about spitting venom to political parties and calling security personnel in the political dispensation of the country. In Gyanendra's eyes,

"Political parties were unable to display responsible behaviour in augmenting the patriotic fervour of our dutiful security personnel, who are active round the clock in ensuring security of the nation and people. Multiparty democrats could not sincerely unite, with national interest as the focal point, to forever end the cycle of devastation being lashed out against the nation and people. Likewise, political parties also could not identify national priorities in keeping with the people's aspirations."²⁸

²⁷ http://www.geographyiq.co/countries/np/Nepal_government_summary.htm, downloaded 6th May 2005.

²⁸ Gyanendra's *February One* address to the nation available at www.nepalresearch.org/politics/coup_2005/proclamation_2005_0201.htm

Following *February One*, senses of civility and democratic order have been fully paralyzed in the functioning of the state, and Nepal has entered into the new era of full-scale militarization.

While Gyanendra was reading out his *February One* written address to the nation, some of his men in uniform—with M-16s—entered the newsrooms and editorial offices of the private media, both print and electronic, to force the journalists what to write and broadcast. Other men went to arrest sitting ministers, political leaders and activists. Yet others plugged off telephone connections and switched off wire and cable networks. Nepal was cut off from the rest of the world within an hour, with army marching in every street of Kathmandu, as if in a life and death battle.

Those who have dared publish moderate views have been under threat and intimidation. Perhaps *Kantipur* daily editor Narayan Wagle was the first person to receive disappearance threats.²⁹ Surya Thapa—editor of *Budhawar* Vernacular Weekly—was summoned and interrogated seventh times in three months; *Tanahun Awaj* deputy-editor Robin Poudel was handed over a three-month detention warrant for covering a pro-democracy protest on April 8th; six journalists in Dharan have been warned not to report on pro-democracy demonstrations.³⁰ It is the military order that is seen and heard in the public arena; there is no space for non-military expression.

The other institution to be crippled by militarism was the court. It was first seen in the Supreme Court's denial of accepting complaints against the violation of non-derogable rights. Then the Chief Justice of the Supreme Court came to justify the royal coup, something that rarely happens in an age, which boasts of the independence of judiciary.³¹ The Commission for the Investigation of the Abuse of Authority (CIAA), the fairly independent constitutional body, is replaced by arbitrarily constituted Royal Commission for Corruption Control with patronized men and women, mostly former bureaucrats trained under the authoritarian regime. The Royal Commission is specifically targeting party leaders and former ministers in a revengeful way, but it is also empowered to investigate the judges as well. Following *February One*, the phrases as 'the rule of law' and 'due process of law' have lost their significance while the whimsical orders by Gyanendra serve the purpose of both the judge and jury.

The physical presence of military is everywhere, in footpaths, in pavements, in front of government offices. The security forces with guns are seen guarding the academic establishments, often checking the identity cards of the students. They are seen regularly walking past schools and colleges. So is their psychological presence. Their 'bold deeds', particularly the 'killing of terrorists', are daily eulogized through state radio and television; their bravery is praised and martyrdom honored. There is no news and talks disconnected from military concerns in the state own media. Only those news items censored by the military are publicized.

Away from Kathmandu prevails the vigilante reign of terror. The RNA follows the instructions of the vigilantes, who are heavily armed and seemingly sufficiently paid to identify the 'Maoists' and help the army give them due justice—blatant killing—as happened in various villages of Kapilvastu district in the third and fourth weeks of February 2005. In a couple of days, the mob killed over 30 'Maoists' and the Maoists killed some 16 villagers in retaliatory actions. Almost all houses were burned down in the village of Hallanagar, which was identified as the Maoist village by the vigilantes. The series of attacks and counterattacks led some 30,000 people to cross over to India to avoid further damage.³² Shortly after the incident, the ministers of the royal cabinet flew down to Kapilvastu to encourage further vigilante retaliation. Government spokesperson

²⁹ See, 'A Country Silenced: Nepal after the coup, by Daniel Lak (available at www.cpj.org) for relevant information

³⁰ See, *Nepali Times* Mediawatch (www.nepalitimes.com/issue244/mediawatch.htm) for more news about crackdowns and intimidations of journalists

³¹ Supreme Court Chief Justice Hari Prasad Sharma defended at an international programme the *February One* coup as an event necessary to give 'relief' to the people. Echoing the words of the King, he blamed elected governments for instability and chaos at the 11th Conference of the Chief Justices of Asia and the Pacific held at Gold Coast, Australia on 20th March. His speech is available on-line at <http://www.blog.com.np/index.php?p=412>

³² 'RIGHTS-NEPAL: Vigilante Justice Goes Astray', Akhilesh Upadhyay

Communications and Information Minister Tanka Dhakal proudly told a press meeting in Kathmandu: "In such areas where the people have taken actions by themselves, the government will introduce integrated development packages as an inducement."³³

"We used to use *ghumuwas* (vigilantes) for the purpose of information collection," admitted the Acting Chief District Officer of Rautahat Mr Mukunda Prasad Dhakal "but the practice is no more." He was talking to a group of human rights defenders in Rautahat in April 2005. But, for the villagers, "the *ghumuwas* are more threatening than the army" because the army follow what the *ghumuwas* say. It is *ghumuwas* who take a lead on beating, killing and destruction. They also "enter the house without permission and steal valuable things—money, clothes, ornaments, and whatever is available", says a woman. "But do not publish my name. If they know they will kill me as well."

Following intense pressure and warning from international community, the army has delegated its media suppression roles to the vigilantes. For reporting the series of vigilante terror in Kapilvastu district, *Himal Khabarpatrika* reporter JP Pun Magar was held captive by vigilantes. He was released after three days warning him to 'be careful' in days ahead. In Butwal, Krishna Bahadur Karki, former President of the Nawalparasi district branch of the Federation of Nepalese Journalists was threatened with death.³⁴ Military regimes fear journalists for obvious reasons. If a disappearance threat does not work, they threaten with life and claim as well. There is no lesser form of punishment than death in current Nepal's vigilante justice system, which King Gyanendra has mentored and protected.

The Maoist justice is no less horrible. They have pursued harassment, killing and destruction. In their targets have been political activists, teachers, journalists and everyone who does not conform to their orders. Maoists are equally culpable as the state and are responsible for militarizing the life outside of district headquarters, call it the rural militarization.

To sum up, militarization is expressed in the following ways in current Nepal:

- Loyalty to power is sought in every affair of the Nepali life. If any deviation is perceived, that is usually addressed by the use of force.
- A culture of 'heroism' is being instilled, hailing military killings as nationalist and vigilantism as true devotion to 'crown and the king.' Any one holding differences to the 'shoot on sight' mentality is relegated as 'terrorist' or antinationalist.
- All the powers to make decisions on social, political and legal matters have been centralized in the palace, where decisions are made with the help of military and a handful of subservient bunch of 'yes men'.
- Retired military generals and officials are being fielded in positions of diplomatic importance, matching the record of the Military regime in Burma and excelling one of Pakistan, where non-military persons are prioritized for such positions.³⁵ King Gyanendra is not only militarizing Nepal's internal political and social processes, he is also trying his best to militarize diplomatic relations. Out of the six ambassadorial nominees of the king, four are ex-generals.
- In the face of growing international pressure, militarization has taken an insidious form, for example, the mobilization of vigilantes in the place of army, the lifting of the state of emergency while tightening the internal public life, detention of party leaders on fabricated charges of corruption so that it is seen as criminal not as political.
- State media is being used to 'force-feed' the readers and viewers the diet of praise and worship of the royal family members. They are presented as saviors, as incarnation of god and as unchallenging symbol of power and authority.

³³ Ibid.

³⁴ *Patrakarlai jyan marne dhamki* (Life Threat to Journalist), *Nepal Samacharpatrika*, April 29

³⁵ *Rajddootma purba sainik haruko bahulya* (Former military officials dominate ambassador (positions), Kantipur May 6, 2005

3.0 HUMAN RIGHTS AND HUMANITARIAN CRISIS

3.1 Deepening Humanitarian Crisis

Nepal is slipping to an all-time low record of human rights crisis. Between February 1st and the end of April, 599 people had been killed, of which 443 by the State. This death toll alone explains the volatility of the situation. The overall rate of killing stands at over six persons a day. During the period, 3,284 people were arbitrarily arrested, 35 people a day on average.³⁶

This section aims to introduce a few representative cases of the more severe type of human rights violations invented by both the parties in conflict. Their invention is purposeful and is bent terrorizing the people into submitting to their will and order. The cases also present the parallelism between state-led and non-state terrorism, which has permeated into Nepali society in the same footing of criminality, barbarism, cover-up and denial.

3.1.1 Strategic Execution

What is more terrific than the figures would tell is the insidious pattern of systematic killing dubbed as ‘encounter killing’. Given the media censorship and warning of stern actions for speaking against military excesses, Nepali people are made to accept what the military says through the state own media. But the reality, as many believe, could be the opposite. A human rights defender, who works at the grassroots, says: “When a platoon of army enters a village, they do not return without killing anybody. After the killing, they name the deceased ‘Maoist’.” This happened in Palpa on March 22nd, 2005. Three students—Narayan Bahadur Kanauji Magar, aged 17, Tek Bahadur Gaha, 15, and Dal Bahadur Darlami, 15— were shot dead in Palpa while they were collecting money from plying vehicles to observe ‘Fagu Purnima’. When they were killed, all were in school uniform, but the security personnel claimed they were killed in encounter. Following stern protests from relatives and civil society groups, the security personnel acknowledged the excesses and the Western Divisional Headquarters of RNA announced the formation of a board of inquiry. “We have already formed a board of inquiry for the purpose and we will also publicize the report later,” said chief of the Western Divisional Headquarters of RNA, Amar Panta, talking to media persons³⁷ But the finding were yet to make public until the end of April (2005)

On April 3rd, 2005, Trilochan Poudel, aged 22, of Dumariya VDC-7 of Rautahat district was arrested from a house in Kanakpur VDC 8, Rautahat by a group of army in plainclothes. He was dragged to a field nearby—some 300 meters eastwards—and shot dead. According to the eyewitness working in the farm as close as 10 meters from the spot, he was shot in the left leg while he was raising his hands and shouting, “I am innocent, sir. I am not a Maoist”. While, he was shouting, he was shot in both hands. Then he fell in the ground, to receive bullets in both flanks. “We are all UML members, including my son,” said his grief-stricken father while asked about his son’s political affiliation. “The deceased was innocent”, says Shaha Dev Mainali, Bara District Secretary of CPN (ML). “The people are suffering more from state terrorism than Maoist terrorism”, he insists, “ what we have seen in the case of Trilochan is the worst example of state terrorism.”

This is one of few cases that have come to public notice. “Such cases could be in hundreds though out the country”, emphatically says Mr Mainali, “but we are barred from hearing them.”

³⁶ Data made available by INSEC (www.insec.org.np).

³⁷ Army to probe killing of students, The Kathmandu Post, 1 April 2005

The painful reality is that extrajudicial killing has been a norm, not an exception, in Nepal.

3.1.2 Indiscriminate Firing and Aerial Bombing

Similar incident happened in the westernmost district of Nepal on 29 April. Three UML affiliated ANNFSU leader/activists—Narabahadur Dhama, Mahesh Pant and Kiran Chhetri—were shot injured while they were discussing organizational matters at Janajyoti Campus in Mahendranagar. The army surrounded the Campus, “overpowered the students and opened fire at them after making them lie down”³⁸ despite the fact that the security personnel were well informed that those meeting in the Campus were not Maoists.³⁹ Following angry protests and pressures from students, human rights organizations, civil society and political parties, the RNA announced the formation of a court of enquiry into the incident.⁴⁰

“We were nearly killed” says a villager whose house was caught in the crossfire in Khara, Rukum where Maoists had attacked an army barrack on April 7th. In the retaliatory attack by the army, which involved aerial bombardment, dozen of civilian houses were seen destroyed in the television footage released by the army. “We survived praying the name of the goddesses,” adds Ganga Budha who had seen the Maoists surrounding Jyamire village before mounting an offensive against security personnel. Aerial bombardment has been a primary method adopted by the state in its fight against the Maoists without complete disregard of its civilian impact. That the aerial bombardment violates the International Humanitarian Law (IHL) is proven. By doing so, the state is also violating its bilateral agreement with the UK governing the use of MI-17 helicopters received under the Global Conflict Prevention Fund (GCPF) in 2003. The agreement, as leaked to media, was that the Nepali government would use the helicopters for ‘logistical, medical and humanitarian purposes.’⁴¹ But in reality they have been used for *Tora Bora* to drop bombs in suspected Maoist hideouts.

3.2 Internal displacement

The other representative feature of human rights violation under the State of Emergency is the rise in internal displacement, particularly the one catalyzed by the mobilization of vigilantes. According to Tilak Pokharel, a local journalist who visited nearly a dozen of villages in Kapilvastu in late February, “some 30,000 villagers or more fled across the border to India” to avoid the vigilante terror that started in late February. And, “many of them are unlike to return home.”⁴² The number of those leaving their villages to avoid being caught in the crossfire could be no less than 5 digits. But there is no tracking and recording system. “A large number of IDPs have not been registered by the authorities because of several factors, including a restrictive registration process” notes Professor Kalin, the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons, who was recently in Nepal, “the number of IDPs in the country are far greater than the roughly 8,000 IDPs quoted by the government... (they) have been largely overlooked and neglected.”⁴³ Not only that, the government is producing more and more IDPs by arming and protecting vigilantes.

The Maoists have been no less demonic in catalyzing displacement. On March 16th, 2004, three families were forced to leave their houses in Gaitar, Chandranigahapur, Rautahat for failing to call the family heads (men)—who have been implicated by Maoists in the killing of their colleagues two years ago—back home.

³⁸ ANNFSU calls campus strike, The Kathmandu Post, 2 May 2005

³⁹ *Hachuwako bhrama goli prahar* (Firing thoughtlessly), Editorial, Samacharpatra 2 May 2005,

⁴⁰ RNA to investigate firing on ANNFSU members, Kantipuronline, 4 May 2005 (www.kantipuronline.com)

⁴¹ See, the Tribune Online edition, March 3 2003. Available online www.tribuneindia.com/2003/20030303/world.htm

⁴² Quoted by Akhilesh Upadhyaya, IPS ...

⁴³ The IDPs are overlooked and neglected, United Nations Information Centre, Kathmandu, 22 April 2005 (Press Release)

The men had left the village in fear of Maoist action against them. To revenge, they turned to those staying behind, forcing the elderly to live like beggars and children away from schools.

“They forced me out of the class while I was taking my examination”, recalls Parmila Timilsina, aged 12. “You are not allowed to live in Gaidatar” Sanjaya Timilsina, a class six student, recalls the Maoists as saying. “They seemed very angry”, he says. Asked what she thought as to why the Maoists did so, Sarita, another student, says, “We don’t know. They don’t tell us the reason.”

In the night of April 30th, over 150 Maoists entered a village of Pipaldanda 3 in Sindhupalchok. They walked in the houses and started random beating and chopping. This heinous act resulted in the death of three: Shankar Bhandari, aged 50, Sriram Chauhan, aged 43, and Surendra Basnet, aged 25. More than 17 others were wounded, one of them a two year old baby and the other 72 year old Dal Bahadur Chauhan. “I was just lying in my bed after dinner. A woman came in and kicked me down the floor. Others then chopped my legs. I know I would die of this pain, but would die easy if I knew what my fault was,” Mr Chauhan told a journalist. “They tried to force me in the hearth beating with iron-wire. I told them I was breastfeeding my 18-month daughter, and if they killed me she would die. Then, they stopped beating me”, said seriously injured Sharada Basnet. The Maoists bombed at least two houses and set fire to few others. They left the village with the warning that such a macabre scene would be repeated again, prompting some 150 families to leave the village. The Maoists were in the village to revenge the arrest by villagers of their five colleagues who were upon arrest—for extorting the villagers—handed to the administration. “The Maoists arrested are save in police custody, but he Maoists resorted to barbaric suppression of the villagers”, said an eyewitness to Rishi Ram Paudyal, a *Kantipur* journalist.⁴⁴ As the Human Rights Commission officials have termed, this incident amounts to ‘crime against humanity’.⁴⁵

Internal displacement has become a daily situation in Nepal for which both the State and Maoists have become equally responsible.

Humanitarian crisis in Nepal has been in free fall following the royal coup of democracy. There is no sign of abatement in the near future. Instead, both the RNA and Maoists seem bent on inventing new methods of criminal warfare in order to prevail over the other. In their criminal laboratory, innocent Nepalese are made to suffer like guinea pigs.

⁴⁴ ‘*Samuhik hatyapachhi dedh saya parivar bisthapit*’ (One hundred and fifty families displaced following mass killing), *Kantipur* 1 May 2005; *Maobadi jyadatiko biroddh* (Maoist atrocity protested), *Kantipur* 5 May 2005

⁴⁵ ‘*Peepaldanda hatyakanda, manabata biruddha aparadh*’ (Pipaldanda killing: Crimes against humanity), *Kantipur*, 3 May 2005

4.0 EFFORTS AVERTING THE CRISIS

4.1 In country endeavors

Different activities have been taking place in Nepal by human rights groups, lawyers, journalists, political parties and ordinary public asking for the restoration of multi-party democracy and reinstating the human rights of the people in Nepal.

A conglomeration of 25 local human rights organizations, which was formed immediately after the royal takeover, had carried out different activities including issuance of press releases a number of times warning the government to comply with the international standards of human rights, and respect the rule of law in its deliveries. They have strongly condemned the violations of human rights and humanitarian laws that have been committed against the civilians.

In this regard, a joint press statement was issued on April 12th, 2005 welcoming the Memorandum of Understanding signed between the Office of the High Commissioner for Human Rights and Nepal's new regime for the establishment of a high-level human rights monitoring mechanism in Nepal. They have also expressed their sincere gratitude for this historical step of the UN responding to the call by the human rights community, democratic forces and civil society to reduce increasing human rights threats in Nepal. They have also offered unconditional support for monitoring human rights situation in Nepal through establishing an Office of the high Commissioner in Nepal.

A press statement, in relation to denouncing the government's actions and welcoming the resolution adopted by the 61st Session of UNCHR under 'Agenda Item 19' on April 20, 2005 in response to the of human rights abuses in Nepal since February 1st, 2005 by assuming all executive powers by King Gyanendra, was released on 21st April 2005 jointly by 25 human rights organizations.

Similarly, they have also made clear that the revoking of state of emergency is only an illusion by issuing a press release on 1st of May 2005. They have further said, "the ending of the State of Emergency has no positive impact on the public sector, while the State continues to practice illegal mass arrests, detains and places under house arrest political leaders and their cadres, human rights defenders, lawyers and journalists, as well as imposing absolute censorship on the media".

A call upon United Nations to urgently appoint a Special Rapporteur as a transitional mechanism for independent, impartial and credible monitoring of human rights violations in Nepal was issued jointly by the heads of Nepal Communist Party (UML), Nepali Congress, and Nepali Congress (Democratic) in April 2005.

The seven mainstream opposition political parties have demanded reinstatement of the House of Representatives that was dissolved three years ago⁴⁶. This was made public while declaring a joint agreement in Kathmandu on 8th May 2005. They said, 'the reinstated parliament would constitute an all-party government, which would then work towards creating a favorable environment to hold peace negotiations with the Maoist insurgents'. According to the report, the present king's government has denied any possibility of talks with the rebels unless they surrender. These parties have said that they are ready to go for constitutional amendments so as to limit the king's power. "Direct assumption of power by the King has dragged the country towards authoritarian regime by undermining Constitutional rule and the supremacy of the Parliament," said a joint statement issued on the occasion⁴⁷.

⁴⁶ The Kathmandu Post (9 May 2005), Kantipur daily (8 May 2005), Nepal Samacharpatra (9 May 2005), Kantipuronline (8 May 2005), nepalnews.com (8 May 2005).

⁴⁷ *ibid*

They demanded unconditional release of all the detainees across the country, restoration of civil rights and press freedom and lifting of prohibition on political activities, among others. They rejected both the Maoist left-wing extremism as well as the king's right-wing extremism and said unless the country moved towards a democratic path and restoration of constitutional and representative rule, country's problems could not be solved. They said they were ready to go even for the constituent assembly to resolve all kinds of conflict within the country⁴⁸.

The parties also reiterated that an all-party government with significant participation of the major parties would be formed after the revival of the Parliament. "The government, responsible towards the Parliament, would hold dialogue with the Maoists to initiate the peace process," said the agreement.

The agreement has highlighted the following six points as a common ground to work with;

1. No extremism - follow democratic path
2. An end of the autocratic rule of the king –the need of the day
3. Reinstatement of the house of representatives for the rule by the people's representatives
4. Some main agenda for resolving national crisis
 - a. Formation of all party government answerable to the parliament
 - b. Management of violent conflict and establishment of sustaining peace
 - c. Commitment to progressive and forwarding moving programs
 - d. Fixing of constitutional questions
5. The constitution of the kingdom of Nepal 1990 as the basis of progressing ahead
6. National election schedule

The parties have agreed to launch mass movement against the unconstitutional and undemocratic royal step criticizing the royal takeover of Feb 1, 2005.

4.2 Regional considerations

Asian civil society, national human rights commissions, governments, and regional representatives of United Nations agencies, have essential and necessary roles to play for human rights, and peace and democracy in Nepal. Many of these regional actors in Asia, whether governmental or non-governmental, feel unfortunate to see the State of Emergency declared by King Gyanendra Bir Bikram Shah Dev dissolving the existing government under Prime Minister Sher Bahadur Deuba on February 1st, 2005, and serious human rights violations committed by His Majesty's Government and Maoists.

Non-existence of regional human rights mechanism in Asia proves the need for any strong cooperation among these regional actors to improve human rights situation and to achieve peace and democracy in Nepal. At the same time, the South Asian Association for Regional Cooperation (SAARC) can significantly utilize its existence for more active roles in restoring multi-party democracy by initiating a political dialogue with King Gyanendra and by facilitating peaceful dialogue among all parties involved in

⁴⁸ Nepali Congress President Girija Prasad Koirala; CPN-UML General Secretary Madhav Kumar Nepal; Gopal Man Shrestha, acting president of Nepali Congress-D; Chitra Bahadur Ale, Acting President of Jana Morcha (People's Front) Nepal; Nepal Majdoor Kisan (Nepal Workers and Peasant's) Party President Narayan Man Bijukchhe; Nepal Sadbhawana (Goodwill) Party (Anandidevi) Member Bhogendra Thakur; and President of Samyukta Bam Morcha (United Left Front) Nepal C.P Mainali signed the six-point joint Common Agreement at a program in the afternoon of 8th May 2005.

conflict, in Nepal. The Asian regional actors' solid commitments for the future of Nepal will show the region's strong will and capacity to promote human rights, peace and democracy in Nepal and hence, in Asia.

Outside Nepal, people's solidarity and call for human rights, peace and democracy in the country have been seen in Asia, especially since the Royal Coup D'état. Some regional movements shall be noted here.

On February 14th, seven leading political members exiled in New Delhi, India, issued a joint statement at a press conference. The political members, including those from Nepali Congress Party, Nepali Congress Party (Democratic) and the Nepali Communist Party (United Marxist Leninist), together opposed the King Gyanendra's political move, and raised their voice for the restoration of multi-party democracy, the abandonment of absolute monarchy, and the suspension of military aid from India, United Kingdom, and the United States.⁴⁹ On February 19th, a symposium called "Crisis in Nepal" was organized by Observer Research Foundation, in New Delhi, where Nepalese political members demanded moral support from India for democracy in Nepal, and called for elections for a constitutional assembly and talks to solve the conflict in the country. M.K. Rasgotra, Arvind Deo and K.V. Rajan, former Indian Ambassadors to Nepal, as well as S.D. Muni, an expert on South and Southeast Asia, were among the participants.⁵⁰ Specifically since February 1st, India's capital has become a place for the Nepalese in exile, to carry out their advocacy and lobbying campaigns.

On March 6th, Asian human rights and academic groups⁵¹ who attended the Fourth Regional Meeting on International Criminal Court (ICC) Campaign in Asia on March 5-6th, brought solidarity and warned the ICC in the Hague of gross human rights violations taking place in Nepal, and urged the Court to conduct its mandate to prevent crimes against humanity in the country.⁵² The groups have issued the joint press statement, condemning the military control since the February 1st, and criticizing the suppression of civil liberties, in Nepal.

On March 11-12th, 2005, the first regional meeting on Nepal, titled "Regional Meeting on Peace and Democracy in Nepal" was convened by Department of International Relations, Faculty of Political Science, Chulalongkorn University, and Asian Forum for Human Rights and Development (FORUM-ASIA) in cooperation with Centre for Solidarity with Nepali Democracy/Vasudhaiva Kutumbakam, National Alliance for Human Rights and Social Justice, NGO Federation of Nepal, South Asian People's Forum, South Asian Forum for Human Rights, and South Asia Alliance for Poverty Eradication.⁵³ This meeting has gathered representatives from Nepalese political parties and civil society, and those from regional and international civil society.

The regional meeting provided forum for these actors to exchange their views on and to bring grater solidarity for human rights, peace and democracy in Nepal. About 40 participants from Nepal and other

⁴⁹ Biman Mukherji, "Nepal parties join hands in India to push for democracy in homeland," Agence France Presse, 14 February 2005.

⁵⁰ Indo-Asian News Service, "Nepali parties urge do-or-die battle for democracy," Indo-Asian News Service, 19 February 2005.

⁵¹ The groups included Asian Forum for Human Rights and Development (FORUM-ASIA), Asian Human Rights Commission, the Asian Network for the International Criminal Court, the Bangladesh Coalition for the International Criminal Court, Odhikar from Bangladesh, the Cambodia Human Rights and Development Association, the East Timor People's Action, the Women's Research and Action Group in India, the Institute for Policy Research and Advocacy in Indonesia, Minbyun - Lawyers for a Democratic Society in South Korea, and Pakistan Coalition on the International Criminal Court.

⁵² Joint Statement is available on the website of Asian Human Rights Commission and FORUM-ASIA at www.ahrchk.net/index.php and www.forumasia.org.

⁵³ The Report on the Regional Meeting on Peace and Democracy in Nepal is available on the website: <http://www.forumasia.org>.

countries, mainly Asia participated. This regional meeting succeeded to receive people's attention specifically in Nepal, India, and Bangkok, where different political representatives accepted interviews to raise their concerns on the political future of Nepal. The conclusion of the meeting was strategic plans of actions for Nepalese political representatives, and national, regional and international civil society actors to work together on information sharing, lobbying, advocacy campaigns on Nepal, and to approach for the resolution on Nepal at the 61st Session of United Nations Commission on Human Rights in Geneva.

The Commission has started on March 14th and was held until April 22nd, 2005. Asian regional civil society organizations working on Nepal such as Asian Center for Human Rights, Asian Human Rights Commission, South Asia Human Rights Documentation Center, as well as FORUM-ASIA and others carried out campaigns on Nepal. In strong cooperation with Nepalese human rights activists, the regional civil society organizations continuously provoked for international community's serious support for human rights, peace and democracy in Nepal, and for the resolution under agenda item 9 and 19, by issuing written and oral statements and reports, lobbying governments and Special Rapporteurs, organizing side events, and collaborating with international non-governmental organizations.

On April 11, the Memorandum of Understanding was signed by His Majesty's Government and the UN Office of High Commissioner for Human Rights (OHCHR), agreeing on the establishment of OHCHR office in Nepal. While the resolution on Nepal under agenda item 9 failed, on April 20th, the resolution on Nepal under agenda item 19 was passed. The resolution reminds the Nepalese government of its obligation to respect and abide by international human rights treaties that it is a party to, condemns all gross human rights violations committed by His Majesty's Government and Maoists, and called for the restoration of peace and multi-party democracy in Nepal. The Commission produced the very first step for international community to show their solidarity and provide support for human rights, peace and democracy in Nepal since the February 1st.

As there must be a continuous support and solidarity from international community and civil society organizations, Asian civil society, and Asian solidarity among governments, civil society and inter-governmental organizations must be strengthened and sustained. Such regional solidarity could be a coalition of sub-regional partnership in South, Northeast and Southeast Asia. Such partnership would be composed of governments or parliaments, national human rights commissions, and civil societies. With close consultation with national actors, each partnership could mobilize popular movement and conduct advocacy campaign on Nepal in their sub-region, so as to echo Asian voice to the world collectively.

For instance, Thai and regional worker's groups conducted a protest in front of the Royal Nepalese Embassy on April 22nd, 2005.⁵⁴ Using Bangkok, as one of the hubs in Southeast Asia, Thai and regional organizations have come together for solidarity and support for their Asian friend, Nepal. On April 23, Nepal Democracy Alliance, and Human Rights Laws Network, based in India, organized a seminar titled, "The Constitutional Crisis in Nepal: The Way Forward" in New Delhi. Another India-based organization, the Asian Center for Human Rights, issued a press statement on April 30th, calling for the establishment of the Commission of Inquiry to investigate excesses committed and to repeal of all the ordinances, during the state of emergency. The Center also pointed the Local Administration Fifth Amendment Ordinance to bring back Panchayat rule and the Royal Commission against Corruption Control Ordinance, and urged the international community not to lift arms embargo on Nepal until a multi-party government is established.⁵⁵ New Delhi has become another hub in another sub-region for people's movements for Nepal. Further cooperation among

⁵⁴ The protest was organized mainly by Alliance of Democratic Trade Union, Women Workers for Liberation, Friend of Women Foundation, Center for Labour Information Service and Training, Thai Labour Campaign, Thai Filament Textile Labor Union, ICEM- Thai Affiliate and Committee for Asian Women.

⁵⁵ Asian Centre for Human Rights, "Over 100% increase of killings during emergency in Nepal Call for establishment of a Commission of Inquiry," 30 April 2005, available from <http://www.achrweb.org/press/2005/NEP070405.htm>.

different sub-regions in Asia would create closer friendship and cooperation among Asian people, which will contribute significantly to human rights, peace and democracy in Nepal and Asia.

In order to avert the crisis in Nepal, strong, sustainable relationship and cooperation with South Asian governments and civil society groups is critical. In coming months to build stronger Asian solidarity for Nepal, strategic consultation meetings can be held in cooperation with Nepalese and South Asia sub-regional actors, while other regional actors provide strong support for these events. National and regional actors should together closely collaborate with Regional Representative of the Office of High Commissioner for Human Rights and international actors to promote human rights, peace and democracy in Nepal and Asia, and globally.

4.2 International engagements

Different human rights organizations and individuals from around the world have organized various events in Geneva during the 61st Session of Human Rights Commission that met from 13 March to 22 April of 2005, mainly to expose the acts of gross violations of human rights in Nepal and create an enabling environment to pursue the meeting delegates for initiating necessary actions to mitigate those violations. The human rights organizations that have been very much instrumental during this period are the International Commission of Jurists (ICJ), Amnesty International (AI), Human Rights Watch (HRW), FORUM-ASIA (FA), Asian Centre for Human Rights (ACHR), International Federation of Journalists (IFJ), Rural Reconstruction Nepal (RRN), Informal Service Sector Centre (INSEC) and many more.

The government delegates of Switzerland had played a credible role to convince other delegates and put forward resolution under Agenda Item 19, which was adopted on April 20th, 2005 by the 61st Session of the Commission on Human Rights.

An Agreement Between the United Nations High Commissioner for Human Rights and the Government of the Kingdom of Nepal Concerning the Establishment of an Office of the High Commissioner in Nepal for the purpose of regulating the status of the Office and its personnel, and facilitate its activities while monitoring the human rights situation was signed on April 11th, 2005. This Agreement was signed as a result of intensive pressure at the ongoing 61st UN Commission of Human Rights meeting in Geneva.

According to the Kathmandu Post of Feb 16th, 2005, the Human Rights Watch (HRW), the New York-based global human rights watchdog, has expressed serious concern over the human rights situation in Nepal. The HRW, by issuing a statement, has said that about 170 political activists and student leaders were under arrest in Nepal then. "In light of the thousands of 'disappearances' that have occurred in the course of the armed conflict with the Maoist rebels, the most new cases in any country in recent years, HRW is especially concerned for the safety of those in detention," the statement said. It also strongly demanded that media censorship be immediately withdrawn and that the democratic process be restored.

Meanwhile, ARTICLE 19, a London-based global campaign on freedom of expression, has expressed serious anxiety over the current situation regarding freedom of expression and information, and human rights⁵⁶.

Similarly, the President of International Federation of Journalists (IFJ), Christopher Warren, has expressed concern over the state of media in the country in the changed political context.

Interacting with senior journalists, editors of different newspapers and representatives of Federation of Nepalese Journalists (FNJ) in Kathmandu on Feb 16th, 2005, Warren expressed solidarity with Nepalese

⁵⁶ The Kathmandu Post, 16 Feb 2005

journalists and urged the government to restore all suspended fundamental human rights, press freedom and freedom of expression⁵⁷.

Warren has expressed that, "It is not the concern of Nepalese journalists alone, we journalists worldwide, and IFJ, express solidarity to press the government to restore press freedom."

"In this difficult situation, the Nepalese media should play an important role to ensure democratic rights and press freedom, and IFJ will always support such efforts," he said.

International Commission of Jurists (ICJ) on 6th May 2005 termed the release and subsequent re-arrest of student leader Gagan Thapa "disturbing" and has asked the government to release him immediately⁵⁸.

"It is disturbing that the government of Nepal is continuing to defy orders of the Supreme Court," said Nicholas Howen, secretary general of the ICJ, in a statement.

Police on Thursday re-arrested Thapa soon after the Supreme Court had ordered his release. ICJ in the statement said compliance with court orders is a critical measure of the government's commitment to human rights.

⁵⁷ *ibid*

⁵⁸ Kantipuronline.com, 6 May 2005

5.0 CONCLUSION AND RECOMMENDATIONS

Contrary to statements figuring in the ‘royal proclamation’ to establish peace, democracy and protect human rights, the 100 days of the king’s absolute takeover (February 1st to May 11th, 2005) have aggravated the situation, compared to the period preceding the coup. Not a single day has passed without recording breaches in human rights and rule of law.

Facts were forcefully silenced and the State always ensured to showcase a pseudo peace. Even if the king’s Government tried hard to hide realities on human rights suppressions, the later could never be swept under the carpet. As a result, the international community has dragged the king’s Government to agree with the Office of the United Nations High Commissioner for Human Rights to establish an Office of High Commissioner in Nepal, in order to monitor the human rights situation and provide feedback. This indicates that the human rights situation in Nepal is deteriorating increasingly rapidly.

For the sake of protecting and promoting fundamental rights of people of Nepal, the following actions must be urgently taken;

- civil societies and human rights organizations at local, regional, national and global levels must raise awareness, disseminate information, mobilize critical masses of people and pressurize their respective constituencies to convince the king’s Government to restore the institutions, mechanisms and processes leading to multi-party democracy, rule of law and human rights;
- parliamentary political parties should come together in a united front and launch effective activities to restore multi-party democracy, genuine constitutional monarchy, rule of law and people’s sovereignty;
- these parliamentary political parties should issue ‘white papers’ acknowledging their past actions and mistakes and offer guarantees to avoid similar mistakes that could weaken institutions and processes for multi-party democracy and people’s sovereignty;
- these parliamentary political parties should also promote the creation of a relaxed atmosphere encouraging Maoist rebels to attend peace negotiations on the current conflict;
- donor communities should discontinue military aid and act towards convincing Nepali rulers to respect human rights of Nepali people at all times;
- the Government should release all arbitrarily detained people, initiate the multi-party democracy process and create an atmosphere fostering peace dialogue with Maoist rebels;
- Maoists should cooperate with other parties to negotiate a settlement in the current conflict in which they are involved;
- Maoist rebels should fully respect Nepali’s fundamental rights and immediately stop all sorts of atrocities and abuses without any pre-conditions;

- Government's security forces should fully respect Nepali people's rights and stop, immediately and unconditionally, all atrocities and abuses in violation of human rights;
- all actors and stakeholders in the country and abroad should work within a broader framework for protecting and promoting human rights, institutionalizing the functioning of multi-party democracy and sovereignty of the people;
- through suitable engagement processes, appropriate mechanisms should be developed to uphold the supremacy of the constitution at all times; no individual or institution should be above the constitution under any circumstances and pretexts;
- there should be a national consensus for all inclusive political, social and economic development of the country with clear priority for remote neglected communities and ignored geographical regions;
- a national consensus should be reached in acting accordingly to all international agreements to which Nepal is a state party, and;
- an independent and transparent Commission of Inquiry should be immediately established to investigate abuses committed during the State of Emergency and repeal of all ordinances imposed during this period, including the Local Administration Fifth Amendment Ordinance intended to bring back autocratic Panchayat rule and the Royal Commission against Corruption Control Ordinance.

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