

Nepal:

One Year of Royal Anarchy



Asian Centre for Human Rights
& FORUM-ASIA

NEPAL:
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I. Failures on Nepal

The repression unleashed since the demonstration called by the seven-party political alliance on 20 January 2006 highlights overall failure on Nepal since King Gyanendra Bir Bikram Shah Dev took absolute power on 1st February 2005. Nepal has further descended into the abyss. The much hyped proposed election to all the 58 municipalities on 8 February 2006¹, which is being boycotted by all political parties including royalist Rashtriya Prajatantra Party, will not give any legitimacy to King Gyanendra. International community is virtually at lost as to how to address the logjam because of the obstinacy of King Gyanendra. No one except King Gyanendra and his cronies take the promise or feasibility of holding parliamentary polls by mid-April 2007 seriously.² The Maoists control about 80% of the territories of Nepal.

a. Failures of King Gyanendra

King Gyanendra has abysmally failed Nepal on all fronts. The polarisation between the King on the one hand and the democratic forces and the Maoists on the other, threatens the institution of monarchy. Following his takeover, King Gyanendra locked up about 3,000 political leaders, human rights activists, journalists, lawyers etc and suspended the fundamental rights guaranteed under the 1990 Constitution of Nepal. During his talks with the United States' Ambassador to Nepal, James Francis Moriarty on 11 February 2005, King Gyanendra reportedly sought three months - 100 days - to bring the situation in the country under control and remove curbs on citizens.³ The emergency minus the curbs was lifted on 29 April 2005.

On 24 February 2005, King Gyanendra promised before the Nepalese journalists to restore democracy in three years.⁴ The continued repression of the political leaders, human rights activists, journalists, lawyers and the complete contempt of the judiciary show that for King Gyanendra, suppression of democracy is the only way to restore it.

The Royal Nepal Army (RNA) has been the only the source of survival of the regime and the key obstacle to the Maoists' takeover of the Kathmandu valley. The RNA has always been, including during 12 years of civilian rule, more loyal to the "Royal" family than to the people or the country. Therefore, it remains more accountable to the King than the civilian political authorities. Apart from perpetrating atrocities and making false claims of military victories over the Maoists, during one year rule by King Gyanendra, the RNA lost further grounds to the Maoists. Its capacity to strike at the Maoists also further diminished. The RNA personnel became more concentrated in towns and the Terai. Most RNA personnel have been engaged in enforcing emergency and curfew, protecting the King, Kathmandu valley and government

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political appointees, and providing escorts to the vehicles caught in the Maoists' road blockade programmes. The primary target of the RNA and other security forces does no longer appear to be the Maoists but the democratic forces. On 13 June 2005, the district authorities of Kavre ordered a team of policemen to rush to district headquarter, Banepa, to arrest over 50 journalists, rights activists and lawyers, who were taking part in a peaceful protest. The same police team was actually assigned to diffuse explosives left behind by the suspected Maoists at Sanga along the Kathmandu-Banepa road that disrupted traffic.⁵

Like all dictators, King Gyanendra first sought to win the hearts of the people with the promise to end corruption that has engulfed Nepal. On 17 February 2005, the Royal Commission on Corruption Control (RCCC) was set up with the powers even to prosecute sitting Supreme Court judges, unheard in any society with any semblance of the rule of law. A few middle class Nepalese in Kathmandu initially believed that the establishment of the RCCC was a correct measure to address what ailed the rule of the corrupt politicians. The belief soon evaporated. Dr Tusli Giri, Vice Chairman of the Council of Ministers, was exposed as an infamous defaulter, having duped the state-owned Nepal Bank Limited of a loan of Rs.17.4 million taken on 27 February 1986.⁶ Tulsi Giri also reportedly received Rs 9,10,000 from the state fund to renovate his kitchen after he became Vice-Chairman.⁷ The corruption by Royal family members and the Council of Ministers gradually unfolded. On 13 September 2005, three cabinet ministers - then Agriculture Minister Badri Prasad Mandal, Home Minister Dan Bahadur Shahi and Finance Minister Madhukar Shumsher Rana - were found smuggling twenty thousand metric tons of chemical fertilizer from India by the Commission for the Investigation of Abuse of Authority.⁸ Dan Bahadur Shahi and Madhukar Shumsher Rana were dropped during the cabinet re-shuffle on 8 December 2005.

The infamous bank defaulter, Dr Tulsi Giri, with a penchant for shooting from the hip, represents what ailed Panchayat era. Yet, in his first attempt to gain hold over the administration, King Gyanendra promulgated the Local Administration Fifth Amendment Ordinance 2061 on 25 March 2005 to revive the post of 14 *Anchaladhishes*, the chief administrators of 14 *Anchals*, regions - mainly political appointees abolished after the 1990 democracy movement.⁹ On 11 April 2005, King Gyanendra took full control of administration of the country by appointing five regional administrators for the country's five development regions as well as the zonal administrators in the 14 administrative zones to replace bureaucrats. The new appointees failed to make any impact but certainly over-stretched RNA has to provide security to these appointees. At least three district coordinators i.e. Dan Bahadur Sribastav, coordinator of the Kapilavastu District Monitoring Committee and Bhagawan Das Shrestha, coordinator of the Chitwan District Monitoring Committee and Ajaya Raj Singh, Coordinator of Banke District Monitoring Committee were killed by the Maoists respectively on 29 April 2005,¹⁰ 9 May 2005¹¹ and 24 August 2005.

Nepal is presently being ruled by various Codes of Conduct and Ordinances and not through the rule of law as provided under the 1990 Constitution of Nepal. King Gyanendra rules Nepal simply because the RNA is able to defend Kathmandu.

b. Failure of international community

Apart from the authoritarian regimes, most in the international community reacted with disapproval of the coup and took various measures. At the end of one year, it appears that measures have been ineffective to improve the situation in Nepal.

i. Ineffectiveness of limited arms embargo

Military assistance is the key for the survival of any regime of a war-ravaged country like Nepal. Following the royal takeover, the United Kingdom suspended military aid to Nepal.¹² India, the principal supplier of arms at 70% subsidies, also stalled its military supply.¹³ It only provided non lethal weapons such as jeeps, bulletproof jackets, concertina security wires, bunker protection devices and mine-proof vehicles.¹⁴ The United States also suspended military training programmes.¹⁵

However, given the volumes of weaponry already transferred to Nepal since 2000, the limited military embargo has not been a source of any crisis for King Gyanendra. India alone provided military assistance worth over “3 billion rupees” i.e. over 70 million dollars since 2000,¹⁶ while the United Kingdom had an ongoing commitment of “non-lethal” military assistance worth about 6 million pounds at the time of suspension of military aid. In 2003 alone, the United States had reportedly provided \$6.6 million in weapons and services.¹⁷

The procurement of arms from India’s rival China by Nepal was an attempt to exploit age-old geo-political rivalries rather than addressing any serious shortage of arms. In October 2005, the government of China announced its decision to provide military aid of 8 million Chinese Yuan (approximately 72 million Nepalese rupees)¹⁸ during the visit of the Royal Nepal Army Chief General Pyar Jung Thapa to Beijing.¹⁹ On 22 November 2005, the arms and weapons from China were brought into Nepal in 18 trucks via the Kodari Highway.²⁰

ii. Lack of coordination and monitoring mechanisms on development aid

While the demand for cancellation of military assistance has been unequivocal, development aid remains critical for survival of the regime. Denmark ²¹ and Switzerland²² suspended all their development programmes due to security reasons. The United Kingdom suspended £2.4 million committed for the fiscal year 2004-2005 to support the Nepal police, prison services and the Prime Minister’s Office.²³

However, many countries continued to provide development aid. Between 7 March and 16 August 2005, Japan, one of the largest donors, decided to extend a total grant of US\$53,267,699 for 9 major programmes, including food production and food aid, medical care and services, education and construction of schools and hostels, roads and forest conservation.²⁴

India also provided financial assistance, mainly for education and infrastructural development. India provided Nepalese Rs 23.6 million for the construction of a school building and boundary wall of the Shree Secondary School, Dhamboji, Nepalgunj,²⁵ Rs 2,94,84,298 to the Shree Juddha Secondary School at Gaur of Rautahat,²⁶ Rs 6.04 million for

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the extension of Manakamana Water Supply project in Gorkha district,²⁷ Rs 20.34 million to two educational institutions in Saptari district,²⁸ Rs 12,807,803 for the construction of a school building, science laboratory, library building and a hall for the Ambebar Janata Secondary School, Rajbas, Triyuga Municipality in Udayapur²⁹ and Rs. 29,722,399 for black-topping the Fatehpur-Kunauli road in Rajbiraj, Saptari district.³⁰

Among the multilateral agencies, the World Bank temporarily suspended its US\$ 70 million budgetary support in 2005 under the Poverty Reduction Strategy Credit-II, albeit for financial reasons - extremely slow implementation of agreed reform measures.³¹ However, the World Bank provided grants of Nepalese Rs.2.25 billion to Nepal for Rural Access Improvement and Decentralization Project,³² US\$60 million for a five-year higher education reformation project³³ and US\$320 million for the construction of rural roads and suspension bridges during the next five years.³⁴

The UNDP provided \$13.1 million for the project titled 'Western Terai Landscape Complex Project'.³⁵

Majority of the donors have failed to take into consideration the lack of capacity of the government of Nepal to implement projects in 80% of the territories controlled by the Maoists. The question remains as to how the grant of US\$60 million from the World Bank for reform of higher education³⁶ be implemented by the government of Nepal when majority higher educational institutions at 10+2 level have been caught between nationalist education of King Gyaendra and *Janawadi Shikshya*, peoples' education of the Maoists. According to Child Workers Network of Nepal, around 13,723 children were abducted for indoctrination along with teachers during January - September 2005.³⁷

Unless effective monitoring mechanisms are placed to micro-manage such projects, the propensity of diverting funds for other purposes to survive the regime cannot be ruled out.

iii. Failure of the nations at the United Nations

Repression by King Gyanendra was brought to the attention of the United Nations Commission on Human Rights (CHR) during its 61st session in March-April 2005. A draft resolution on the situation of human rights in Nepal under agenda item 9 of the CHR titled "the question of violation of human rights and fundamental freedom in part of the world", also known as country resolution, was circulated. However, India, despite calling for the restoration of democracy and the release of political detainees, journalists and human rights activists at home, maintained a thunderous silence at the United Nations. The United States also failed to take any position at that time and to some extent laid over emphasis on the Maoists' takeover.³⁸

In a further attempt to scuttle the country resolution, Nepalese Foreign Minister Ram Nath Pandey signed a Memorandum of Understanding (MoU) with United Nations High Commissioner for Human Rights, Louise Arbour a few hours before the expiry of the deadline for submission of the draft resolutions on country situations under item 9. Pursuant to the

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MoU, the Office of the High Commissioner for Human Rights (OHCHR) has started its operation to monitor human rights violations.

In May 2005, the United Nations Committee on the Rights of the Child (CRC Committee) examined the second periodic report of Nepal (CRC/C/65/Add.30). In its Concluding Observations, the CRC Committee noted “the extremely negative impact of the armed conflict between the State party and the Communist Party of Nepal (Maoists) on children in Nepal, and that it has created conditions in which even minimal implementation of the Convention is difficult”.³⁹

In September 2005, UN Special Rapporteur Against Torture, Mr Manfred Nawak, visited Nepal and reported that torture “is systematically practiced in Nepal by the police, armed police and the RNA in order to extract confessions and to obtain intelligence, among other things”.⁴⁰ The United Nations Committee Against Torture which examined the second periodic report of Nepal⁴¹ on 9 and 10 November 2005 affirmed that “no exceptional circumstances whatsoever may be invoked as a justification of torture”. The Committee expressed grave concerns “about the exceedingly large number of consistent and reliable reports concerning the widespread use of torture and ill-treatment by law enforcement personnel, and in particular the Royal Nepalese Army, the Armed Police Force and the Police, and the absence of measures to ensure the effective protection of all members of society”.⁴²

The Office of the High Commissioner for Human Rights also submitted its report to the 60th session of the United Nations General Assembly highlighting violations by State authorities during armed conflicts as well as violations of democratic rights, including extrajudicial executions, the killing of civilians and the failure to protect civilians, disappearances, arbitrary arrest and detention, torture, threats, and violations of the rights to freedom of expression, freedom of assembly and freedom of association. The OHCHR report also confirmed violations of international law by CPN (Maoist), including summary executions, the killing of civilians, abductions, torture, extortion, forced recruitment, the bombing of civilian buildings and the recruitment of children, as well as serious economic and related disruption suffered by the general population resulting from bandhs.⁴³

Despite such reports from the UN Secretariat i.e. OHCHR, independent experts like UN Special Rapporteur Against Torture and two UN Treaty Bodies, the 60th session of the United Nations General Assembly failed to act positively to sponsor a resolution on the situation of human rights in Nepal. A resolution at the General Assembly would have sent international community’s message of disapproval to King Gyanendra. But, sponsoring a resolution at the UNGA on Nepal did not seem to be a priority, among others, as Nepal was relatively peaceful to draw any international attention because of the unilateral cease-fire declared by the Maoists.

c. Missed opportunity for peace: Rejecting Maoists’ olive branch

The unilateral cease-fire declared by the Maoists on 3 September 2005 was a significant step and provided an opportunity to initiate a process for restoration of stability, peace and

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democracy. Despite initial doubts about the intention of the Maoists, it has been universally accepted that the violence had come down drastically. According to Informal Sector Service Centre, 33 people were killed in the first month since 3 September 2005. Of them, 29 persons were killed by the security forces and 4 by the Maoists.⁴⁴ On 4 December 2005, Sudip Pathak, a member of the National Human Rights Commission of Nepal told *The Kathmandu Post* that during three months of cease-fire, incidents of murder had gone down by 88 percent while kidnapping and extortion declined by 70 percent and 85 percent respectively.

Yet, King Gyanendra failed to respond positively to the Maoists' unilateral cease-fire. Rather, the RNA and other security forces sought to provoke the Maoists repeatedly.

On 24 September 2005, the security forces killed six Maoists and a civilian in Bahadurpur area of Palpa district in an alleged encounter.⁴⁵ But the locals alleged that the attack by RNA soldiers was unprovoked and one-sided.⁴⁶ On 2 October 2005, the Civil Society's Ceasefire Monitoring Committee stated that three Maoist sentries, three Maoist cadres and an ordinary citizen were killed in "unprovoked firing" by the security forces. The report said that "The army could have cordoned the Maoists and taken legal action, but the army took armed action".⁴⁷

On 15 October 2005, the RNA soldiers killed four Maoists - Mohan Khanal alias Binod, chairman of Maoists' intellectual council of Morang and Sunsari districts, Purna Shrestha, Durga Limbu and Bidur Bhattarai - in an alleged encounter at Limbu Chowk at Belbari-6 in Morang district.⁴⁸ The eye-witnesses claimed that the Maoists were unarmed.⁴⁹ An investigation by OHCHR-Nepal into the incident reportedly indicted the army for "serious violations of international humanitarian law".⁵⁰

King Gyanendra and the RNA are against any peace process with the Maoists as it will destroy their monopoly over Nepal. On 17 August 2003, the RNA personnel massacred 19 Maoist cadres and two civilians in cold blood at Doramba while the third rounds of talks between the Maoists and the government was being held in Katmandu. The massacre was an act of sabotage. The Maoists subsequently withdrew from the peace talks.

Nonetheless, the failure of King Gyanendra to respond positively to the Maoists's unilateral cease-fire led to formal talks between the democratic forces and the Maoists. On 17 November 2005, the Communist Party of Nepal (Maoists) and seven-party alliance signed the historic 12 - point agreement. The agreement called for end of absolute monarchy, followed by the establishment of a full-fledged democracy and the restructuring of state apparatus to address political, social, economic and cultural as well as class, ethnic and gender issues. The Maoists also agreed to participate in multi-party democracy and lay down arms under the UN or any credible international supervision. The two sides also declared that they would boycott and oppose the municipal elections, scheduled for February 8 and the parliamentary elections slated for mid-April 2007 as these are "intended to give legitimacy to the king". The agreement called for elections for the Constituent Assembly⁵¹

d. Deplorable human rights crisis

Human rights situations remain deplorable with increased killings despite four months of unilateral cease-fire declared by the Maoists. The security forces have killed 1,008 people, including civilians during 1 January 2005 - 31 December 2005. According to the UN Working Group on Involuntary or Enforced Disappearances, Nepal presently has the highest number of enforced or involuntary disappearances in the world. The security forces enjoy virtual impunity for illegal arrest, torture, rape, extrajudicial killings, enforced disappearances and blatant contempt of the courts including the Supreme Court.

The Maoists also killed at least 600 persons, including civilians during 1 January 2005 - 31 December 2005. The CPN-Maoists have been responsible for violations of international humanitarian laws by resorting to indiscriminate killings, abduction, rape, torture, and attacks on educational institutions, healthcare systems and destruction of public properties in the country. While withdrawing the cease-fire on 2 January 2006, Maoist supremo Prachanda declared that their "actions will now be targeted against the royal government only". Earlier on 19 June 2005, Prachanda claimed that he had directed all his cadres not to carry out any physical action against any unarmed civilian, including a "criminal". Yet, violations of international humanitarian laws by the Maoists continued to be reported. The Maoists have also been indiscriminately using land mines and other explosives, which often kill innocent civilians.

Since the withdrawal of the cease-fire on 2 January 2006, the conflict has intensified. An estimated 66 persons including 33 Maoists, 31 security forces and 2 civilians were killed as on 24 January 2006

The judiciary has virtually collapsed, as Nepal has turned into a lawless country. The government does not cooperate with the court. As many as 1,838 writ petitions filed before April 2004 have reportedly remained unheard in the court as different ministries, organizations and offices have not responded to the apex court orders issued in the preliminary hearing of the petitions.

Nothing reflects the contempt of court than the re-arrest of accused including from the premises of the Supreme Court after the order of their release by the courts. Since the royal takeover, Asian Centre for Human Rights has recorded the re-arrest of 59 persons after the courts ordered their release.

The credibility of the NHRC has been eroded substantially and it has become a rubber stamp of the Royal Nepal Army. Nothing exposes more acutely than the fact that the International Committee of the Red Cross (ICRC) was forced to suspend its visits to the detention centres in May 2005 after the RNA failed to abide by the terms of an agreement with ICRC with regard to working modalities practiced by the ICRC all over the world. Only NHRC is presently being allowed to visit the prisons. Until today, ICRC's non-visiting to prisons and detention centre continues.

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Messengers have been targeted both by the security forces and the Maoists. Among the human rights defenders, the journalists faced the most serious repression under King Gyanendra. About 430 journalists were arrested, attacked or threatened since King Gyanendra took over power. The FM radios have been banned from broadcasting news and majority of the channels have closed down, sometimes for denial of permission by the government to buy new transmitters.

Internally displaced persons have not been provided any assistance. To be classified as an IDP, one has to return to the place of origin to be registered as an IDP at the office of the Chief District Officer, thereby increasing the risks of the IDPs at the hands of the security forces and the Maoists. Instead of providing humanitarian assistance, in 2005, the government dealt violently with the conflict induced IDPs who protested against the lack of any support.

The risks of the Tibetan refugees further increased because of the support of the government of China to the royal takeover by King Gyanendra. The Tibetan Refugee Welfare Office has been closed down in January 2005. Many Tibetans asylum seekers have been sentenced to jail for the failure to pay the fines for illegal entry. It is feared that the Tibetan refugees who have been jailed for failing to pay fines might be handed over to the Chinese authorities on completion of their jail sentences.

e. The search of a credible strategy: India basket vs China basket

King Gyanendra repeatedly bluffed the international community especially the Indian authorities.

In his talks with Indian Prime Minister Manmohan Singh in Jakarta on 23 April 2005 during the Non-Aligned Movement summit, King Gyanendra assured Prime Minister Singh that democracy in Nepal would be restored “sooner rather than later” and that he would be sensitive to Indian concerns that there be a “road map” for restarting the political process.⁵² Even before his return from abroad, King Gyanendra’s administration responded by re-arresting deposed Primer Minister Sher Bahadur Deuba on 27 April 2005 on alleged corruption charges.

At the sidelines of the 13th Summit of the South Asian Association for Regional Cooperation held in Dhaka on 12-13 November 2005, Prime Minister Singh once again reportedly “underlined to his majesty (Gyanendra) the importance of restoring multiparty democracy in Nepal as early as possible and the need to take concrete steps in this regard... This would not be possible without the involvement of political parties.” The King reportedly re-assured Prime Minister Manmohan Singh that he was prepared to take steps towards restoring democracy. After returning from SAARC Summit, King Gyanendra responded to India’s demarches by reshuffling the cabinet on 8 December 2005 to bring in more royalists. India’s Foreign Secretary Shyam Saran visited Nepal from 11-13 December 2005 to convey New Delhi’s message for “restoration of peace and stability and economic recovery” of Nepal. But King Gyanendra locked up all the political leaders prior to the demonstration of the seven-party political alliance on 20 January 2006.

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Individual actions notwithstanding, international community to a large extent deferred on India to take the initiatives for restoration of democracy in Nepal. It has been repeatedly made clear. On 5 October 2005, British Defence Secretary John Reid stated that Britain would act in consultation with India on the issue of resuming arms supplies to Nepal.⁵³

Since the supply of arms by China, the issue of China card has been widely discussed in Indian media. There need not be any China card in Nepal. But, it is clear that King Gyanendra has put all his eggs on China basket just the way key actors in the international community have put their eggs on India basket because of the leverage the latter enjoys on the landlocked country. The restoration of democracy in Nepal has become a case of China basket vs India basket.

Facilitating a Memorandum of Understanding between the Maoists and seven-party alliance is easier than adopting a credible strategy to squeeze the King to restore peace, democracy and stability.

e. Conclusions and recommendations

After the Royal coup, the United States expressed concerns that the Maoists may come to power and “the humanitarian ramifications of such a regime would be immense, reminiscent of the nightmare brought upon Cambodia by Pol Pot”.⁵⁴ Since then the Maoists have moved closer to democratic forces and accepted multi-party democracy. More than the Maoists, it is King Gyanendra, who appears to be heading towards the regime of Pol Pot.

In the absence of any positive response from King Gyanendra, the withdrawal of the unilateral cease-fire by the Maoists was expected. Since the withdrawal of the cease-fire on 2 January 2006, 66 persons including 33 Maoists, 31 security forces and 2 civilians have been reportedly killed as on 24 January 2006. While it is difficult to estimate the number of pro-democracy activists arrested, about 1,000 pro-democracy activists have been reportedly taken into custody in January 2006. The conflict with the Maoists and the protests by the democratic forces are all set to intensify.

Is the international community waiting for a humanitarian crisis to explode?

Nepal is unlikely to be a case which will require controversial humanitarian/military interventions with or without United Nations approval. However, since King Gyanendra appears ready to risk the institution of monarchy itself for his direct rule in Nepal, the application of coercive measures has to be considered.

The overall situation of Nepal will not improve by withdrawing various Codes of Conduct or Ordinances imposed by King Gyanendra. King Gyanendra’s direct rule is the most serious obstacle to improvement of overall situation in Nepal. Unless King Gyanendra hands over power to the democratic forces, which will take necessary measures to ensure respect for democracy, human rights and fundamental freedoms, and initiate peace process with the

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Maoists, Nepal will soon be afflicted by a major humanitarian crisis, irrespective of whether it becomes a case for humanitarian intervention or not.

Asian Centre for Human Rights and FORUM ASIA call upon the international community to boycott or dis engage with the administration of King Gyanendra by taking the following measures:

- Impose sanctions against King Gyanendra and his administration including a visa ban and a freeze on assets of the members of the Royal family, government ministers, senior members of the Royal Nepal Army, state-owned economic enterprises, and on beneficiaries of the government's economic policy and members of their families;
- Impose complete arms embargo on Nepal and withdraw all technical assistance on financing and financial assistance related to military activities, and on the export of equipment that might be used for repression on pro-democracy activists;
- Withdraw all bilateral and multilateral economic development assistance programmes directly given to the government of Nepal and if such projects or programmes are approved, the same should be implemented directly by the donors or through the NGOs;
- Urge the government of Nepal to release all political prisoners including those arrested by the Royal Commission Against Corruption Control such as former Prime Minister Sher Bahadur Deuba and former Minister Prakash Man Singh;
- Urge the Maoists to completely ban attack on civilians, educational institutions and public properties including government buildings;
- Urge the government of Nepal and the Maoists to prosecute the perpetrators of violations of human rights and international humanitarian laws belonging to the security forces and the Maoists; and
- Urge the government of Nepal to provide full and unrestricted access to the International Committee of the Red Cross to all detention centres in Nepal.

II. Political Repression

After the royal takeover, King Gyanendra crushed peaceful political movement for restoration of democracy and fundamental rights. Meeting, conference, workshop or interaction programme which “undermine the Kingdom’s sovereignty and integrity, disturb the law and order of the country or cause any adverse effect on the current state of emergency” were banned. Other meetings in the specified location required “taking a compulsory, prior approval from the Regional Administrator” i.e. the military commanders.⁵⁵

About 3,000 political leaders, student activists, human rights defenders, journalists, professionals and civilians were either put under house arrest or arrested following the Royal takeover. On 29 April 2005, King Gyanendra lifted the emergency but rallies and demonstrations were banned for the May Day. On 18 July 2005, the government also banned demonstrations by the civil servants’ unions in the government institutions through amendment in the Civil Service Act 2049 B.S.⁵⁶

In view of a mass demonstration called by the agitating seven political party alliance in Kathmandu on 20 January 2006 to protest against the upcoming municipal polls, the government banned all mass gatherings in Kathmandu and Lalitpur.⁵⁷ The complete ban on the right to peaceful democratic protest brought international condemnation for the royal regime.⁵⁸ About 1,000 political leaders and activists, human rights activists, students, academics etc have been arrested. The arrest and detention continue unabated.

a. Arrest under National Security Laws

Repression on the political leaders and cadres continued unabated throughout the year. Many have been detained under different national security legislations such as the Public Security Act, Public Offences Act and the Terrorists and Disruptive Activities (Control and Punishment) Ordinance (TADO) of 2004.

While middle ranking political leaders were arrested under various national security laws, senior political leaders were targeted by the Royal Commission for Corruption Control (RCCC). Former Prime Minister Sher Bahadur Deuba and former minister Prakash Man Singh have still not been released. On 31 May 2005, the RCCC sent Sher Bahadur Deuba and Prakash Man Singh to jail along with two other accused in the Melamchi project contract case for refusing to pay a bail of Rs 5 million each.⁵⁹ On 26 July 2005, the RCCC slapped a two-year jail term to both of them.⁶⁰ While the NHRC termed the RCCC’s judgement “not justifiable”,⁶¹ the Supreme Court served a show cause notice⁶² only to be rebuked on 26

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September 2005 by the RCCC not to intervene in its decision as it is a “political matter”.⁶³ The RCCC also made it clear that the Supreme Court could not examine its formation and orders.⁶⁴

Under the Public Offences Act, persons can be arrested for alleged crimes such as disturbing the peace, vandalism, rioting, and fighting. The Act authorises the Chief District Officer (CDO) to order detentions, to issue search warrants, and to specify fines and other punishments for misdemeanors without judicial review.⁶⁵

Under the Public Security Act (PSA) of 1989 and its second amendment of 1991, a person who allegedly threatens the “sovereignty, integrity or public tranquility and order and amicable relations with other States” can be detained for up to 90 days without charge by order of the Chief District Officer. The detention period can be extended to six months by the Ministry of Home Affairs and to 12 months with the approval of an advisory board.

The most draconian is the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO) of 2004 which provided for preventive detention of up to 90 days “upon appropriate grounds for believing that a person has to be stopped from doing anything that may cause a terrorist and disruptive act”. Under Section 9 of the TADO of 2004, the Chief District Officer can detain any suspect upto six months or 180 days, which can be further extended by another six months i.e. 360 days subject to approval from the Ministry of Home Affairs. It provides, “In case where there exists appropriate grounds for believing that a person has to be stopped from doing anything that may cause a terrorist and destructive act, the Chief District Officer may issue an order to keep him under preventive detention up to 6 months in a humanely place. If there are reasonable grounds to believe that the person has to be prevented from committing any terrorist activities for longer than that, on the approval of His Majesty the Government’s Home Ministry, the Chief District Officer can issue additional six months order of preventive detention”.⁶⁶

TADO was revised in 2005 to put the onus on the accused to prove that they are innocent of accusations, banned members of the public from attending trials and denied access to any case documents by the defending lawyers in such cases. The putting of burden of proving innocent on the accused violates cardinal principles of criminal jurisprudence and Article 14 of International Covenant on Civil and Political Rights to which Nepal is a party. The new provisions were applied for the first time on 1 December 2005 in the cases of Maoist leaders Matrika Prasad Yadav and Suresh Ale Magar. Their lawyer Surendra Mahato was not allowed to have the copies of legal documents of the case.⁶⁷

On 14 July 2005, six student leaders - Pradip Poudel, Narayan Bharati, BP Regmi, Pushpa Shahi and Saroj Thapa of Nepal Students’ Union and Thakur Gaire of All Nepal National Free Students’ Union were arrested during a protest demonstration at New Baneshwor, Kathmandu against the government’s decision to introduce a ‘nationalist education system’. On 15 July 2005, Kathmandu District Administration Office charged them under the Public Offence Act and slapped a 10-day jail term.⁶⁸ Their detention was further extended to a week.⁶⁹ They were

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released on 9 August 2005 following an order from the Supreme Court, which termed their detention “illegal”.⁷⁰

On 31 December 2004 at around 3 pm, Chandralal Giri, 22 years of Okhaldhunga Village Development Committee-7 was picked up by six to seven plain clothed security personnel when he was walking in Pulchowk, Lalitpur near the UN headquarters. He was immediately blindfolded and physically assaulted inside the van. Half an hour later, he was dumped into a cold, dark room at an unknown army barrack and was questioned about his relationships with the Maoists. The security personnel tied his hands and legs together with ropes and tortured him by applying electric shock to his head for close to one hour. They also randomly beat Mr Giri with their fists and sticks, targeting his head, chest, back and thighs. He was detained there for one week and subjected to brutal torture. He was kept in handcuff and blindfolded. After one week Mr Giri was shifted to Shree Jung Barracks, Singh Durbar where he was kept for fourteen days. He was brutally tortured there by RNA soldiers. On 19 January 2005, Mr Giri was transferred to the Central Jail where he was served notice for arrest under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO). On 5 June 2005, a habeas corpus petition was filed with the Supreme Court to release Mr Giri from his illegal detention. The court held that he was illegally detained and ordered for his release from Central Jail on 21 June 2005.⁷¹

Student leader Govinda Ghimire, 21 years, was arrested on 29 August 2003 from his residence in Chabahil, and was booked under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance. On 12 October 2003, the police, army, Home Ministry, Defense Ministry and the district authorities told the Supreme Court that Ghimire had not been arrested. In response to a habeas corpus writ petition filed by the Advocacy Forum, the Supreme Court on 17 June 2005 ruled that Ghimire was detained “illegally” and ordered for his immediate release in the presence of the District Judge. Following the Supreme Court, the student leader was released on 22 June 2005. But plainclothes security personnel defied the SC order and re-arrested him at the Kathmandu District Court premises. Mr Ghimire’s relatives, lawyers and human rights defenders, who had gone there to receive him, were physically assaulted by the securitymen. The securitymen also barred The Kathmandu Post photographer, Bikas Karki, from taking photographs.⁷²

On 11 June 2005, Lalitpur District Administration handed over a three-month arrest warrant to Bashu Koirala, general secretary of Nepali Congress-aligned Nepal Students Union. He had already completed three months of preventive detention in Lalitpur District Police Office. Koirala had been arrested from a rally organized by the mainstream political parties against the February 1st royal takeover.⁷³

On 19 June 2005, six political leaders, identified as district secretary of the Nepali Congress Prakash Sharma Poudel, former president of the Nepal Bar Association Appellate Court Bar Baglung unit Krishna Prasad Sharma Neure, CPN (UML) secretary Sri Prasad Sharma, deputy secretary Indra Lal Sharma, in-charge of the Baglung unit of Jana Morcha Nepal, Krishna Thapa and member Dambar Chhantyal were detained by the police in Baglung for

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participating in a protest rally against the February 1 royal takeover on 18 June 2005. At least 17 political workers earlier arrested from Mahendranagar were also sent to jail under the Public Security Act.⁷⁴

On 10 April 2005, several more political leaders and activists were reportedly sent to jail for three months under the Public Security Act. Four opposition leaders including Pratap Lal Shrestha were jailed in Tanahun. Eight opposition leaders including NC convention member Tulsi Giri in Syangja, and two leaders including former minister Yamlal Kandel in Surkhet were sent to jail.⁷⁵ Baglung district CPN-UML committee members Janak Poudel and Khem Prakash Pathak, who were arrested on 9 April 2005, were also handed over warrants for three-month detention under the PSA.⁷⁶

On 12 April 2005, 30 political activists detained in Bhaktapur were handed three-month arrest warrants under the Public Security Act. They included Modnath Prashrit, Shanta Manawi, Goma Devkota and Devshankar Poudel of the CPN-UML; Meena Pandey, Duryodhan Singh and Ramchandra Adhikari of the Nepali Congress; and Deep Kumar Upadhayay and Rudramani Bhandari of the Nepali Congress-D.⁷⁷

On 15 December 2005, security forces arrested former Pyuthan district vice-chairman of All Nepal National Independent Students' Union - Revolutionary (ANNISU-R), Bipin Pokharel, from District Hospital at Bijuwar VDC in Pyuthan where he was undergoing treatment. Later he was sent to police custody. According to Chief District Officer Dol Raj Dhakal, Pokharel was taken into custody as per the Terrorists and Disruptive Activities (Control and Punishment) Ordinance-2005.⁷⁸

b. Torture and use of disproportionate force

Abuse and torture of detainees by the Nepali security forces is systematic. During his visit to Nepal from 10 to 16 September 2005, the UN Special Rapporteur on Torture, Manfred Nawak confirmed that the security forces brutally torture detainees in order to extract confessions and to obtain intelligence reports. Methods of torture in detention include beatings with bamboo poles and plastic pipes, kicking with boots, electric shock to the ears, rolling rods over the thighs, jumping on thighs and legs, maintenance of stress positions, being bound to a pole and hung upside and beaten, especially on the soles of the feet, and prolonged periods of being blindfolded and handcuffed.

After the Royal takeover, police suppressed pro-democracy protests by using disproportionate force. Torture is not merely limited to the use of force by resorting to lathi-charge and tear gas shells on the peaceful demonstrators. Women protestors were allegedly bitten, beaten up and poked batons at their sensitive organs, sexually molested and abused by the security forces during arrest as well as under security detention.⁷⁹ The police also shot at demonstrators indiscriminately.

On 20 September 2005, Head of the United Nations Office of the High Commissioner for

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Human Rights (OHCHR) in Nepal, Ian Martin, expressed serious concern over “incidents of police throwing stones at demonstrators leading to injuries, the use of teargas guns in close proximity to demonstrators and in the vicinity of hospitals and schools, the arrest of demonstrators on questionable legal grounds, the excessive and indiscriminate use of force by some policemen while taking demonstrators into custody, the failure to facilitate access to medical care for injured demonstrators, as well as threats and injuries to some human rights monitors and members of the press observing the demonstrations”.⁸⁰

Leading medical experts in Nepal have asked the authorities not to use tear gas against demonstrators, as this can cause serious complications like chest pain, cancer and loss in reproductive capability in the long run.⁸¹ Yet, the riot police continued to use tear gas shells not only against demonstrators on the open streets, but also within school and hospital premises.

On 24 July 2005, plainclothes security personnel forcibly took Lokendra Khadka from Kapan and tortured him before he was released on 25 July 2005. As Khadka said, “I was shocked when they blindfolded me and started beating me severely, accusing me of being a Maoist extortionist....My pleading innocence fell on deaf ears. Instead they gave me electric shocks frequently.” His condition was so serious that he could not even stand on his feet. He had to be admitted at Kathmandu Medical College following his release.⁸²

On 1 August 2005, five students, three of them seriously, were injured in police beating near Putalisadak at Shankar Dev Campus. Student activist Chandra Silwal reportedly lost a finger while Subharam Basnet and Ramesh Kunwar sustained injuries. They had to be admitted to Kathmandu Model Hospital.⁸³

On 8 August 2005, at least 22 students were injured, four seriously, in police beating during a peaceful protest programme in front of Amrit Science College, Lainchaur, Kathmandu.⁸⁴

On 12 August 2005, at least 26 students were arrested from Kathmandu and Birgunj as they were trying to enforce ‘black out’ programme to protest against the RCCC’s action against former prime minister Sher Bahadur Deuba and former minister Prakash Man Singh.⁸⁵ The NSU alleged that detained students in Kathmandu including Ms Bandana Wagle and Ms Maiya Basnet were severely beaten up by police.⁸⁶

Even the participants of religious festivals were not spared. On 28 August 2005, at least two dozen people were injured when police intervened in a religious festival ‘Gaura’ at Tundikhel in Kathmandu. The police prevented the festival despite the fact that its organizers had notified District Administration Office of Kathmandu, District Police Office and Ward Police about the programme.⁸⁷

In August 2005, protests against hike in price of petroleum products were held across the country. The police used disproportionate force. On 22 August 2005, police opened fire at agitating students at Rajbari injuring one in the firing.⁸⁸ On 21 August 2005, at least 84

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students were injured, 21 seriously, and 32 were arrested for protesting against the price hike.⁸⁹

In September 2005, seven party alliance intensified its protest and the police once again used disproportionate force even to affect the arrest of 82-year-old, Nepali Congress President G P Koirala on 4 September 2005.⁹⁰

On 7 September 2005, 99 leaders of seven-party alliance were arrested during protests in prohibited areas in New Road in Kathmandu. Several protestors were injured in baton charge and firing of tear gas shells and water canons by police. Human rights activist Bijaya Shrestha was beaten up by policemen, while Nepal Student Union President Keshav Singh received severe head injury and Ram Prasad Bhushal student leader of Shankardev Campus received leg injury. Riot police also targeted photo journalists and TV crews with jets from water canons which damaged digital cameras of Ram Prasad Humagain of Nepal News Online and Sundar Shrestha of Nepal Samachar Patra. Photojournalist Nutchhe Dongol was also injured while covering the protest.⁹¹

On 8 September 2005, 88 protestors of the seven-party alliance were arrested from New Road area during pro-democracy protests in Kathmandu. Police used several rounds of tear gas shells and water cannon to disperse demonstrators. About a dozen demonstrators were injured in police action, two of them seriously. The Saptari district representative of INSEC was manhandled and beaten up by a police officer. The officer under the command of DSP Rajendra Shrestha strangled and kicked him.⁹²

On 13 September 2005 at around 3 pm, Shiv Bohora, acting president of Nepal Students Union at Mahendra Ratna Campus, was arrested by the police from the campus premises on the charge of pelting stones at police personnel. After the arrest, three policemen beat him with batons, boots and the butts of their rifles inside the police van. He was taken to Kalimati Police Office, and severely beaten till he became unconscious. At around 6:30 pm, he was shifted to Bir Hospital for treatment. He was however taken back to Kalimati police station, where he was tortured again. Bohora alleged that the police personnel tied his hands on the armrest of the chair and kicked him with their boots. Madhusudhan Khadka, the Inspector in charge of Kalimati police station, also perpetrated torture on him. He was released from custody at 8-30 am on 14 September 2005. Following torture during custody, Shiv Bohora reportedly lost control of his bladder and bowels. The police beating left him with two broken teeth, five stitches on his forehead and seven on his upper lip. He also suffered several bruises on his back, hands and legs.⁹³

On 14 September 2005, riot police entered the premises of Miteri Hospital in Bagbazaar while chasing demonstrators and baton charged several innocent people there without asking any question. At least six persons were injured. The situation was such that a doctor emerging from an operation theater had to shoo away the policemen.⁹⁴ On the same day, the police also lobbed tear gas shells into the premises of Neptune Boarding School in Bagbazaar while dealing with the pro-democracy agitators. Due to the spread of tear gas, 12 students of the school reportedly fell unconscious and several nursery-level children were severely affected.⁹⁵

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On 20 September 2005, police arrested 87 university professors and about 290 political activists in Kathmandu during crackdown on two separate demonstrations demanding democracy and academic freedom. They were released in the evening. CPN-UML leader Rameshwor Phuyal and women leaders Sushma Sharma and Urmila were reportedly injured in police action. Student organizations affiliated with the agitating seven-party alliance accused the police of sexually abusing women demonstrators while arresting them.⁹⁶

On 1 October 2005, RNA soldiers allegedly physically assaulted Nepali Congress vice-president Resham Bahadur Baniya and chief of Skills Development Office Shankar Subedi in district headquarters Beni bazaar in Myagdi district. Angry locals picketed the District Administration Office, demanding action against those involved.⁹⁷

On 28 October 2005 at about 11 pm, Krishna Gopal Ghimire, a 50-year-old farmer, was arrested by a group of six plainclothes security personnel from his home in Municipality Ward No 4, Itahari in Sunsari District. Krishna Gopal Ghimire and his family were apparently asleep when the men, armed with pistols, came into the house and began to search it. They reportedly took away Krishna Gopal Ghimire without giving any reason and told his wife and family that he would be released the following morning. He did not return home next day, and his family went to make inquiries at the Area Police Office and the RNA's Regional Headquarters in Itahari, Sunsari District. Both the police and army officers they spoke to denied any knowledge about the arrest of Krishna Gopal Ghimire.⁹⁸ On 31 October 2005, the RNA admitted that they had detained Ghimire for 'general inquiry'. Ghimire's family members were given access to meet him after human rights organizations and civil society appealed to the government to make public his whereabouts. Family members have alleged that Ghimire was severely tortured in custody.⁹⁹

On 8 November 2005, the security forces allegedly arrested Shanta Rai and Ghanashyam Shrestha from Gaurigunj in Jhapa. According to the family members Shanta Rai and Ghanashyam Shrestha had gone to play a football match at Gunjibari in Mahabhara for their club where they were arrested by army personnel.¹⁰⁰

On 8 November 2005, the RNA personnel detained over a dozen political leaders and activists who were going to attend the Democratic Awareness Campaign in Dullu in Dailekh district. Among those detained were several CPN-UML activists including central advisor Ram Chandra Adhikari, district committee member Laxmi Prasad Pokharel, member of Bheri zone coordination committee Amar Bahadur Thapa, district committee secretary Tej Bahadur Chand, under secretary Raj Bahadur Budha, and over half a dozen local cadres. In addition to the arrests, the army personnel also reportedly made attempts to foil the awareness program by forcing people from neighboring villages to leave Dullu before the scheduled start of the program. On 7 and 8 November 2005, army personnel went around several neighboring villages announcing that the "public gathering had been cancelled", and the only three telephone lines in Dullu were cut off. The district administration declared the public ground in Dullu a restricted area and people were barred from gathering. This forced the organizers to shift the venue to a nearby pilgrimage site. Although police granted permission, army

personnel reportedly created problem even in the new venue. A group RNA personnel from Dullu army camp reportedly punctured the tire of a motorcycle (registration - Bhe 1 Pa 5961) on which Kathmandu Post journalist Harihar Singh Rathour and Kantipur Television cameraman Chandra Budha had arrived to cover the program.¹⁰¹

On the night of 8 November 2005, inebriated RNA personnel beat up locals during Chhath puja celebration in Jaleswor, the district headquarters of Mahottari, injuring over 10 people. Birendra Mandal, who was seriously injured, had to be admitted to the district hospital in Jaleswor. He was later referred to the BP Koirala Institute of Health Sciences (BPKIHS), Dharan. According to the victims, four drunken RNA personnel in civil dress from Gorakhbox battalion in Parikauli mercilessly beat them up without any reason. Upon a complaint by the victims, the Gorakhbox battalion chief of RNA, Nirmal Thapa, reportedly claimed that "departmental action" had already been taken against the guilty personnel.¹⁰² But his claims could not be verified. NHRC ordered a probe¹⁰³ but the report was not made public.

On 9 November 2005, the government of Nepal released 194 prisoners across the country on the occasion of the Constitution Day.¹⁰⁴ But on the very day, police arrested 11 teachers from a peaceful rally organized by the Nepal Teachers Union (NTU) in Pokhara, Kaski district demanding constitutional activation, peace and democracy in the country. Those arrested included chairman of Kaski chapter of Nepal Teachers Association (NTA), Bijay Bhandari and teachers Shiromani Lamichhane, Bishwa Raj Bastola, Khem Nath Timilsina, Binod Subedi, Purushottam Sapkota, Yam Nath Sapkota.¹⁰⁵ They were released on 10 November 2005 after 30 hours detention at the District Police Office, Kaski.¹⁰⁶ However, the District Education Office reportedly initiated departmental action against the 11 teachers for their alleged violation of the Code of Conduct of teachers.¹⁰⁷

On 11 November 2005, police intervened in a peaceful gathering, and arrested five members of CPN-UML identified as Ram Singh Dhama, Ashok Chand, Sher Bahadur Chand, Chakra Bahadur Bista and District secretary of CPN-UML Kanchanpur, Rajendra Singh Rawal from the concluding program of Democratic Awareness campaign organized in Mahendranagar of Kanchanpur district. They were allegedly baton-charged before being arrested.¹⁰⁸ Police also intervened in CPN-UML's programmes held at Dailekh, Rautahat and Sindhuli districts. In Dailekh, nine activists of the CPN-UML including adviser to the CPN-UML Central Committee, Ram Chandra Adhikari, Bheri zonal member of the party, Ambar Bahadur Thapa, district committee members Laxmi Pokhrel, Ganesh Bhandari and Lalit Jung Shah, ANNFSU district president Asha Ram Acharya, secretary Dharma Bahadur Budha, and member Sita Ram Jaise were injured when police intervened in a protest organized by the party's district committee on 11 November 2005. Acharya and Pokhrel were reportedly injured seriously and admitted to the Dailekh district hospital. Six district members participating in the programme were arrested and released later in the evening.¹⁰⁹

On 10 December 2005, plainclothes security personnel from Kohalpur camp allegedly maltreated and beat up innocent villagers of Khadakbar VDC in Banke district. The villagers told representatives of the NHRC on 12 December 2005 that the soldiers had asked them to show

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the Maoists and threatened to shoot them. The security personnel beat up several villagers including 77-year-old Kul Bahadur Oli, who could hardly walk on his own.¹¹⁰

On 19 December 2005, police arrested 11 persons, including Satya Narayan Yadav, central member of Democratic National Youth Union, Ashok Yadav, zonal committee member of All Nepal National Free Students' Union (ANNFSU), Sachidananda Choudhary, district president of ANNFSU, Dipendra Choudhary, Free Students' Union president of Lahan Campus, Shailendra Yadav, district member of Nepal Students' Union, Suman Mishra, Parameshwor Shah of NSU and human rights activist, Kamal Yadav, in Lahan in Siraha district for waving black flags at Assistant Minister for Education and Sports, Bhuwan Pathak who arrived there to inaugurate the 10th Nationwide Karate and Kick Boxing competition.¹¹¹

On 24 December 2005, an RNA soldier reportedly assaulted and shot at a youth identified as Khadka (Nar) Bahadur Tamang at Simpani check post in Pokhara. According to an eyewitness, when Tamang showed his identity card, the soldier started to slap and kick him for not opening his bag. The soldier then fired at Tamang when he cried for help, injuring him in the thigh. However, the Directorate of Public Relations of the RNA claimed that Tamang had tried to snatch the soldier's gun, causing the latter to fire. Tamang was admitted to Gandaki Hospital.¹¹²

III. Human Rights Violations by Security Forces

Human rights violations by the security forces intensified across Nepal during the direct rule of King Gyanendra.

a. Extrajudicial Killings

The security forces have killed 1,008 people, including civilians during 1 January 2005 - 31 December 2005.¹¹³ This is despite that Nepal had longest cease-fire of four months from 3 September 2005 to 2 January 2006. An estimated 66 persons including 33 Maoists, 31 security forces and 2 civilians were killed from 2 January to 24 January 2006.¹¹⁴ According to Informal Sector Service Centre in Nepal, the security forces had killed 1106 in 2004, 1217 in 2003, 3296 in 2002, 243 in 2001 and 180 in 2000.¹¹⁵

The victims have been killed in custody, shooting on demonstrators or just for arbitrary use of powers by the security forces.

The most gruesome extrajudicial executions took place from 17 to 23 February 2005 in which 22 alleged Maoists were lynched and about 700 houses of the alleged Maoists sympathisers were torched in Kapilavastu district by RNA-backed village vigilante groups. These extrajudicial killings had approval of the State. On 21 February 2005, the state owned Nepal Television telecast a visual where the three ministers, Home Minister, Dan Bahudur Shahi, Minister for Labour, Ramnarayan Shing and Minister for Education, Radhakrishna Mainali were seen encouraging the crowd who were holding baton on their hands to beat the dead Maoists. The flogging of the dead bodies of the alleged Maoists in presence of the RNA personnel was also telecast by Indian television channels.¹¹⁶

On the Kapilavastu killings, the Maoists alleged that a group of 500 soldiers consisting of the RNA, police, criminals and vigilantes went to Sishihawa and Ganeshpur on 15 February 2005 and dragged out more than 15 civilians from their houses. They were ruthlessly tortured and killed in the base camp of Armed Police in Krishnanagar. Bishnu Panthi, district convener of All Nepal Trade Union and Yam Bahadur Dala Magar and Jhilkan Yadhav were killed in Krishnanagar base camp on 17 February 2005. Shivaram Gupta, Ram Charitra Pakhi, Abadhram Keber, Shiwa Kahar of Sishihawa Village, Sunder Mouch, Baburam Upadhya, Rajwali Mouch of Ganeshpur village, Sobhai Pasi, Bahu Pasi, Gobere Pasi, Bekaru Pasi of Bhagawanpur were also tortured to death on the same day.

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On 5 March 2005, security forces prevented a three-member team of the NHRC - commissioners Dr Gauri Shankar Lal Das and Sushil Pyakurel and head of NHRC's Protection Division Yagya Prasad Adhikari - from visiting Kapilavastu.¹¹⁷ Later on, a NHRC team investigated Kapilavastu killings. NHRC failed to mention the number of persons killed or identify the culprits. Rather, NHRC passed the buck on the government and recommended a probe by the government.¹¹⁸

On 24 February 2005, one Surendra Shrestha, a mentally challenged civilian, was killed at Ratdada area of Baglung Municipality-4. Chief District Officer Prem Narayan Sharma after verifying the incident said the security forces shot dead the victim suspecting him as a Maoist as he had tried to flee after seeing the security patrol.¹¹⁹

On 22 March 2005, three school children - Narayan Bahadur Kanauji Magar, 17 years, of Class IX, Tek Bahadur Gaha, 15 years of Class VIII, and Dal Bahadur Darlami, 15 years of Class VI- were shot dead by plain-clothes security personnel suspecting them to be Maoists. The children were shot at when they were collecting donations from vehicles and passengers plying on the highway, some 19 km northeast of Tansen, the district headquarters of Palpa, to observe 'Fagu Purnima,' a festival of colours. The children were in their school uniform. Police claimed that they were killed in encounter. Following protests from the relatives of the deceased and civil society groups, the police reportedly acknowledged that the boys had died "due to bullet injuries". On 31 March 2005, chief of the Western Divisional Headquarters of RNA, Amar Panta, said that a board of inquiry into the killing of three school students by security personnel had been formed and the probe was underway.¹²⁰ The report has not been made public.

On 14 April 2005, a Maoist rebel identified as Bimala Kumari Joshi reportedly died in RNA custody in Kanchanpur. The RNA claimed that she was killed in security action when she attempted to escape breaking security ring.¹²¹

On 2 May 2005 at 10.30 am, 22-year-old Rupen Rai was extrajudicially killed by RNA soldiers at Soyang area of Illam district. A statement issued by the RNA in Kathmandu claimed that he was a Maoist rebel killed in encounter.¹²² However, a probe conducted by Human Rights Monitoring Coordination Committee found that "injured Rai could have well been taken into custody after the forces fired at him. However, the security personnel continued firing at him, thereby killing him outright." According to the report, there was no retaliation from the Maoists' side.¹²³

On 14 June 2005, Durga Bahadur Rana of Darchha VDC-6 in Palpa was killed by security forces while he, along with 35 other locals, were returning after fishing. The security forces claimed that he was a Maoist and got killed in firing. But the locals claimed that the deceased was not a Maoist cadre.¹²⁴

On 26 June 2005, a surrendered Maoist identified as Dipendra Rayamajhi allegedly committed suicide at the army cell in Bhaktapur. The RNA claimed that the deceased hung

himself by the wire in his own room.¹²⁵

On 3 July 2005, plain-clothes security personnel shot dead Rama Adhikari, 38 years, in front of her husband at their residence in Taghandubba-7 in Jhapa district, accusing her of having “fed Maoist cadres”.¹²⁶ The security forces also threatened to kill the other five members of the family and tried to bury her secretly. Later an officer from the District Police Office asked Devi Prasad, the husband of the deceased, to sign a paper.¹²⁷ A fact-finding team consisting of HimRights LifeLine, INSEC, CWIN, CVICT and Advocacy Forum also found that Rama Adhikari was summarily executed.¹²⁸ The army instituted a court of inquiry into the killing of Rama Adhikari¹²⁹ but the report was not made public.

On 25 August 2005, Manoj Basnet, an employee in the office of Sijuwa VDC, Morang, was killed by the police after arresting him from Dhankute Lodge, Biratnagar. Masked policemen had arrested the victim along with another person identified as Santosh Chaulagain, resident of Sijuwa, on the night of 22 August 2005. Basnet was allegedly beaten until he fell unconscious and was shot dead in the state of unconsciousness in custody. But Armed Police Force Superintendent at Tankisanwari, Gopal Mishra, said Basnet was shot while trying to escape. He also said they spared Chaulagain because he had surrendered.¹³⁰ In his FIR, the victim’s father Govinda Prasad Basnet claimed that there were scars on Manoj’s genitals and his dead body was swollen and soaked with blood.¹³¹ The allegation that the victim was extrajudicially killed was later corroborated by Human Rights Eastern Regional Probe Committee, whose probe report concluded that Manoj alias Chandra Bahadur Basnet was innocent, but was shot death in detention by a team of security forces including inspector Narodip Basnet, deployed for security of the district jail.¹³²

On 27 August 2005, Eknath Subedi, a member of the trade union close to CPN (Maoist), was killed by the security forces. On 3 October 2005, National Human Rights Commission stated the security personnel shot them dead after arresting them. According to NHRC, Subedi was arrested from Nagardaha VDC of Parsa district and shot dead in front of local villagers.¹³³

On 19 September 2005, Maoist rebel Bir Bahadur BK was killed by the security forces at Deulek VDC in Baitadi district. The security forces claimed that he was killed in a clash. However, on 4 October 2005, human rights activists, after an investigation, claimed that security personnel killed Bir Bahadur BK after taking him under control. A four-page investigation report concluded that security personnel could have taken Bir Bahadur BK under control after he fell on the ground but they fired three more rounds of bullets at him.¹³⁴

On 23 November 2005, a youth identified as Gopal Maharjan was killed in police firing at Tahachal in Kathmandu. According to Kathmandu Police Chief Indra Prasad Neupane, the deceased died on the spot when police opened fire at the youths who attacked the police patrol with *Khukuris*, Neplase knife, near Tahachal campus at around 10 p.m. Three police personnel were also injured in the scuffle with the youths. Police arrested some youths involved in the attack.¹³⁵

On 14 December 2005 at around mid-night, an off-duty RNA soldier Bashu Dev Thapa allegedly opened indiscriminate firing at a crowd killing 12 persons including himself and injuring 19 other villagers following a scuffle with some villagers during a religious festival at a temple premises at Chihan Danda in Nagarkot in Bhaktapur district.¹³⁶ The prima facie evidence against the RNA was found when RNA soldiers from the Nagarkot barrack had cleaned up the scene of massacre by early next morning of the incident before the police or civilian authorities could reach there for investigation, and eradicated all vital evidence.¹³⁷ According to Bhaktapur Hospital sources, where post-mortem of all the deceased including Bashu Dev Thapa was carried out, Thapa succumbed to a bullet that pierced his chest from between his ribs, at the center. It was confirmed that Thapa was carrying a Self-Loading Rifle. The SLR, which is a modified model of the Belgian FN FAL rifle, is 1.1 meters in length. Accordingly to security expert Dr Indra Jit Rai, it is physically impossible to shoot oneself at the center of the chest using the SLR. Some eyewitnesses reportedly claimed to have seen Thapa fall on the ground while he was still shooting!¹³⁸ Many eyewitnesses also claimed to have seen a gun beside Bashu Dev Thapa till early morning of 15 December 2005. But on 16 December 2005, RNA personnel fished out a SLR from a pool 60 meters below the spot where Thapa had died. Jagat Bahadur Thing, a local, said that army men arrived, went straight to the pool, put a bamboo pole inside it and took out a gun!¹³⁹ A fact-finding team of the Human Rights Organisation of Nepal (HURON) concluded that Basudev Thapa was “shot dead by other army men”.¹⁴⁰ But government appointed three-member high-level probe panel headed by former Supreme Court judge Top Bahadur Singh failed to find any involvement of the RNA and merely held weak management of arms as the cause of the carnage.¹⁴¹ On the other hand, RNA’s probe panel headed by Brigadier General Netra Bahadur Thapa submitted its report on 24 December 2005,¹⁴² but the report was yet to be made public.

On 31 December 2005, Devendra Rai, a youth from Deventar- 7, died in Hatuwagadi barrack in Bhojpur. An RNA patrol team had picked him up for “interrogation” from Sindrang VDC on 29 December 2005.¹⁴³ On 6 January 2006, the Directorate of Public Relation (DPR) of RNA said the detainee’s death was being investigated.¹⁴⁴ According to locals, Devendra Rai was just a farmer and he had no link with the Maoists and alleged that he died due to excessive torture in custody.¹⁴⁵ The deceased’s body was sent to Bhojpur Hospital for postmortem, but the security personnel did not allow the human rights activists, media and his family members to see the dead body. On 10 January 2006, the security personnel allegedly took away the dead body from the hospital without the knowledge of the hospital staff and secretly buried it in a jungle after the victim’s family members started requesting the National Human Rights Commission to investigate the case.¹⁴⁶

b. Involuntary disappearances

According to the United Nations Working Group on Involuntary Disappearances, Nepal has the highest number of enforced or involuntary disappearances in the world.¹⁴⁷ Impunity enjoyed by the security forces contributed to such large-scale enforced disappearances. Following a visit to Nepal from 6 to 14 December 2004 at the invitation of the Government

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of Nepal, the United Nations Working Group on Enforced or Involuntary Disappearances reported that the phenomenon of disappearance is widespread and systematic in Nepal: “Perpetrators are shielded by political and legal impunity. ... We heard consistently from across the country that a culture of silence has sprung up, with villagers too fearful to report disappearances for fear of reprisal from the security forces or the Maoists insurgents. In many cases, relatives who go to army barracks to enquire into the fate of their family members later find themselves caught up in harsh interrogations”.¹⁴⁸

As on 15 August 2005, a government-formed committee looking into disappearance cases reportedly made the whereabouts of 580 people arrested by the security forces public.¹⁴⁹ But on 30 August 2005, NHRC stated 986 persons were still missing - 888 persons from government custody and 98 after abduction by the Maoists.¹⁵⁰

The government of Nepal often does not acknowledge detention of the abducted persons. Incommunicado detention of Krishna KC, former vice president of the All Nepal National Independent Students’ Union (Revolutionary), is a clear example. He was listed as disappeared after his arrest by the security forces from Kathmandu on 13 September 2003. He was produced before the Supreme Court only on 22 September 2005 but the security personnel immediately re-arrested him from the Supreme Court premises defying the court order to release him.¹⁵¹ Even though members of the NHRC had met Krishna KC in the custody of the RNA, they did not divulge information about his whereabouts, thereby supporting an illegal act by the RNA.

On 4 January 2006, the NHRC of Nepal in a press released stated that it found 14 detainees, listed as disappeared, in the custody of the security forces during its surprise visits to two RNA camps in Kathmandu. According to NHRC, nine persons including one woman were found in Jagdal Battalion, and five men were found in Mahabir Battalion in Chhauni. Those being held at Jagdal Battalion were identified as Dutta Bahadur Budha, Harischandra Budha and Bharat Pandey of Jumla district, Balram Chaudhari and Krishna Prasad Mainali of Kailali district, Ganesh Prasad Sharma of Dailekh, Buddhiman Sarki of Dolpa, Chhabisara Sunar of Bardia and Jit Bahadur Thapa of Palpa district. Those being held at Mahabir Battalion were identified as Hom Prakash Shrestha of Rukum district, Man Bahadur Malla of Salyan, Chakra Bahadur Thapa of Udaypur and Jaya Bahadur Gharti and Kal Bahadur Gharti of Rolpa district. Most of the detainees complained that they haven’t been allowed to see their families or contact others outside since their detention.¹⁵² On 6 January 2006, the RNA refuted the NHRC’s charge claiming that “The detention of the people mentioned (by the NHRC) were notified either to the NHRC or the Office of the High Commissioner of Human Rights (OHCHR) and the International Committee of Red Cross (ICRC).”¹⁵³

But the RNA is infamous for lying before the Supreme Court on detention of people in their barracks.

Earlier on 5 January 2006, Supreme Court ordered the RNA and Ministry of Defence to explain why they had submitted false reports on the detention of four students - Ranjit Darnal,

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Amrit Darnal, Rajendra Chaurel and Pushpa Raj Basnet, who were arrested two years ago. The SC issued the order following NHRC's report that it had found Ranjit, Amrit and Rajendra in the Rajdalgan barracks and Pushpa Raj in the Bhairavnath battalion during surprise visits to the barracks a few days ago. But earlier, in response to a show cause notice, the Ministry of Defence and RNA had submitted before the SC that the four were not arrested.¹⁵⁴

The Armed Police Force also reportedly lied to the OHCHR- Nepal that the two CPN (Maoist) cadres arrested by them on 5 June 2005 were not in their custody. But subsequent enquiries by the OHCHR led to the APF admitting that the two Maoists were under their custody.¹⁵⁵

IV. Impunity

Security forces enjoy virtual impunity for all forms of human rights violations. The issue of impunity has further deteriorated following the Royal takeover as National Human Rights Commission and NGOs were prevented from investigating allegations of human rights violations. Though, the civilian authorities seldom prosecuted the security officials, the NHRC and the NGOs were able to investigate freely to force the state to take action in a few cases.

In the killings of 22 alleged Maoists at Kapilavastu from 17 to 23 February 2005, the government failed to order any inquiry as recommended by National Human Rights Commission. The NHRC which investigated Kapilavastu killings also failed to mention the number of persons killed or identify the culprits. Rather, NHRC passed the buck on the government and recommended a probe by the government.¹⁵⁶

In 2003, six villagers including Laptan Yadav and Ram Nath Yadav of Choharakolpur VDC in Dhanusha district were picked up, tied to a pole, tortured and later shot dead at point blank range some 20 kilometers away from the VDC on the charge of being Maoist. Following their killing in cold blood, the families of six victims have been living in acute penury. Even though the NHRC concluded that the villagers were innocent and recommended compensation, none of the victims' families has received compensation money at the end of 2005.¹⁵⁷ This is not surprising considering that since the Torture Compensation Act came into force in 1996, compensation actually been paid out only in one case to date although courts ordered to pay compensation in several cases.¹⁵⁸

Even in the cases of rape, it has not been possible to establish accountability. The rape and murder of two young girls and one young boy - Reena Rasaili (18), Subhadra Chaulagain (17) and Tasi Lama - by the security personnel after taking them into custody in Pokahari Chauri-4, Kavre District on 12 February 2004 is a clear example. Reena Rasaili was allegedly gang-raped for about five hours by a group of security personnel before being killed. The security forces also threatened the witnesses in order to cover up the case.¹⁵⁹ In October 2005, Chief of OHCHR-Nepal, Ian Martin stated that OHCHR received "no information that would indicate that charges have been lodged, despite the ample evidence and eyewitnesses testimony that is available indicating RNA involvement" into the case of torture and extrajudicial killings.¹⁶⁰

In fact, on 17 February 2004, 15-year-old Maina Sunuwar, daughter of an eyewitness of the killing of Reena Rasaili by the security forces, was arrested by plainclothes security personnel and later killed after being tortured and gang-raped. In March 2005, the army admitted

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publicly that Maina's death had been a "mistake" but the accused army officers were systematically let off. On 1 October 2005, the Ministry of Defense (MoD) stated that three RNA officers - Colonel Bobby Khatri and Captains Amit Pun and Sunil Adhikari were punished by putting them for six months in solitary confinement in army custody from 14 March 2005 to 9 September 2005, in addition to suspension of their promotion for two years and payment of Rs 100,000 to the victim's family as compensation for killing Maina Sunuwar.¹⁶¹ The fact is that all the three army officers were released immediately on the grounds that the time they had spent in the barracks while awaiting trial should count towards their sentence.¹⁶² On 13 November 2005, the District Police Office (DPO) refused to register the complaint for further investigation filed by the deceased's mother, Devi Sunuwar alleging that her daughter had been killed by the army. She later filed the case with the District Administration Office.¹⁶³

The so-called punishment meted out for the rape and killing of Maina Sunuwar is extremely lenient and shields the culprits. Civil Code (11th amendment) of Kingdom of Nepal, provides for 10 to 15 years punishment in case a victim is under the age of 10 years, imprisonment of 7 to 10 years in case a victim is above the age of 10 and under the age of 16 years and imprisonment of 5 to 7 years in case a woman is 16 years or above. The code provides for additional punishment of 5 years imprisonment for the crime of gang rape and also for the rape of a pregnant or a disabled woman.

On 22 March 2005, three school children - Narayan Bahadur Kanauji Magar (17) of Class IX, Tek Bahadur Gaha (15) of Class VIII, and Dal Bahadur Darlami (15) of Class VI- were shot dead by plain-clothes security personnel suspecting them to be Maoists. This is despite the fact that the children were in their school uniform. The Royal Nepal Army ordered an inquiry into their killings following massive protests¹⁶⁴ but the report was not made public.

There is systematic denial of accountability as it is not possible to register any FIR against the law enforcement personnel. On 30 August 2005, District Police Office in Morang allegedly refused to register an FIR against the killing of Manoj Basnet, an employee in the office of Sijuwa VDC, Morang by the police on 25 August 2005 after arrest from Dhankute Lodge in Biratnagar. In the FIR, victim's father Govinda Prasad Basnet claimed that there were scars on Manoj's genitals and his dead body was swollen and soaked with blood. Manoj's father reportedly had to send the FIR by post.¹⁶⁵

The government of Nepal routinely discloses the list of the disappeared persons. But, no one has been held responsible for systematic disappearances.

V. Atrocities by CPN-Maoists

The CPN-Maoists have been responsible for violations of international humanitarian laws by resorting to indiscriminate killings, abduction, rape, torture, and attacks on educational institutions, healthcare systems and destruction of public properties in the country. While withdrawing the cease-fire on 2 January 2006, Maoist supremo Prachanda declared that their “actions will now be targeted against the royal government only”.¹⁶⁶ Earlier on 19 June 2005, Prachanda claimed that he had directed all his cadres not to carry out any physical action against any unarmed civilian, including a “criminal”.¹⁶⁷ Yet, the Maoist cadres continued to kill innocent civilians.

a. Arbitrary killings

The Maoists have killed at least 600 persons, including civilians during 1 January 2005 - 31 December 2005. The killing of 38 civilians passengers and three security personnel and injuring 72 others including children in a land mine explosion by the Maoists in Madi area of Chitwan district on 6 June 2005¹⁶⁸ drew international condemnation. On 24 February 2005, suspected Maoists shot and killed central member of the World Hindu Youth Federation, Chandra Prakash Rathaur in Birendranagar municipality in Surkhet district.¹⁶⁹

The anti-Maoist activists, government officials and petty businessmen were specific targets.

i. Civilians

On 25 February 2005 night, Maoists shot dead an alleged anti-Maoists activist identified as Ghar Baran Teli in Labani VDC of Kapilvastu district. Another three civilians identified as Bedullah Jolha, Maksoor Alam and Mohammed Hakik were killed by Maoists on the night of 26 February 2005 in Jahari VDC of Kapilavastu.¹⁷⁰

On 6 March 2005 night, Maoists killed five alleged members of an anti-Maoist retaliation group at Kudarmatewa village in Kapilvastu district in retaliation for the execution of the Maoists’ supporters.¹⁷¹

On 27 March 2005, the Public Relations Secretariat of the RNA confirmed that the Maoists killed three unarmed security personnel after abducting them from the Khimti area of Ramechhap district the previous day.¹⁷²

On 27 March 2005, the body of Madhav Prasad Sedhai, chairman of Small Peasants’ Cooperative in Jiwanpur VDC in Dhading district was recovered from a forest near the

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village. He was abducted by the Maoists.¹⁷³

On 1 April 2005, suspected Maoist cadres shot dead Ram Lal Moktan (40), an ex-Indian army man of Chungmang VDC-1 in Dhankuta. Three armed cadres came to Moktan's house, took him a kilometer west of his house and shot him dead.¹⁷⁴

On 1 April 2005, a rickshaw-puller was killed in a series of bomb blasts by Maoists in Nepalgunj.¹⁷⁵

On 14 April 2005, Maoists killed two civilians identified as Suresh Jung Shah and Dilip Kumar Barma (20) in separate incidents in Banke district. While Suresh Jung Shah was shot dead, Maoists reportedly locked up Dilip Kumar Barma in his house and bombed the house at Hirminya VDC-7.¹⁷⁶

On 15 April 2005 night, Maoists gunned down 10 civilians, including a child, in cold blood at Baragdawa of Somni VDC in Nawalparasi district. The deceased were identified as Ariman Yadav (18), Dinesh Yadav (19), Dinesh Chaudhary (22), Rajendra Chauhan (23), Densh Kunwar (25), Bharat Chaudhary (26), Dibya Chaudhary (27), Chandraman Baretha (32), Bijaya Chaudhary (40) and 14-year old boy Amlash Yadav. The Maoists reportedly barged into their houses while they were asleep, pulled them out of the houses and shot them dead, on the suspecting them of being members of the Maoists' Resistant Committee. The Maoists also detonated bombs at four houses and set fire to nine houses in the VDC. Two persons were also injured in the incident.¹⁷⁷ An NHRC team went to Nawalparasi to probe the incident.¹⁷⁸ On 5 May 2005, the government announced compensation of Rs.150, 000 to each of the families of the deceased.¹⁷⁹

On 21 April 2005 night, suspected Maoist rebels shot dead Basanti Lama, a social worker and hotelier, at Dhambojhi chowk in Nepalgunj in Banke district.¹⁸⁰

On 23 April 2005 night, Maoist insurgents brutally killed five villagers on the charges of being members of the anti-Maoist "resistance group" in Marchabar Semari and Thumahawa villages in the southwestern Rupandehi district. Dozens of heavily armed rebels reportedly launched a simultaneous attack in the two villages between 10:00 p.m. to 11:00 p.m., dragged the villagers out their homes and shot them. Four of the victims were identified as Janardan Yadav and Laxman Murao of Marchawar Semari, and Prahlad Loth and Dwarika Loth of Thumahawa.¹⁸¹

On 23 April 2005, Maoists reportedly beat to death Shes Safuyu, a civilian in Nijgadh Karautiya of Rautahat district.¹⁸²

On 26 April 2005, Maoists shot dead Buddharam Ladariya, a civilian and injured a dozen more in Gugauli area of Kapilvastu district.¹⁸³

On 27 April 2005, Maoist rebels beat to death Padam Bahadur Rai, a civilian of Mangalbare area in Illam district.¹⁸⁴

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On 27 April 2005 night, Maoists brutally killed three innocent civilians identified as Shriram Chauhan, Surendra Basnet and Shankar Bhandari, and injured 17 others at Pipaldanda area in Sindhupalchowk.¹⁸⁵ A group of about 100 Maoists attacked the villagers with guns and sharp weapons and ransacked the houses before being torched.¹⁸⁶ Over 150 families in Pipaldanda fled from the village fearing Maoist atrocities.¹⁸⁷

On 6 May 2005, Maoists shot dead the chairman of World Hindu Federation-Nepal, Pundit Narayan Prasad Pokhrel in Butwal.¹⁸⁸ Maoist accepted responsibility for the killing.¹⁸⁹

On 9 May 2005, Maoists shot dead 55-year-old Bhagawan Das Shrestha, coordinator of the District Monitoring Committee, Chitwan. Shrestha was also a popular film producer and social worker.¹⁹⁰

On 10 May 2005, Lal Bahadur Belbase of Budadhi VDC-5 in Kapilavastu district was killed by the Maoists after abducting him from his house.¹⁹¹

On 17 May 2005, the RNA claimed that an unarmed RNA personnel, Shankar Sharki, was abducted by the Maoists at Chaatakpur area of Kailali district and brutally shot dead while in captivity.¹⁹²

On 18 May 2005, Maoists killed 58-year-old teacher Narendra Raj Neupane of Nighuwar Secondary School in Hapur VDC in Dang after abduction. The rebels killed Neupane brutally by slitting his throat.¹⁹³

On 18 May 2005, Maoists shot dead 50-year-old Shambhu Bahadur Thapa, a teacher Gangadevi Secondary School at Rabiopi in Kavre district without giving any reason.¹⁹⁴

On 20 May 2005, Dalman Thami, Dolakha district chairman of the peasants' organization, affiliated to Rastriya Prajatantra Party was brutally murdered by unidentified assailants at his residence at Dadagaun in Dolakha district. According to family sources, about half-a-dozen assailants stabbed him and later shot him dead at the courtyard where he was listening to the radio after supper.¹⁹⁵

On 22 May 2005, alleged Maoists shot dead Ladan Mushanman, 65, a farmer of Baskhoj VDC of Kapilvastu district.¹⁹⁶

On 27 May 2005, Maoists killed a civilian Safmohan Musanman after abduction in Gotihawa VDC in Kapilvastu.¹⁹⁷

On 28 May 2005 night, Maoists shot dead Koshila Majhi, a woman police head constable, and her four-year-old son Kiran Chaudhary in Dhangadi in Kailali district. Two armed Maoists reportedly stormed their house and fired indiscriminately at them.¹⁹⁸

On 29 May 2005, Maoists shot dead Shraavan Kumar Rajbanshi, a resident of Dakraha VDDC-4 in Parsa district.¹⁹⁹

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On 30 May 2005, Maoists shot dead Dhurba Raut and Kishwor Shah, residents of Bishrampur VDC-1 in Parsa district.²⁰⁰

On 2 June 2005 night, Maoists abducted Kiranbilas Panta, a civilian at Bharatpur municipality-14 of Chitwan district, and killed him. On the same night, the Maoists abducted and killed Head Police Constable Raghunath Sunar at Chachake area in Pyuthan.²⁰¹

On 7 June 2005, Maoists allegedly killed a civilian named Shankar Pathak at Chakarchaudaha of Piparhawa VDC in Kapilvastu district.²⁰²

On 9 June 2005, alleged Maoists shot at a local leader of the Rastriya Prajatantra Party, Chhetra Bahadur KC, at Pokhara Sub-Metropolis-18 injuring him seriously.²⁰³ He succumbed to his injuries on 10 June 2005²⁰⁴ On the same day, Maoists killed a civilian woman Maheshwori Bista in Chaurahi bazaar in Dhangadhi.²⁰⁵

On 19 June 2005, Maoists killed a civilian Anantaram Bhatta, 50, after abducting him from his residence in Chandani VDC of Kanchanpur district. His body, cut into six different pieces, was recovered on 21 June 2005.²⁰⁶

On 13 June 2005 night, Maoists killed 7 civilians including three women who are wives of security personnel and an infant in separate incidents in Dhangadhi and Morang districts. The women were identified as Radha Devi, Durga Devi and Laxmi and the one-year-old infant was identified as Dipendra.²⁰⁷

On 19 June 2005, Maoists abducted and brutally murdered a civilian Anantaram Bhatta, 50, a resident of Chandani VDC in Kanchanpur district. His body, cut into six different pieces, was recovered on 21 June 2005.²⁰⁸

On 10 July 2005, Maoists reportedly brutally chopped to death Ramishwor Raya, a resident of Haripurwa area in Sarlahi district.²⁰⁹

On 11 July 2005, Maoists killed two youths identified as Dewan Shyangbo, 25, resident of Hadikhola VDC and Dinesh Lama, 22, of Sarikhet VDC in Makwanpur district. They were abducted five days ago.²¹⁰

On 12 July 2005, Maoists shot dead Ram Bahadur Rai, a resident of Hile bazaar of Dhankuta.²¹¹

On 15 June 2005, Maoist rebels abducted a teacher at a primary school in Balkumari VDC identified as Hira Bahadur Thapa and killed him in custody.²¹²

On 23 July 2005, the bullet ridden body of an elderly Ramadhar Thakur, 65, was recovered in Sohadawa VDC in Banke district three days after his abduction by the Maoists.²¹³

On 23 July 2005, Maoists killed a handicapped man identified as Ram Prasad Bhattarai. The

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Maoists had abducted Bhattarai on 18 July 2005.²¹⁴

On 25 August 2005, Maoists killed Shambhu Chaudhary, a local of Bakdhuwa-9 in Rajbiraj, accusing him of involvement in the mass rape in Jagatpur village a week ago.²¹⁵

On 29 August 2005, Maoists shot dead a shopkeeper, Mubin Khan and injured another civilian in the southwestern town of Butwal.²¹⁶

On 17 September 2005, suspected Maoists shot dead a civilian in the Koteshwor area in the outskirts of Kathmandu.²¹⁷

On 27 September 2005, Maoists reportedly killed unarmed army man in Dailekh.²¹⁸

On 3 October 2005, Maoists tortured and shot dead Laxmi Yadav in Samanpur area of Rautahat district and assaulted his mother seriously.²¹⁹

On 6 October 2005, Maoists killed Saraswati Parajuli (35) of Baccha-7 Ghumaunedanda in Parbat district. She was abducted on 4 October 2005 in connection with a murder case. It is believed that the Maoists have tried her in a “kangaroo court”.²²⁰

On 1 November 2005, Maoists reportedly killed one Januka Bhandari, resident of Shimle area of Terhathum district by mercilessly beating her.²²¹

On 1 November 2005 night, Maoists shot dead 36-year-old local, Laxmi Lal Poda for playing cards during Tihar, a major festival of Hindus, at Ugrachandi VDC-1, Nala in Kavre district. A group of armed rebels reportedly raided a house at Ugrachandi VDC-1 where a group of people was playing cards. They asked nine of them to lie down on the ground, and mercilessly shot dead Poda. The rebels also allegedly looted Rs 30,000 and three mobile sets from the locals.²²²

On 4 November 2005, Maoists reportedly killed one Nirmala Basnet of Ramche Gaighat VDC-9 in Udayapur district after abduction.²²³ Basnet, a resident of Simpani area of Khotang district, was alleged beaten to death by the Maoists.²²⁴

On 17 December 2005, Maoists reportedly shot dead two civilians - Shyam Sundas and Judas Sundas at Timma Village in Bhojpur district.²²⁵

On 22 December 2005, the body of Deu Narayan Poudel, abducted by the Maoists along with his parents on 10 November 2005, was recovered by the locals from Hardewa jungle in Baglung. The whereabouts of his parents - Bhakti Bilash Poudel (65) and Jamuna Poudel (53) - were not known.²²⁶

On 2 January 2006, Maoists allegedly forcibly entered Chirring Thundup Ghale's rented room at Pahara village in Dolpa district and exploded a socket bomb on 2 January 2006, killing Ghale's two-year-old daughter and five-year-old son and seriously injuring his wife in the

blast.²²⁷

On 22 January 2006, Maoists shot dead a municipal polls candidate and Dhanusha district president of Nepal Sadbhavana Party (NSP), Bijay Lal Das (47) in Janakpur. Das was shot at the chest and abdomen from close range by two youths and died on the spot. A local Maoist leader reportedly owned up responsibility for the killing, saying that the action was taken as per “party policy”. On 22 December 2005, the Maoists had warned that “special action” would be taken against those contesting the upcoming municipal elections and officials involved in it.²²⁸

Such killings by the Maoists violate Common Article 3 of the Geneva Conventions²²⁹ and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).²³⁰

ii. Government employees

The government officials have been specific targets of the Maoists.

On 30 March 2005, Maoists shot dead Deputy Superintendent Officer Mahesh K.C. of National Investigation Regional Department in Pokhara. According to Gopendra Bahadur Pandey, Spokesperson at the Home Ministry, two Maoists traveling on a motorcycle had fired three shots at KC at his house in Rambazaar-15, Pokhara. He later succumbed to his injuries in NORVIC Hospital, Kathmandu.²³¹

On 31 March 2005, suspected Maoist cadres shot dead the chairman of Sindhuli Chamber of Commerce and Industries, Narayan Kumar Shrestha (64) at his residence at Dhungrebas of Kamalamai Municipality.²³²

On 9 April 2005, alleged Maoist cadres shot dead Bharat Dev Bharati, the Chairman of Town Development Committee of Surkhet valley, at his residence in Mulpani area of Uttarganga VDC in Surkhet district.²³³ On the same day, five passengers, including a minor, died and 27 others were injured when a bus (Na. 2 Kha. 3813) escorted by security forces ran over a Maoist-laid landmine at Sakhawachwok along the Chandranihaharpur-Gaur section of the highway.²³⁴

On 11 April 2005, alleged Maoist cadres shot dead Balanand Kafle, acting Chief District Officer of Bardia.²³⁵

On 18 April 2005, Maoists shot dead Bishnu Pokhrel, the DSP of National Investigation Department in Janakpur while he was on duty.²³⁶

On 26 April 2005 night, Maoists brutally killed Yagya Prasad Belbase and Min Prasad Belbase, respectively chairman and secretary of Subarnakhal VDC in Arghakhanchi. While the secretary was hacked to death, the chairman had his throat slit near their houses.²³⁷

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On 29 April 2005, Maoists abducted and killed Tikaram Joshi, a 30-year-old Royal Nepalese Army (RNA) soldier who was on leave at Chaubiskothi chowk in Chitwan. On the same day, Maoists also abducted and killed Dan Bahadur Sribastav, coordinator of the DMC, Kapilbastu.²³⁸

On 6 May 2005, alleged Maoists shot dead the chairman of World Hindu Federation-Nepal, Pundit Narayan Prasad Pokhrel in Butwal.²³⁹ Maoist accepted responsibility for the killing.²⁴⁰

On 9 May 2005, alleged Maoists shot dead 55-year-old Bhagawan Das Shrestha, coordinator of the District Monitoring Committee, Chitwan.²⁴¹

On 10 May 2005, Lal Bahadur Belbase of Budadhi VDC-5 in Kapilavastu district was killed after abduction allegedly by the Maoists.²⁴²

On 17 May 2005, an unarmed RNA personnel, Shankar Sharki, was abducted from Chaatakpur area of Kailali district and killed allegedly by the Maoists.²⁴³

On 24 August 2005, Maoists shot dead Ajaya Raj Singh, coordinator of the District Monitoring Committee (DMC), Banke.²⁴⁴

iii. Indiscriminate use of explosives and land mines

The Maoists have also been indiscriminately using land mines thereby killing innocent civilians.

On the morning of 9 March 2005, a laborer identified as Kali Sada of Gaushala VDC-3 reportedly died and five others including a minor were injured, two seriously, when a Maoist-planted bomb went off on Gaushala-Aurahi road. The laborers were working on the road and the bomb exploded as they removed a post installed on it.²⁴⁵

On 20 March 2005, at least three children were injured when a bomb allegedly left behind by the Maoists exploded at Dhangadi bazaar, headquarters of Kailali district.²⁴⁶

On 27 March 2005, three minors were killed and three others were injured when a bomb left by suspected Maoists exploded in Mujeyliya of Janakpur, Dhanusha district. According to Ratnaraj Pandey, the Chief District Officer of Dhanusha district, the victims have been identified as Saroj Yadav (10), his 14-year-old brother Ashok and another 15-year-old Mahesh Yadav.²⁴⁷

On 29 March 2005, at least nine people, including two minors, were injured when Maoists detonated a pressure cooker bomb at the shop of a local businessman Hira Bahadur Shrestha in Butwal. Victims Binu Pun and her son were given treatment in Kathmandu, while a rickshaw puller Jhagat Gupta was given treatment in Lumbini. The rest were given treatment at Lumbini hospital.²⁴⁸

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On 2 April 2005, a civilian identified as Ram Bahadur Gurung (51) was killed in a landmine explosion on the highway near Khaireni in Gorkha district. The landmine was allegedly planted by the Maoists.²⁴⁹

On 10 April 2005, a minor boy identified as Bam Bahadur Karki (9) reportedly died after a bomb allegedly planted by Maoists exploded in the terrace of his house at Padampur of Latikoili VDC in Surkhet. Another unidentified youth was injured in the blast.²⁵⁰

On 23 April 2005, five minors aged between three to thirteen years were reportedly killed and three more injured when explosives left behind by Maoist insurgents went off at Pakhapani of mid western Rolpa district. The injured children were admitted to the Rukum district hospital.²⁵¹

On 22 May 2005, Lok Raj Bhattarai (6) died in a stray bomb explosion at Toligaon area in Dadeldhura district. Another a child identified as Puja Chaisir (7) was killed in firing by Maoist in Dhangadi in Kailali.²⁵²

On 26 May 2005, a 30-year-old woman, Rampati Chaudhary of Sadhepani-9 in Kailali district died while her 9-year-old son Karna Chaudhary was seriously injured in a stray bomb explosion.²⁵³

On 4 June 2005, a stray bomb allegedly left by the Maoists killed a 5-year-old child identified as Dipak Nepali, and injured two other children in Hariharpur VDC in Surkhet district. The children were reportedly grazing goats when the stray bomb went off.²⁵⁴

On 10 June 2005, at least six security personnel and two civilians were killed in landmine attack on a passenger bus by Maoists rebels in Narke village of Kavre district.²⁵⁵

On 13 June 2005, two girls identified as Sumitra Rajali, 17, and Basanti Rajali, 13, died on the spot and three other injured when a bomb left behind by suspected Maoists went off at Siddadhara VDC-5 in the western district of Arghakhanchi.²⁵⁶

On 23 June 2005 night, 5-year-old Neha Gadariya of Kanpur, India, was killed when Maoists exploded bomb targeting patrolling security forces at the busy marketplace in Tribhuvan Chowk, Nepalgunj. Four civilians including two children were injured in the explosion.²⁵⁷

On 8 July 2005, two policemen and a civilian were killed in Khurhuriya village in Kapilvastu district when Maoists exploded landmine on a public vehicle used by security personnel. Another woman was killed in the encounter that followed between the Maoists and the security forces.²⁵⁸

On 11 July 2005, two children were killed and three others injured when a bomb they were playing with went off in Amkhaiya Jungle in Kailali. The dead have been identified as Santosh Poudel and Mohan Neupane, both 13 years of age.²⁵⁹

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On 31 July 2005, an innocent civilian died and five others were injured when a bomb hidden by Maoists suddenly went off at Dibarna area in Arghakhanchi district. The explosion occurred when the locals were working on a water pipeline.²⁶⁰

On 2 August 2005, a four-year-old child Lokendra, son of Jahare Kami, was killed when a bomb planted by the Maoists at a house in Tudidhara, Manakot VDC of Bajura district went off. Another child was seriously injured in the explosion.²⁶¹

On 24 August 2005, two civilians were killed when a stray bomb left by Maoists went off in Dailekh district. The dead were identified as Dallu Sunar, 28, and his 13-year-old brother Prem Sunar of Salleri VDC-9.²⁶²

On 27 August 2005, 6 passengers were killed and seven injured after a Maoist-planted landmine went off at Shivapur-1 of Kapilvastu district along the Mahendra Highway.²⁶³

On 23 December 2005, two porters identified as Phurwa Sherpa, 53, and Darinche Sherpa, 39, were killed in a land mine blast allegedly planted by Maoists at Maiyakhola Bridge in Sanghu VDC in Taplejung district.²⁶⁴

b. Illegal confinement and torture

While the autocratic regime of King Gyanendra put several political leaders to house arrest, Maoists did not lack behind. 25 civilians including social workers, local leaders and women, were placed under “house arrest” by the Maoists for nearly one month in Dailekh in June 2005, accusing them of initiating a UN development project at Lakandra VDC in the district without their consent.²⁶⁵ They were released on 3 July 2005 following the interventions of the human rights organizations.²⁶⁶

On 1 July 2005, Maoists allegedly abducted 70-year-old Harilal Dhakal of Kalimati village and 31-year-old Krishna Koirala of Khursanibari village in Dailekh and inhumanly tortured them. While Harilal Dhakal’s legs and rib were reportedly broken, Krishna Koirala was blindfolded and severely beaten that broke his right leg.²⁶⁷

On 1 November 2005, a group of armed Maoists mercilessly beat an activist of UML and secondary school teacher, Shambhu Gyawali for reportedly refusing to pay extortion.²⁶⁸

On 11 November 2005, Maoists reportedly beat up Rakshyane Damai of the Nepali Congress, Birman Sunar and Jagad Dev Thapa of the CPN-UML in Pyuthan for lodging complaints against Maoist cadres Harkeman Pun and Shyam Bahadur Thapa some months ago.²⁶⁹

The Maoists have reportedly locked up the house of Rim Bahadur Basnet at Maranthana village development committee-3 of Pyuthan district to exert pressure on him to ask his sons to quit jobs in the Nepal Police and the Royal Nepalese Army. The Basnets have been living in an open field in cold weather for a week as on 21 November 2005. Two of Basnet’s sons

are in the RNA and one is in the police. The Nepal Bar Association urged the Maoists to lift the illegal confinement.²⁷⁰

c. Abduction

According to INSEC, Maoists have abducted 46,718 persons during 13 February 1996 and 30 November 2005. Of them 38,052 were released, including 1099 women.²⁷¹ According to Amnesty International, Maoists have abducted a total of 8,057 people from at least nine districts during the first four weeks of the declaration of unilateral ceasefire on 3 September 2005. Many of them were children and teachers.²⁷²

The Maoists also forced civilians to undergo militia training or participate in their programmes. The Maoists have been imposing “1 house 1 Militia” policy throughout rural Nepal. Often, abduction of innocent villagers, especially school children and teachers is part of the policy. The Maoists force the students to take part in their “ideological” programmes, and thereby blatantly violate their fundamental rights to read and write in a peaceful environment.

Among the prominent cases of abduction, on 8 November 2005, Maoists released Arun Chand, the son of former Prime Minister Lokendra Bahadur Chand and Managing Director of Basuling Sugar Mills in Chuha in Kailali district, whom they had abducted on 27 October 2005. According to reports, Chand was released after he agreed to pay Rs.30 million as ransom, which the Maoists claimed he owed to the local farmers.²⁷³

On 29 November 2005, Maoists held hostage a group of journalists and tourism entrepreneurs in Sikaicha VDC in Taplejung district for 22 hours. The journalists and tourism entrepreneurs were there at the invitation of the UNDP Tourism for Rural Poverty Alleviation Program (TRAP) to study the potential for tourism development in the region. Before releasing them, the cadres abducted Ram Dahal, TRAP program coordinator for Taplejung district, and seized a Sony 170 video camera from Kantipur TV cameraman Upendra Man Singh, a camera worth Rs 200,000 from Madan Maharjan of Cine Graphics, and two still cameras worth Rs 55,000 from Sachit Lamichhane of the Boss magazine and Jit Lama of Destination Nepal Trekking Agency. According to Kantipur TV cameraman Singh, about 60 cadres under the command of one ‘Sangam’ looted his camera at gunpoint while he was taking visuals of Saraswoti Secondary School.²⁷⁴ On 2 December 2005, Dahal was released. The Maoists also returned audio-visual equipment they had snatched during the incident from KTV cameraman Upendraman Singh and journalist of the Boss magazine Sanchit Lamichhane.²⁷⁵

i. Abduction of civilians

While Rameswor Subedi, chief of the Sworgadwari Multiple Campus in the mid-western district of Pyuthan was reportedly released by the Maoists on 3 March 2005, a group of Maoists have abducted 43-year-old dairy entrepreneur, Dilli Prasad Upadhyay, from Narayan municipality in another mid-western district of Dailekh. The cadres reportedly manhandled

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Upadhyay while abducting him from his house.²⁷⁶

Nisha Bhetwal, whose father, Bishnu Prasad Bhetwal was abducted by the Maoist on 17 January 2005 appealed on 5 March 2005 to the cadres to release her father. A middle-class furniture trader, Bishnu Prasad Bhetwal was the sole breadwinner of his six-member family.²⁷⁷

On 6 March 2005, the bruised dead body of Pahuna Tharu of Gadhi VDC, who was employed as a Game Scout at Royal Bardiya National Park (RBNP) was found inside the park. Tharu was earlier abducted by the Maoists.²⁷⁸

On 12 March 2005, Maoists kidnapped Dhamananda Bhatta, jailor of the Dadeldhura district jail, from a public bus at Sahajpur of Kailali while he was going to Dadeldhura from Dhangadi.²⁷⁹

On 19 March 2005, alleged Maoists abducted seven staff members of the Nepal Electricity Authority identified as technicians Mohan Shrestha, Chakendra Thapa, Man Bahadur Rai, Kumarsingh Damai, Tilak Shrestha, Nagendra Shrestha and driver Ram Bahadur Thapa from Triveni at Sankhejug VDC in Illam district.²⁸⁰ Five of them were released on 26 March 2005.²⁸¹ The other two were released on 31 March 2005.²⁸²

On 4 April 2005, villagers in Rabargunj VDC retaliated against six armed Maoists, who came to abduct Chet Narayan Mahato, the VDC chairman. The previous day, the Maoists had abducted his son, Sunil Mahato when they did not find him. Some 400 villagers chased away the cadres and caught one of them identified as Ramesh Acharya. He was later handed over to the police.²⁸³

On 1 June 2005, the Maoist cadres abducted four passengers of a microbus at Sahajpur area of Kailali district. On the same day, the cadres abducted Dhurba Bahadur Basnet, a villager of Khurkot VDC-2 in Sindhuli district.²⁸⁴ In yet another incident during the day, the Maoist insurgents abducted acting chief of the pro-left Jana Morcha Nepal (JMN) of Doti district, Min Bahadur Malasi from his residence at Tikhatar VDC-7. The cadres accused Malasi of taking part in the protest rally organized by seven opposition parties in the district “without taking permission” from them. On the same day, Maoists abducted Shiva Bahadur Oli, a resident of Ghanteswore VDC, Goganpani, in Doti district on the charges of participating in a programme organized by Radio Listener’s Club “without their permission”.²⁸⁵

On 15 June 2005, Maoists abducted more than 250 local youth from Shantipur, Harrachaur, Harewa and Gwagha VDCs in Gulmi district to indoctrinate them in their militia campaign.²⁸⁶

On 23 July 2005, Maoists abducted two local businessmen identified as Balaju Rajbhandari and Mahenda Gupta from Bijuwar area in Pyuthan district.²⁸⁷

On 30 July 2005, Maoists abducted Local Development Officer of Illam, Pashupati Nath Acharya and six other officials including Project Officer of District Development Committee,

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Narayan Koirala, Secretary of Barbote VDC, Dik Prasad Dahal, Overseer of Ilam Municipality, Dipak Guragai, Overseer of District Technical Office, Padam Pokhrel, Yogendra Thakur of Electricity Authority and Technician of DDC, Shrawan Kumar Chaudhari from Kolbung of Ilam district.²⁸⁸ All of them were released on 31 July 2005.²⁸⁹

On 31 July 2005, Maoists abducted 12 persons including a peon of the local Chure Forest Users' Group (CFUG) Ram Prasad Shrestha and facilitators Durga Nepal, Sabita Sharma, Sulabh Rana and Narayan Rana from the Sukumbasi Tole (squatters' settlement) at Chidiyakhola near Butwal Municipality, Rupandehi district. Other seven abducted were children who accompanied the CFUG employees to the forest to find sources of water. On 1 August 2005, Maoists abducted 10 more children from a group of locals who had gone to the forest looking for the 12 abducted persons.²⁹⁰ They were released later.²⁹¹

On 8 August 2005, Maoists abducted five people including the coordinator of Maiti Nepal Transit Home, Hom Dhakal, from Tinkhutte of Fikkal in Ilam.²⁹²

On 1 November 2005, Maoists abducted Shyam Jung Karki from his residence in Itahara VDC in Morang district. NHRC had called for his safe, immediate and unconditional release.²⁹³

On 22 November 2005, Maoists abducted three persons - Sita KC, Akbir Tamang and Prem Tamang, who were involved in forest users' groups in Dolakha district. The Maoists demanded that the forest users' groups register with their party.²⁹⁴

On 1 December 2005, Maoists abducted 60-year-old Ram Singh Dhami, father of Mahendranagar-based reporter of The Himalayan Times, Rabi Dhami from his residence at Hunainath VDC ward no. 1 in Yairichana of Darchula district. He was beaten up and mentally tortured. The Maoists released him the next day after warning him not to step out of his home. Ram Singh Dhami reportedly fled to India for security.²⁹⁵

On 9 December 2005, the Maoists freed over 20 cadres of the Nepali Congress after detaining them in Melauli bazaar for 24 hours. Among others, central members of the Nepali Congress, Sunil Kumar Bhandari and Binay Dhoj Chand, were captured while they were about to take part in an awareness campaign organised in Melauli. The detainees were reportedly subjected to physical and mental torture.²⁹⁶

On 23 December 2005, Maoists abducted four persons including three technicians identified as Bhairab Lawati, Narendra Bantawa and Soni Lal Chaudhari, and a government nominated Panchthar District Development Committee (DDC) member of area number-4 identified as Narendra Kumar Aangbo from Nangin VDC of Panchthar, where the Nangin village council meeting was being held.²⁹⁷ On 25 December 2005, Maoists released the three technicians on the condition that they would never visit rural areas.²⁹⁸

On 7 January 2006, the Maoists abducted chairman of the Tharu Welfare Assembly (TWA),

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Rupandehi, Ashta Bhuja Chaudhari (70) from Khairiya in Tikuligadh VDC-1 in Rupandehi district. He was reportedly taken on a motorcycle with registration number Lu 1 Pa 9884.²⁹⁹

On 16 January 2006, the Maoists reportedly abducted 30 students from two schools in Rupakot area in Tanahun district.³⁰⁰

On 20 January 2006, Maoists abducted over 50 civilians from Pakarbas VDC of Ramechhap. Those abducted include eight teachers of the Prayageshwor Higher Secondary School.³⁰¹

On 22 January 2006, the Maoists reportedly 'abducted' 200 labourers working in the Chautara-Dolalghat road in Sindhupalchowk district.³⁰²

ii. Abduction of security forces and their family members

On 23 August 2005, Maoists made public the names of 60 soldiers whom they had abducted after the attack on Pili in Kalikot district on 7 August 2005.³⁰³

On 25 November 2005, Maoists released RNA soldier Pyuth Sudhir BK, whom they abducted on 22 November 2005, after dialogue with journalists and human rights activists. Another RNA soldier, Pyuth Dilli Gautam, who was abducted along with BK, was able to run away from Maoists' captivity.³⁰⁴

On 17 December 2005, Maoists reportedly abducted a former British Gurkha soldier, Dan Bahadur Limbu, from Shaula area of Tehrathum district.³⁰⁵

d. Economic Blockade and its consequences

Between 13 and 26 February 2005, the Maoists called an indefinite economic blockade to oppose the royal takeover bringing traffic to a virtual halt on all key highways and affected normal life, including educational and medical services, lack of essential goods mainly cooking gas, kerosene and vegetables.³⁰⁶

The Maoists sought to violently impose the blockade. On 20 February 2005, Nripad Kumar Parveji, a truck driver from Nagpur (India), was shot dead by the Maoists at Charaudi Bazaar area on Prithvi Highway for defying the economic blockade. He was returning to India after delivering goods in Kathmandu.³⁰⁷

On 17 February 2005, Maoists reportedly torched at least 13 goods carriers, burning 58 live buffaloes loaded in two of the trucks, at Jogimara section of the Prithvi Highway. Mansoor Alam Ansari, owner of the buffaloes, said the armed cadres had fired at the tires of the vehicles before setting them alight. The vehicles included a tanker loaded with kerosene, while the rest of the trucks were carrying commodities such as rice, cement, coal and rods.³⁰⁸

On 22 February 2005, Maoists reportedly bombed and set on fire an ambulance run by a non-profit organisation near Khaireni along the Kohalpur-Lamahi section of the Mahendra

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highway “for defying the blockades.” Prior to the bombing, the Maoists forced the driver Krishna Chaudhari, and Ganesh Kumar Gupta, chairman of Rapti Seva Sangh out of the vehicle.³⁰⁹

On 26 February 2005, the blockade was withdrawn.³¹⁰

On 3 April 2005, Maoists called 11-day strike to protest against the February 1 royal takeover. The impact of the strike was more visible in rural areas, where the Maoists regularly enforced strikes and blockades. Armed Nepali soldiers escorted vehicles to prevent guerilla attacks. On 3 April 2005 itself, the Royal Nepalese Army reportedly escorted over 800 vehicles leaving Kathmandu along the Prithvi highway.³¹¹

The people in the remote hill districts of the mid-western region suffered from acute food shortage as the authorities failed to supply the required quota of food grains to these districts. The rice stocks in the food godowns of Jumla, Humla, Kalikot, Dolpa and Mugu districts were exhausted much before the strike, the authorities did not supply the allotted quotas to these districts. Residents of far away villages, who were coming to the district headquarters in the hope of acquiring food grains, had to return home empty handed. One Lokmani Acharya of Pina Village Development Committee (VDC) in Mugu district told the press that he did not have a single grain of food left in his house and had come to collect rice but was asked to come back only after the helicopter brought in the supply.³¹²

There were reports of severe shortage of essentials commodities such as kerosene, gas and salt in three hilly districts of the eastern region - Ilam, Panchthar and Terhathum. Annual exams in the schools were postponed. More than 50,000 students were stranded.³¹³

On 9 May 2005, an armed group set on fire two private trucks carrying jute and coal at Pathari of Morang district along the Mahendra highway.³¹⁴

On 10 May 2005, Maoists torched a bus belonging to Makalu transport company at Santapur VDC in Rautahat district, and three trucks carrying goods in Dhading district.³¹⁵

e. Destruction of Public services

The lack of development of Nepal has been blamed on corrupt politicians. Yet, whatever little infrastructure or public properties have been built by the government, the Maoists have been hell-bent on their destruction.

On the night of 20 February 2005, Maoists reportedly destroyed a sub-station of Nepal Electricity Authority at Kohalpur of Banke district. At least two persons were killed in the blast and four districts in the mid-western region- Banke, Baridya, Surkhet and Dailekh- have been deprived of power.³¹⁶

On the evening of 26 February 2005, Maoists damaged two government office buildings used

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by the Department of Survey and Revenue Office in Hetauda by exploding bombs.³¹⁷

On the night of 3 March 2005, Maoists set ablaze more than half-a-dozen government offices based at the headquarters of Argakhachi district, including the District Administration Office, District Irrigation Office, District Education Office, District Development Committee, District Land Revenue Office, District post office and District Drinking Water Office.³¹⁸

On 16 March 2005, the offices of state-owned Nepal Telecom Company, District Survey Office and District Forest Office were bombed in Inaruwa in Sunsari district. The state-run Gorkhapatra estimated the loss at over Rs 500 million rupees.³¹⁹

On the night of 21 March 2005, Maoists bombed the building of the Employees' Provident Fund Regional Office in Banke.³²⁰

On 13 May 2005, Maoists bombed an electricity transformer at Gagate in Nuwakot district thereby disrupting power supply to over 30 VDCs in the district.³²¹

On 2 June 2005, Maoist cadres bombed control room of Nepal Electric Authority (NEA) in Dhangadi resulting in disruption of power supply in the region.³²²

On 17 August 2005, Maoists bombed and set fire to Jyoti Spinning Mills, destroying hi-tech machinery and material worth millions of rupees and forcing it to close down indefinitely.³²³

On 18 August 2005, Maoists bombed the offices of the Bardiya District Development Committee at Gularia, Bardiya.³²⁴

Threats from the Maoist-affiliated All Nepal Trade Union Federation (ANTUF) forced Unilever Nepal Ltd, one of the biggest Indian joint-venture industries in Nepal, to close its factory in Basamadi in Makwanpur district from 17 August 2005.³²⁵

VI. Violence Against Women

In Nepal domestic violence is widespread. According to Deputy Inspector General (DIG) of Police Kumar Koirala, violence against women has gone up from 567 reported cases in 2003 to 1022 cases in 2004.³²⁶ But domestic violence remains largely unreported as the women are vulnerable and absolutely dependent on men. There is not only absence of law against domestic violence in Nepal but it is difficult for the victims to register the cases. On 28 December 2005, police allegedly refused to register a case on the death of Bimala Subedi, a pregnant woman who died after 'consuming poison' in Morang. The relatives of the victim alleged prima facie evidence against torture and killing of Bimala Subedi by her in-laws for dowry.³²⁷

Because of the armed conflict, women have been victims of arrest, torture, illegal detention, rape, disappearances and extrajudicial executions both at the hands of security forces and the Maoists.

a. VAW by the Security Forces

To control the pro-democracy movements, male security personnel were deployed to handle the women protestors. In September 2005, women demonstrators were allegedly molested, bitten, beaten up and poked batons at their sensitive parts during arrest and in police custody.³²⁸

On 3 March 2005, the Sunsari District Court ordered the imprisonment of two Royal Nepalese Army soldiers identified as Khem Khadka and Bishal Rai on charges of gang rape of a girl of Bharaul VDC-5 on 25 December 2004.³²⁹

But there is no accountability and the security personnel are not appropriately punished for committing heinous crimes like rape and murder. The RNA claimed it has a 'zero tolerance' policy regarding sexual violence against children and women.³³⁰ However as stated earlier in the case of rape and murder of Maina Sunuwar, besides suspension of their promotions and fines, given to three of its officers - Colonel Bobby Khatri, Captain Sunil Adhikari and Captain Amit Pun, they were only sentenced to six -month prisons in army custody.³³¹

On 11 January 2006, an NHRC team reportedly exhumed the highly decomposed body of 15-year-old school girl, Sarala daughter of Bhakta Bahadur from a field in Chapagoan, Jeewanpur-1 in Dhading six months after the RNA soldiers took her away on the midnight of 15 July 2004 without any arrest warrant. According to the family members, she was tied up while being taken away and since then she disappeared. Later it was learnt that the security

personnel also took a spade from another villager Hom Bahadur Rana at around 1:30 am on the intervening night of 15 July and 16 July 2004. Sarala's father Bhakta Bahadur filed a complaint with the NHRC of Nepal on 26 July 2004. On 30 March 2005, Bhakta Bahadur was arrested by the security forces but he was released after 52 days following a court order. In December 2005, an International Committee of the Red Cross (ICRC) team with the help of Bhakta Bahadur and villagers had discovered Sarala's grave after following the direction of the odor coming from the field. Family members and the villagers identified Sarala by her clothes and slippers. The NHRC had sent the remains of Sarala to Tribhuvan University Teaching Hospital (TUTH) in Kathmandu for forensic tests.³³²

b. VAW by the Maoists

The Maoists have also been responsible for increased violence against women.

On 1 April 2005, Puni Devi Bohora, 26, a mother of five children, was allegedly raped by a Maoist cadre 'Suman' in presence of a dozen other Maoists at her home at Shibalinga VDC in Baitadi in absence of her husband.³³³

On 23 July 2005, Maoists beheaded a woman identified as Sabita Karki, a local of Bahini VDC-6 in Morang district on charges of spying on them.³³⁴

An investigation by National Human Rights Commission found that on 18 August 2005 one Dalit woman was raped at gun point at Jagatpur-4 in Saptari district by the Maoists.³³⁵ The Maoist cadres asked the villagers to prepare food and after they had eaten, they forcibly took the women into the house and raped her. The cadres also threatened to "completely destroy" the hamlet in case they disclosed the crime.³³⁶

On 1 November 2005, Maoists reportedly killed one Januka Bhandari, resident of Shimle area of Terhathum district by mercilessly beating her.³³⁷

On 4 November 2005, Maoists reportedly killed one Nirmala Basnet of Ramche Gaighat VDC-9 in Udayapur district after abduction.³³⁸

On 29 December 2005, RNA's Directorate of Public Relations alleged that a pregnant woman, resident of Chatara VDC-4 in Bajura district, died on 25 December 2005 when she was forced by the Maoists to undergo militia training to use weapons.³³⁹

It is a crime for women to be relatives of the security forces. As stated earlier in the report (page 31) on 13 June 2005 night, Maoists killed 7 civilians including three women - Radha Devi, Durga Devi and Laxmi - who are wives of security personnel in separate incidents in Dhangadhi and Morang districts.³⁴⁰

The Maoists have abducted hundreds of women and children including girls, and tortured them in custody. According to a girl who escaped from the Maoists' captivity in December

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2005 told journalists that nine other school girls abducted from various areas of Dadeldhura district were being held hostage by the Maoists. The girl said they had to carry stones, dig pits, cut grasses, cook food for the cadres, and wash their clothes in the labor camps. They were being forced to join the rebel guerrillas. The nine girls who were still in the Maoists' captivity included Chandra Lohar, Dambari, Dhana Bhattraï, Nirmala and Shusila. The Maoists accused the girls of being involved in sex scandals. However, the locals say this allegation was a mere ploy to justify their inhuman act and forcibly recruit them into the militant force.³⁴¹

VII. Rights of the Child

There is no guarantee to right to life for the children. According to INSEC, 341 children have been killed from 13 February 1996 to 30 November 2005 - respectively 172 children at the hands of the state and 169 at the hands of the Maoists.³⁴² CWIN, another NGO in Nepal, put the figure of children deaths at 419 (295 boys and 124 girls) during the 10-year-old conflict.³⁴³ An estimated 58 children (42 boys and 16 girls) were killed during January - September 2005. Of this, 46 children (35 boys and 11 girls) were killed by the Maoists and 6 (4 boys and 2 girls) children were killed by the security forces, while 6 (4 boys and 2 Girl) died in cross fires between the security forces and the Maoists.³⁴⁴

Over 140 children were reportedly injured by the security forces and the Maoists during 2005. Of them, at least 80 sustained injuries in bomb explosions by Maoists.³⁴⁵

Security forces target the children. On 22 March 2005, three school children - Narayan Bahadur Kanauji Magar (17) of Class IX, Tek Bahadur Gaha (15) of Class VIII, and Dal Bahadur Darlami (15) of Class VI- were shot dead by plain-clothes security personnel suspecting them to be Maoists. This is despite the fact that the children were in their school uniform. The Royal Nepal Army ordered an inquiry into their killings following massive protests³⁴⁶ but the report was not made public.

The provisions of the Children's Act, 1992 have not been fully implemented. Instead, Juvenile Justice is still treated as a section of criminal justice system in Nepal, at least in practice. The government has also failed to evolve a consistent and uniform definition of the child. The Children's Act, 1992 defines "Child" as every human being below the age of 16 years. But, the Labour Act, 1992 puts the age limit of the child at 14 years whereas the Nepal Citizenship Act, 1963 considers a person below 16 years of age as minor. Similarly, the Civil Code (Muluki Ain), 1963 considers the legal age of marriage for boys at 18 years and for girls at 16 years with parents' consent and 21 years for boys and 18 years for girls respectively with no consent of parents.

The government of Nepal has also failed to establish a "Children's Correction Home". Since the announcement of the establishment of the Juvenile Bench at district courts in April 2000, no record has been found about their enactment in any district in the country. Children are hardly given different treatment when they are brought to the attention of the justice system. They are often kept in custody together with adults, and the processes and jurisdiction applicable to the investigation, remand, bail and judicial custody are similar to that of adults. There is no separate court for juvenile.

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On 2 December 2005, police arrested 18 persons including minor school children and detained them at Tinkune police post on the charges of pelting stones at the motorcade of Crown Prince Paras at New Baneshwor during a clash between the CPN-UML cadres and the pro-palace activists. Those arrested included Arjun Lama, Ujjwol Maskey, Sachin Bhatta and Subas Lama, students of V. S. Niketan school; Surya Prakash Bhatta of Aristo Secondary School, Kailali; Suman Prasad Bhetwal, a student at Orient College, Kathmandu; Shanker Thing Tamang, a child worker at Om Bakery; Binay Aryal, a student of BBS First Year from Kanchanpur; Ramhari Neupane, a sales boy with Himlal Media Pvt. Ltd.; Raj Kumar Shrestha, a cleaner with the Bus no. 9536; and four workers with the Variety Food Land, Minbhavan.³⁴⁷ The innocent civilians were arbitrarily arrested without arrest warrants. Four students of V S Niketan School including Sachin Bhatta, 15, a tenth grader, were arrested from Om Sai Bakery at New Baneshwor on the charges of pelting stones at the royal motorcade when they were going to attend tuition classes. They had taken shelter at the bakery when the clash broke out.³⁴⁸ Sachin Bhatta and his friends identified themselves as students, but the security personnel “hit us, seized our school bags and asked us which party and union we belonged to”. Shanker Thing, 12, a waiter at the Bakery, was also picked up.³⁴⁹ In security custody, the detainees were kept in a dark cold cell, denying them food for over 24 hours after their arrest and brutally beating them up. They were forced to sign “false testimonies” stating that they had pelted stones.³⁵⁰ While 13 of them were released on 4 December 2005, the rest five identified as Binay Aryal, Suman Bhetwal, Surya Prakash Bhatta, Raj Kumar Shrestha and Nawaraj Thapaliya were reportedly charged under the Public Offence Act.³⁵¹

On 18 December 2005, a drunken police personnel deputed at the District Police Office (DPO) in Jumla reportedly brutally beat up Priyanka Lama, 16, an innocent girl of Chandannath-8, Kalikholi in Jumla district. The victim had to be rushed to Jumla Hospital following the beating and was reportedly shifted to Nepalgunj in Banke district. According to the mother of the victim, Chhejam Lama, the policeman kicked the victim with his boots on her sensitive parts till she lost consciousness. Deputy Superintendent of Police Dev Bahadur Bogati claimed the DPO had identified the culprit and put him in custody³⁵² but no verification of the claim could be done.

On 2 January 2006, armed Royal Nepalese Army (RNA) personnel reportedly entered the Khanddevi Secondary School at Chaurase, Satakhani VDC in Surkhet district and manhandled sixth grader Chudamani Poudel, accusing him of being a Maoist activist. Soldiers also allegedly thrashed Dipak Ghimire, a tenth grader, after dragging him out of the classroom and tortured Bishnu Dhakal, another tenth grader, accusing him of being in the pay of Maoists.³⁵³

Both the Maoists and security forces have been responsible for recruitment of children for military purposes. While the recruitment by the Maoists is well-known,³⁵⁴ the use of children by the RNA is not reported as widely.

The Kathmandu Post in its 20 July 2005 edition reported the use of children as sentries, informants and labor by the RNA in Dullu in Dailekh district. Young boys, aged 8 to 14, are

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members of "child military unit", whose job is to secure the Dillu bazaar by informing the Royal Nepalese Army of every new arrival in the area. They are reportedly trained by RNA for the purpose. They carry wooden toy guns and even have military titles such as "major", "lieutenant", "second lieutenant" and "jamadar".³⁵⁵

In its conclusions and recommendations to the second periodic report of Nepal, the Committee Against Torture expressed concern about "allegations of children being used by security forces as spies and messengers. The Committee is also concerned about reports of recruitment and abduction of children by CPN-Maoist." Yet, Nepal has failed to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.³⁵⁶

In August 2005, Dev Kumari Singh Mahato found her 14-year-old daughter handcuffed in police custody, detained on the charge of being a Maoist. The police claimed that she was arrested and found involved in terrorist activities. In fact, the girl child had been abducted by Maoists in 2004. Appellate Court, Rajbiraj ordered her release saying she was illegally detained.³⁵⁷

The Maoists also targeted the students. On 16 November 2005, Maoists abducted two children - 12 year-old Netra Kumal and his 15 year-old brother, Jhak Bahadur, from Bhimad bazaar in Tanahun district, accusing them of spying on the rebel outfit, and tortured them in custody. They were released on 29 November 2005. According to the victims, they were selling bananas in the bazaar when suddenly three armed men, who identified themselves as security personnel, approached them and abducted them at gunpoint. Jhak Bahadur said the Maoists tied his hands with a rope and hit him several times with a cane. Bruises were visible all over his body. According to the locals, the Maoists had earlier manhandled the boys' parents on the same charge.³⁵⁸

VIII. Lack of Independence of Judiciary

The judiciary in Nepal was virtually on the state of collapse before the royal takeover. By the end of 2003, the workload in 19 hilly district courts dropped drastically with less than 50 cases per year according to a report of the government's Judicial Council.³⁵⁹ Since 2002, the Supreme Court has failed to inspect the Appellate and District Courts in the country during the year 2002 and 2003 "owing to bad law and order situation" though it is required to inspect the subordinate courts every year as per the Judicial Administration Act of 1991 and SC regulations.³⁶⁰ Only the Supreme Court in Kathmandu has been willing to accept habeas corpus petitions prior to the royal takeover.

However, following the royal coup of 1 February 2005, the judiciary appeared to have succumbed further. The Supreme Court even refused to entertain writ petitions on non-suspended rights under the "pretext of emergency". On 21 February 2005, Chief Justice Hari Prasad Sharma publicly defended the rejection of writ petitions saying that the issue was "political". This is despite the fact that during the emergency in 2001-2002, the Supreme Court admitted over 400 writ petitions seeking legal remedy under Article 88 (1) and (2), which is not suspended even during emergency.³⁶¹ On 25 February 2005, Supreme Court registrar Shree Prasad Pundit refused to accept writ petitions - Harka Man Shrestha vs Land Reform Ministry, Dambar Singh Gadai vs Ilam Municipality, and Kiran Kumar Shrestha vs Ministry of Health - seeking the Supreme Court's order to the authorities for the rights guaranteed under Article 11, 88(1) and (2) of the Constitution, citing the suspension of Article 23, which guarantees the right to remedy of fundamental rights.³⁶²

Lately, the Supreme Court has been trying to find its feet while lower level judiciary functions under the thump of the RNA. On 27 May 2005, the Supreme Court had to issue a special stricture to the government asking it to follow court orders as per Articles 95 relating to duty of the government to extend cooperation and Article 96 relating to orders and decisions of the courts to be binding.³⁶³

The Supreme Court also registered a case of contempt of court against Vice Chairman of the Council of Ministers Dr Tulsi Giri³⁶⁴ for stating that the Supreme Court is an obstacle.

a. Lack of independence of judiciary

King Gyanendra sought to put the judiciary under his thump by establishing the Royal Commission for Corruption Control as the "super court" with powers even investigate to "the judges of the Supreme Court and office bearers of all constitutional bodies". It was not aimed

to address corruption but to silence all forms of dissent including by the judges.

As the RCCC failed to serve intended purpose, King Gyanendra appointed alleged royalists as judges in the Supreme Court. On 28 December 2005, Chief Justice Dilip Kumar Paudel, with the consent of the King, appointed former Attorney General Pawan Kumar Ojha, two acting chief judges of Appellate Courts Tahir Ali Ansari and Rajendra Prasad Koirala and senior advocate Bipulendra Chakrawarti as the ad hoc judges in the Supreme Court.³⁶⁵

Human Rights activists and Nepal Bar Association expressed serious concerns over selection of judges. Former Attorney General Pawan Kumar Ojha had been controversial after he supported the February 1 royal takeover in the apex court and claimed that the King has authority to issue any kind of order by activating Article 127 of the Constitution. He had also claimed that the King has the power to issue any order, with the capacity of the Hindu Monarch, to protect the country.³⁶⁶ In protest, Nepal Bar Association, an umbrella organization of the professional lawyers, has decided that it would exclude Chief Justice Dilip Kumar Poudel and Justice Pawan Kumar Ojha from all its functions henceforth.³⁶⁷

b. Violation of Article 95: Duty to Extend Cooperation

The government willfully does not cooperate with the court as required under Article 95 of the Constitution of Nepal. On 27 May 2005 the Supreme Court had to write to the Ministry of Land Management for the 14th time, asking it to send the files of the five-year-old cabinet and ministry-level decisions, as they were required to finalize a land dispute case.³⁶⁸

The government's apathy and non-cooperation with the court hindered in the dispensation of speedy justice to the people of Nepal. As many as 1,838 writ petitions filed before April 2004 have reportedly remained unheard in the court as different ministries, organizations and offices have not responded to the apex court orders issued in the preliminary hearing of the petitions. Altogether, 2,768 writ petitions were pending at the Supreme Court as on 12 June 2005. Different government agencies including the Secretariat of Cabinet and Council of Ministers, Ministry of Land Reform and Management, Ministry of Finance, Home Ministry, Police Headquarters, tax collection offices, Guthi Sansthan, municipal offices and district administration offices were allegedly not submitting the required documents despite repeated requests by the court. According to the Civil Code related to Court Management, the Supreme Court can only slap a paltry fine of Rs 50 each time the concerned offices fail to respond to each letter asking for the necessary documents.³⁶⁹

On 15 May 2005, authorities and Mahendra Sanskrit University administration admitted new students in Tindhara Hostel, defying the SC interim order not to do so. On 24 May 2005, the Supreme Court issued another interim order to the authorities not to admit new students in Tindhara Sanskrit Hostel till further order.³⁷⁰

Despite repeated orders of the Supreme Court to furnish a document relating to the agreement signed between the government of Nepal and the United Nations on the peacekeeping force

of the RNA, the Ministry of Foreign Affairs and the RNA failed to furnish the same before the court. Ex-Army Welfare Council chairman Ambar Bahadur Thapa Magar had moved the Supreme Court four years ago accusing the RNA of misusing the RNA Welfare Fund. In response to the petition, the Supreme Court had directed the Ministry of Foreign Affairs and the Headquarters of the RNA several times to furnish a copy of the agreement. On 23 August 2005, the SC had issued a fresh directive to the concerned parties to furnish a copy of the agreement within 15 days or face contempt of court action. But the court failed to get a reply.³⁷¹ On 21 November 2005, the Ministry of Foreign Affairs submitted a copy of the said agreement before the apex court.³⁷² Earlier, the MoFA had told the Supreme Court that no pact on peacekeeping was signed with United Nations.³⁷³

C: Violation of Article 96: Contempt of Court

The government and its agencies have been contemptuous of the judiciary in violation of the Article 96 of the Constitution of Nepal which provides:

“Article 96 Orders and Decisions of the Courts to be Binding

- (1) All shall abide by the orders and decisions made in the course of hearing of a suit by courts.
- (2) Any interpretation given to a law or any legal principle laid down by the Supreme Court in the course of hearing of a suit shall be binding on His Majesty’s Government and all offices and courts”.

Nothing reflects the contempt of court than the re-arrest of accused including from the premises of the Supreme Court after the order of their release by the courts. Since February 2005, Asian Centre for Human Rights has recorded the re-arrest of 59 persons after the courts ordered their release. The government openly defended such illegal re-arrests. On 18 May 2005, the Home Minister Dan Bahadur Shahi shot back at the journalists saying, “Did the Supreme Court order not to re-arrest him?” when asked to justify re-arrest of student leader Rajendra Rai.³⁷⁴

On 26 April 2005, former minister Jaya Prakash Prasad Gupta was re-arrested from his residence in Sinamangal, Kathmandu by plainclothes security personnel without any reason except that it was a “high-level order”. He was earlier released by the Supreme Court on 19 April 2005 that termed his arrest following February 1 royal takeover as illegal.³⁷⁵ On 5 May 2005, the Supreme Court once again held Gupta’s arrest as illegal and ordered his release. But he was arrested again on the same day of his release.³⁷⁶ However, the authorities had to release him on 27 May 2005 following another Supreme Court order. Even after his release his movement was restricted by presence of huge contingent of plainclothes security personnel stationed outside his residence.³⁷⁷

On 5 May 2005, Gagan Thapa, former General Secretary of the Nepal Students Union (NSU),

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was re-arrested by the police from inside Kathmandu District Police Office soon after his release at the order of the Supreme Court.³⁷⁸ His detention was extended by three months.³⁷⁹ However, following repeated orders of the Supreme Court,³⁸⁰ the government released him on 25 May 2005.³⁸¹ But he was arrested again on 27 July 2005 by plainclothes policemen.³⁸² The government kept on extending his custody. Sedition chargesheet was filed against him on 12 August 2005 under which he could face imprisonment up to three years.³⁸³ On 14 August 2005, the Special Court ordered the release of Gagan Thapa saying there was no ground to keep him in custody as charges brought against him were not clear.³⁸⁴

On 16 May 2005, former president of ANNFSU, Rajendra Rai was re-arrested by the police immediately after his release from the Kathmandu district court premises following a Supreme Court order.³⁸⁵ He was arrested in front of the representative of the UN High Commission for Human Rights, NHRC, rights groups, journalists, lawyers and judges. Police baton charged lawyers, journalists and human rights defenders when they tried to prevent the re-arrest of Rajendra Rai.³⁸⁶ On 20 May 2005, the government released Rajendra Rai following intervention by the Supreme Court.³⁸⁷

On 27 May 2005, former minister and standing committee member of the CPN-UML, Ishwor Pokharel was re-arrested by the police without any warrant notice immediately after his release in Rajbiraj following a Supreme Court order.³⁸⁸

On 8 June 2005, plainclothes policemen re-arrested Karna Bahadur Thapa Magar, a farmer by profession who had been booked under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance since 8 October 2004, from the premises of Kathmandu District Court soon after his release at the order of the Supreme Court. As he was being escorted out of the District Court premises, plainclothes policemen whisked him away in a private vehicle.³⁸⁹ But during hearing at the Supreme Court the RNA gave a “false” statement, saying that Thapa Magar was arrested in Bhaktapur by patrolling security forces on 9 June 2005 with socket bombs and “terrorist related documents”. When he was released by the court on 4 July 2005, plainclothes security personnel, two of them wearing masks, again tried to arrest Magar. He had to finally flee in a vehicle escorted by two UN vehicles.³⁹⁰

On 15 June 2005, plainclothes security personnel re-arrested Nawaraj Subedi, general secretary of Jana Morcha Nepal, from the party office within a few hours after the Supreme Court ordered for his release. He was first arrested from Tribhuvan International Airport on 14 May 2005 on his way to Pakistan to participate in a conference.³⁹¹ On 22 June 2005, the government in a written reply to the Supreme Court denied having rearrested Nawaraj Subedi.³⁹² But on 23 June 2005, a team of the National Human Rights Commission found Nawaraj Subedi in detention at District Police Office, Lalitpur.³⁹³

On 22 June 2005, plainclothes security personnel re-arrested Govind Ghimire from the premises of Kathmandu District Court immediately after he was release following a Supreme Court order. Ghimire’s relatives, lawyers and human rights defenders, who had gone there to receive him, were physically assaulted by the security personnel.³⁹⁴ On 18 June 2005, the

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Supreme Court had pronounced Ghimire's detention on the charges of being a Maoist as illegal and ordered for his release.³⁹⁵ In yet another act of disrespect of the court, the authorities failed to produce Ghimire before the Supreme Court within the deadline of 2.30 pm on 22 August 2005. The public prosecutor turned up at the court without the detainee.³⁹⁶

On 24 July 2005, police re-arrested Nishan Bishwakarma of Baglung Amalachaur, from court premises in Pokhara immediately after his release following the Supreme court's order.³⁹⁷

On 4 August 2005, police re-arrested Guna Ram Damai soon after he was released on a court order in Baglung.³⁹⁸

On 12 August 2005, plainclothes security personnel re-arrested Raj Kumar Pariyar from Kathmandu District Court soon after he was released vide a Supreme Court order in the presence of a judge of the court. His father, Gyan Bahadur Pariyar was also arrested but was released the following day. On 10 August 2005, the Supreme Court had declared his detention on the charges of being a Maoist as illegal and had ordered for his release.³⁹⁹

On 22 September 2005, Krishna KC was re-arrested from the premises of the Supreme Court immediately following his release.⁴⁰⁰

On 19 September 2005, 11 detainees identified as Prem Bahadur Oli, Tek Bahadur Khatri, Man Bahadur Bista, Padam Sarki, Birman Sarki, Tapta Bahadur Giri, Bir Bahadur Karki, Padam Bahadur Budha, Gagan Singh Kunwar, Dhawal Singh Bohara and Ujal Singh Dhami were re-arrested immediately after being released by the Kanchanpur District Court in Mahendranagar in western Nepal as per the order of the Supreme Court. This was the third time that the security forces have re-arrested the group defying the order of the court. Earlier, they had been re-arrested on 12 May 2005 and 15 June 2005. The Kanchanpur Appeal Court had released them on the ground that the government had not provided sufficient evidence to justify their preventive detention under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO).⁴⁰¹ These activists were arrested on 17 August 2004 while attending a mass meeting held by the Maoists in Kanchanpur district. They were initially held in incommunicado detention at the Surya Dal army barracks in Bhagatpur, Kanchanpur district, and transferred to Kanchanpur prison in November 2004. They were severely tortured in detention.⁴⁰²

On 18 October 2005, five persons freed from the District Jail in Jhapa on the orders of the acting Chief District Officer Prem Narayan Sharma were reportedly re-arrested by the security forces. Four of them were identified as Purusottam Chudal of Surunga -9, Puspa Upreti of Mechinagar, Khagendra Prasad Dahal of Shantinagar-9 and Him Bahadur Rana Magar of Ilam, Laxmipur. They were kept in detention for a year at the time of their release.⁴⁰³

On 21 October 2005, a division bench of the Supreme Court comprising Justices Min Bahadur Rayamajhi and Balram KC ordered the release of detainee Rajendra Phuyal in the presence of a Kathmandu district judge. But the government defied the SC and did not release Phuyal.⁴⁰⁴

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Phuyal, a security personnel employed by the private security company 'Kantipur Security Service, has been in detention for the last 18 months on the charges of being involved in terrorist and disruptive activities.⁴⁰⁵ In response to a habeas corpus petition filed by Phuyal's father Khagendra Prasad Phuyal, on 26 October 2005, the Supreme Court issued show cause notice to the Ministry of Home Affairs, the Headquarters of Police and the Royal Nepalese Army, the Kathmandu District Police Office, Hanumandhoka and the Central Jail, and ordered to produce Rajendra Kumar Phuyal before the apex court on 28 October 2005.⁴⁰⁶

On 20 November 2005, police re-arrested Aiendra Bikram Begha, alternative central committee member of All Nepal National Independent Students' Union - Revolutionary (ANNISU-R) as soon as he was released following the order of the Appellate court, Biratnagar.⁴⁰⁷

On 22 November 2005, police re-arrested Krishna Chaulagain, resident of Bayarban in Morang district, after he was released by Appellate court, Biratnagar. He was arrested two years ago on charges of being a Maoist.⁴⁰⁸

On 24 November 2005, police re-arrested secretary of ANNISU-Sunsari, Lochan Dhamala and Him Prasad Mishra - both residents of Dangihat VDC of Morang district - from the premises of the appellate court of Biratnagar immediately after the court released them.⁴⁰⁹

On 27 November 2005, plainclothes police personnel re-arrested three Maoists- Shyam Sundar Dhungana, Bhola Thapa and Sukram Lama - immediately after they were freed from the premises of the Parsa District Court. The Appellate Court Hetauda ordered their release on 24 November 2005.⁴¹⁰

On 4 December 2005, Khem Raj Dahal of Hardiya-5 in Saptari district was re-arrested by plainclothes security personnel from the Appellate Court premises in Rajbiraj. His whereabouts were not known as on 5 December 2005.⁴¹¹

On 4 December 2005, the security personnel tried to re-arrest Bina Magar, former chief of the Maoist-affiliated All Nepal National Independent Students' Union (Revolutionary) of Kathmandu district, from the Supreme Court's premises immediately after her release by the Supreme Court (SC) after terming her detention unlawful. Magar was released by the SC at 4 pm but the security personnel kept waiting in front of the court's main gate till around 6: 30 pm. The detainee finally managed to evade re-arrest with the help of lawyers and human rights defenders, including representatives from the Office of the High Commission for Human Rights in Nepal. The security personnel followed her vehicle but they failed to get her. This was the second time the court had ordered for Magar's release. The court had ordered her release some seven months earlier, but the order was flouted.⁴¹²

On 19 December 2005, plainclothes security personnel re-arrested former general secretary of the Maoist-affiliated All Nepal National Independent Student Union - Revolutionary, Himal Sharma, from the Supreme Court premises soon after the Supreme Court released him. Himal

Sharma had been in security custody for two years under TADO. The SC also held that the Appellate Court's decision of 18 December 2005 granting permission to the police to detain Sharma for 25 days more was illegal. Yet, flouting Supreme Court order, the security personnel re-arrested Sharma and in the process of re-arrest, the security personnel beat up human rights activists, lawyers and journalists.⁴¹³ On 18 December 2005, while talking to Kantipur Television, Himal Sharma alleged torture in security custody. He said pins were inserted into various parts of his body as a part of torture and showed his swollen fingers to the journalists as evidence.⁴¹⁴ On 20 December 2005, the Kathmandu District Police Office (KDPO) framed charges against Sharma for allegedly murdering Colonel Kiran Basnet who was killed about two years ago and produced him before the Patan Appellate Court. The Appellate Court remanded him to police custody for 20 days for investigations into the colonel's murder. Interestingly, the KDPO told the Appellate Court that Sharma was arrested the previous day when he was walking along Ramshahpath.⁴¹⁵

d. Threats against the lawyers

Following the Royal take over, the lawyers came under attacks from the government.

On 1 February 2005, former President of Nepal Bar Association, Sindhu Nath Pyakurel was arrested from his office in Kathmandu. He was reportedly held incommunicado for nine days at the Kakani army barracks in Nuwakot District before being moved to the Armed Police Force camp in Duwakot in neighbouring Bhaktapur District, and then to the Bhaktapur police station. He was released on 14 February 2005 following Supreme Court's intervention.⁴¹⁶

On 18 February 2005, advocate Kalam Bahadur Khatri was arrested by the police and was illegally detained for three weeks under the Public Security Act, 2046 B. S. The police later said the arrest was due to mistaken identity as they had arrested the advocate while the arrest warrant was issued against another person bearing the same name i.e. Kalam Bahadur Khatri. But advocate Kalam Bahadur Khatri alleged that the police had arbitrarily arrested him by making the necessary correction of the name on the warrant slip in front of him after he had identified himself as an advocate and told them that he was not the person they were looking for. Following a habeas corpus writ petition, the Supreme Court ordered his release on 10 March 2005. The Court held that "he was being held illegally".⁴¹⁷

IX. Crippled NHRC

Prior to the royal takeover, National Human Rights Commission of Nepal played a critical role. On 18 February 2004, Asian Centre for Human Rights observed, “amidst the ruins of all institutions associated with a modern State, NHRC of Nepal appears to be the only surviving one”.⁴¹⁸

Following the Royal takeover, Gyanendra confined the members of the NHRC within the Kathmandu valley. On 5 March 2005, security forces barred a team of the National Human Rights Commission (NHRC) Sushil Pyakurel, Dr Gauri Shankar Lal Das and head of NHRC’s Protection Division Yagya Prasad Adhikari - scheduled to fly to Bhairahawa to investigate killings of Maoists sympathisers by the vigilante groups. The NHRC team was prevented despite the fact that it had already informed the Home Ministry and all concerned authorities about the team’s visit to Kapilvastu.⁴¹⁹

In a clear attempt to weaken the independence of NHRC, on 16 March 2005, the government formed a nine-member high-level Human Rights Committee headed by the Attorney General to undermine the NHRC in the name of promoting human rights. The Human Rights Committee and the NHRC had conflicting mandate.

As the term of then NHRC members expired, King Gyanendra introduced an Ordinance on 18 May 2005 amending section 4(2) of the Human Rights Commission Act to change the composition of the Recommendation Committee. This was to dispense with the requirement of the approval of the prime minister and the leader of the opposition in the lower house of parliament under the National Human Rights Commission Act of 1997 to appoint the members of the NHRC. As parliament was dissolved in May 2002, the appointing committee could not be established. On 27 May 2005, while retaining Commission’s Chairman Nayan Bahadur Khatri, King Gyanendra nominated other members who are close to the Palace.⁴²⁰

The activities of the NHRC members raised legitimate questions about the integrity of the NHRC. Asian Centre for Human Rights is aware that new members of the NHRC met Krishna K C, former vice president of the All Nepal National Independent Students’ Union (Revolutionary), in RNA custody. Krishna KC was listed as disappeared after his arrest by the security forces from Kathmandu on 13 September 2003. But the NHRC members did not disclose his details. Finally, he was produced before the Supreme Court and released on 22 September 2005. But he was re-arrested from the Supreme Court premises as soon as he was released.⁴²¹ He was brutally tortured in detention. A journalist who was present at the hearing on 22 September 2005 told the Director of Asian Centre for Human Rights that Krishna KC

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did not look like a person, who should be arrested but more a person who should be immediately sent to doctors/hospital because of the torture suffered, which was apparent.⁴²²

ACHR also received credible evidence that the email communications of the international consultants to the NHRC were monitored.⁴²³

X. Muzzling of Freedom of Press

The media persons faced the most serious repression under King Gyanendra. On 3 February 2005, King Gyanendra “banned for six months any interview, article, news, notice, view or personal opinion that goes against the letter and spirit of the Royal Proclamation of 1 February 2005 and that directly or indirectly supports destruction and terrorism”.⁴²⁴ The RNA personnel, who were stationed at the newsrooms edited all news items before being published in print or electronic media. Most Indian Television channels were banned in Kathmandu valley.⁴²⁵ It was only on 8 June 2005 that the Nepal government decided to resume airing of Indian news channels.⁴²⁶ At least 430 journalists were arrested, attacked or threatened since the Royal takeover and half of the cases of censorship in the world were in the kingdom.⁴²⁷ The government also banned three websites respectively www.insn.org, www.samudaya.org and www.gorkhanews.com.⁴²⁸

On 9 October 2005, King Gyanendra promulgated “Ordinance Amending Some Nepal Acts related to Media-2062” which banned criticism of the King and private radio stations from broadcasting news, gave total power to the government to revoke journalists’ press accreditation, arrest and prosecute them, and imposed higher fines for defamation, among others.⁴²⁹

The order was challenged before the Supreme Court. In its interim order on 11 November 2005, the Supreme Court refused to defer the application of the Ordinance,⁴³⁰ thereby paving the way to stifle dissent against the government. The Ministry of Information and Communications prohibited news agencies from selling and distributing news to any ‘Publishers, Broadcasting Agency or Individual’ without approval of the government. In a statement issued on 15 November 2005, the ministry said the notification was made in accordance with the Ordinance to amend some Nepal Acts 2062 B.S. that amended Clause 32 (2) of the National News Agency Act, 1919 B.S. requiring all national and international news agencies to sell and distribute their news within Nepal only after taking approval of the government.⁴³¹

Earlier, in August 2005, the government introduced Government Advertisement One-Door Policy, 2062 BS (GAODP) that, among others, ruled out providing any government advertisements to those newspapers, which do not show respect to the monarchy.⁴³² In May 2005, the government had reportedly suspended 4.5 million rupees assistance to the Federation of Nepalese Journalists (FNJ).⁴³³ In December 2005, Minister of State Shrish Shumsher JB Rana asserted that government advertisements would be provided as per the Government Advertisement One-Door Policy, 2062 BS (GAODP) to only those newspapers,

which show respect to the monarchy.⁴³⁴

a. Ban on private FM Radios

The FM radios, which became popular because of their current affairs and news programmers have been specific target. In early April 2005, the state-run Radio Nepal blocked news transmissions of BBC World Service over 103 FM in Kathmandu without giving any reason. It was only in November 2004, Radio Nepal had started relaying the BBC World Service programmes following a contract with the latter.⁴³⁵

On 27 May 2005, the Ministry of Information and Communication, in a one-sentence letter, ordered the Communication Corner, a radio program production center for FM and community radios, to close down accusing it of “illegal operations”. The ministry however failed to mention as to what constituted those “illegal operations”.⁴³⁶ On 7 June 2005, the Supreme Court stayed the government order.⁴³⁷ But in early August 2005, the Ministry of Information and Communications threatened Nepal FM 91.8 with closure for airing news.⁴³⁸ On 10 August 2005, the SC stayed the government order to close down the Nepal FM 91.8⁴³⁹ and further extended the stay order on 7 September 2005.⁴⁴⁰

Over 2,000 radio journalists were rendered jobless due to the ban.

At the midnight of 21 October 2005, armed policemen raided the office of Kantipur FM radio station in Lalitpur and forcibly seized its transmission equipment resulting in the disruption of services.⁴⁴¹ The government returned its transmission equipment only on 20 December 2005.⁴⁴²

On 23 October 2005, the Ministry of Information and Communications summoned more than a dozen representatives of FM stations and reportedly issued directions to stop broadcasting news oriented programs with immediate effect from 23 October 2005, and warned that strong action would be taken if any one failed to comply with the government directives.⁴⁴³

On 26 October 2005, in a “confidential” and “urgent” letter, the Ministry of Information and Communications issued a 24-hour ultimatum to the Kantipur F. M. to explain as to why its operating license should not be cancelled. The Ministry of Information and Communications accused Kantipur FM of airing news despite government’s prohibitory orders.⁴⁴⁴

Following the refusal by the Supreme Court on 11 November 2005 to defer the “Ordinance Amending Some Nepal Acts related to Media-2062”, the Kantipur FM 96.1 had to suspend broadcasting Kantipur Diary- its news based programme with immediate effect.⁴⁴⁵

On 27 November 2005, the police raided the Radio Sagarmatha, the first community radio in South Asia, and closed down the radio station for “attempting to carry a BBC Nepali service relay broadcast that included the interview of Maoist leader Pushpa Kamal Dahal alias Prachanda.” The police seized transmission equipment, and detained five staff.⁴⁴⁶ In its interim

orders on 29 November 2005⁴⁴⁷ and 30 November 2005,⁴⁴⁸ the Supreme Court allowed the Radio Sagarmatha to resume its operations, but the Ministry of Information and Communications continued to harass the radio station.⁴⁴⁹ On 7 December 2005, the Supreme Court again ordered the government to allow Radio Sagarmatha to air the BBC Nepali service broadcast.⁴⁵⁰ But the government returned all equipments of the radio station only on 14 December 2005.⁴⁵¹

b. Summon, arrest and torture of journalists

Several journalists were beaten up and detained, and editors of several newspapers including The Kathmandu Post and The Kantipur were summoned by the authorities and warned of “military consequences”. Many journalists indeed faced “military consequences” with arrest and detention.

On 6 February 2005, BBC correspondent in Nepal, Netra KC was taken into custody by the Army personnel at Nepalgunj.⁴⁵² Earlier, the BBC Radio’s World Service broadcasted an interview of Netra KC with Maoist leader Krishna Bahadur Mahara.⁴⁵³

On 14 March 2005, Indian journalists covering the protests that followed the visit by Nepal’s crown prince Paras to a sports stadium in Mechi were detained and beaten up by the Royal Nepal Army in Kakarbhita district.⁴⁵⁴

On 14 March 2005, security personnel manhandled Reuters photojournalist Rupak De Chaudhary despite showing his identity card at Damak in Kakarbhitta district. He suffered bruises in the head after security personnel beat him as he was taking photographs of a demonstration by political parties. He was detained at area police office at Kakarbhitta and released three hours later.⁴⁵⁵

On 17 March 2005, the Home Ministry re-issued a public notice that action would be taken as per the Press and Publication Act, 2048 BS if anyone published prohibited interviews, articles, news, information, reading materials, opinions or personal views that directly or indirectly abet terrorism against the intent and the spirit of the Royal proclamation on February 1.⁴⁵⁶ Following the directions of the Home Ministry, on 22 March 2005, the District Administration Offices (DAO) of Parsa⁴⁵⁷ and Birgunj⁴⁵⁸ issued a fresh 21-point directive for local newspapers. The DAO said reports or write-ups critical of Rastrasewaks (civil servants) or affecting their morale is banned throughout the district from March 22. It said any reports that provoke or affect public morale, directly or indirectly shall also be illegal and punishable. On 28 March 2005, the Local Administration of Narayangadh (Chitwan district) again issued the same 21-point directives to the local media with instructions not to publish any news that discourages civil servants.⁴⁵⁹

On 17 March 2005, Kathmandu District Police Office summoned and interrogated Narayan Wagle, editor of the Kantipur daily, for about 45 minutes about the news that reported arrest of 750 political leaders and activists in the March 15 issue of Kantipur.⁴⁶⁰

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On 21 March 2005, the police reportedly detained journalist of Nepal Samacharpatra daily, Kushal Babu Basnet, who was covering the protest rally in Gaighat of Udaypur district.⁴⁶¹

On 22 March 2005, Police seized photographs of protest rallies from Krishna KC, president of Federation of Nepalese Journalists (FNJ) Lamjung branch, when he was covering the protest rally of Nepali Congress in Lamjung. Police also allegedly warned KC against taking photographs of rallies in future.⁴⁶²

On 29 March 2005, police intervened into a peaceful rally organized in Nuwakot by the Nuwakot district branch of the FNJ. They confiscated their banner and briefly detained FNJ Nuwakot president, Biswamitra Khanal, and other journalists.⁴⁶³

On 4 April 2005, security personnel guarding the residence of the UML general secretary Madhav Kumar Nepal under house arrest reportedly manhandled journalists who were covering Sher Bahadur Deuba's visit. The security forces reportedly snatched away note pads, camera and cassettes and forced the photojournalists to delete the snaps they had taken. They even forced TV cameras to delete their footage.⁴⁶⁴

On 4 April 2005, Chitwan District Administration Office (DAO) and the police grilled three district reporters of Kantipur Publications - Prabhakar Ghimire, Narayan Sharma and Khuman Singh Tamang separately for about two hours for not mentioning the source of the news of torching of seven trucks by the Maoists published in the Kantipur daily.⁴⁶⁵

On 7 April 2005, Krishna Prajapati, a correspondent of Sandhya Times daily published from Kathmandu, was reportedly detained at Banepa.

On 8 April 2005, police detained Kashinath Yadav, the editor of Brahmastra daily, and Rabindra Singh, a correspondent of Kalaiya weekly. They were on the way to cover reports on protest by the political parties in Birgunj. Kamal Raj Regmi, who was taken into security custody some days before was sent to jail on 8 April 2005 citing security reasons.⁴⁶⁶

On 8 April 2005, the Area Police Office in Dharan summoned Kishor Kumar Karki and Keshav Ghimire, editor and news coordinator of the Blast Times daily respectively; Bimal Shakya and Rajesh Bidrohi of Morning Post daily; Pradeep Meyangbo, local reporter of the Morning Post and Robin Giri of Annapurna Post and warned them against publishing any news or photographs related to protests against the February 1 royal proclamation.⁴⁶⁷

On 8 April 2005, sub-editor Robin Poudel of Tanahun Aawaj weekly was arrested from Damauli while collecting news of pro-democracy protests. On 10 April 2005, he was handed a warrant for 3-month detention under the Public Security Act.⁴⁶⁸

On 9 April 2005, police picked up Kathmandu Post reporter Ghanashyam Khadka from his residence in Tanahun and grilled him regarding the news on political parties' demonstration and police intervention published on that day's edition.⁴⁶⁹

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On 18 May 2005, the District Administration Office of Lalitpur issued a letter to Kanak Mani Dixit, publisher of Himal Khabar Patrika, asking him to furnish a written clarification on his article titled “National Crisis: Situation and Opportunity,” published on the 29 March 2005 issue of the magazine.⁴⁷⁰

On 23 May 2005, the Code of Conduct Monitoring Unit of Press Council Nepal sought a written clarification from the editors of The Kathmandu Post and its sister publication, Kantipur daily on a news item, “Draconian laws to curb media” published on 21 May 2005, alleging that the news was published on the basis of “imagination” and “speculation”.⁴⁷¹

On 24 May 2005, Press Council, Nepal issued a letter to the editor of the Annapurna Post seeking clarification within seven days regarding a news item that had appeared in the paper’s 21 May 2005 edition. The news item had referred to the government’s ‘bid’ to pass an amendment to media laws barring one media house from running newspapers, TV and radio channels.⁴⁷²

On 27 May 2005, the Royal Nepalese Army (RNA) reportedly arrested two journalists - Himal Dhungel, president of FNJ Ramechhap district branch, and Nawaraj Pathik, local correspondent of Nepal Samacharpatra, and interrogated another local journalist Sarita Aryal, reporter of Sukhi Sansar, in Manthali in Ramechhap district over their recent visits to different villages.⁴⁷³

On 8 June 2005, riot police detained 58 journalists, including FNJ president Bishnu Nisthuri, from Bhrikuti Mandap in Kathmandu. The journalists were protesting against the government’s plan to introduce a new press law aimed at stifling the independent press.⁴⁷⁴ The arrested journalists were released on 9 June 2005.⁴⁷⁵

On 9 June 2005, the police beat up journalists during a peaceful demonstration at Kalaiya, district headquarters of southern district of Bara. At least ten journalists were injured, one of them seriously. Secretary of the Federation of Nepalese Journalists (FNJ) Bara district chapter Guru Prasad Gautam was injured seriously when police beat him up with the butt of a gun on his stomach. He has been admitted at a local hospital.⁴⁷⁶

On 13 June 2005, at least 48 journalists, including FNJ president, Bishnu Nisthuri and general secretary Mahendra Bista, were arrested during a peaceful demonstration at Ratna Park in Kathmandu. Plainclothes policemen also manhandled a number of journalists while trying to arrest them.⁴⁷⁷ All were released on the next day.⁴⁷⁸

On 21 June 2005, Chandra Lal Giri, a reporter with “Shram” weekly newspaper, was released from Central Jail at Tripureswore, Kathmandu at the orders of the Supreme Court in response to a habeas corpus petition. The SC held his detention “illegal” and ordered his release.⁴⁷⁹ He was allegedly severely tortured during his six-month detention⁴⁸⁰ and demanded compensation for torture.⁴⁸¹

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On 22 June 2005, 10 journalists were arrested in Kavre for demanding restoration of full press freedom and democracy. Those arrested included Kavre district president of the Federation of Nepalese Journalists (FNJ), Ishwori Ojha, R L Shramjibi, Kanchan Adhikari, Prakash Sapkota, Mahesh Poudel, Biswa Mani Dhital, Dipak Adhikari, Moti Ram Timilsina, Nawaraj Bajgain and Upendra Sapkota.⁴⁸² They were freed later on the same day.⁴⁸³

On 22 June 2005, two plainclothes military officers entered the office of the Kathmandu-based weekly *Jana Aastha* three times to question staff members about a June 22 article on the activities of a general in the Nepalese army. Editor Kishor Shrestha said the military officers demanded that he and other journalists at the newspaper reveal the source of the June 22 article. Failed, the military officers left the office after threatening to return again on 27 June 2005.⁴⁸⁴

On 23 June 2005, police detained and questioned Kishor Karki, editor of *Blast Time*, a daily newspaper based in the town of Dharan, about his reporting on a clash between the security forces and Maoist cadres in Bhojpur district on June 22. Citing orders from the Chief District Officer, a police inspector reportedly questioned Karki for two hours and coerced him to reveal the source of his reporting on the clash. But the editor reportedly did not disclose his source.⁴⁸⁵

On 23 June 2005, the government stopped the broadcasting of *Bahas*, a popular talk program on current political affairs on the state-owned Nepal Television (NTV), and the management of the NTV even removed producer of the program, Indra Lohani. Lohani, who was also the secretary at the Supreme Court Bar Association, had been a vocal critic of the post Feb.1 government. In an interview with the *Kantipur* daily on 24 June 2005, Lohani said, "They [the government] might have removed me, as I refused to act in accordance with their demand."⁴⁸⁶

On 29 June 2005, police arrested five journalists including Nepal Press Union (NPU) president Murari Kumar Sharma, vice president Bindu Kanta Ghimire, central committee members Kiran Pokhrel and Shital Koirala and Nuwakot district unit president of the NPU, Shiva Devkota, while they were trying to enter Singha Durbar, Kathmandu demanding total press freedom.⁴⁸⁷

In June 2005, the district administration of Bajhang and the security forces reportedly imposed restriction on the reporters on the use of telephones and fax to disseminate news.⁴⁸⁸ In Arghakhanchi district, the district authorities reportedly prohibited installation of fax in their desperate bid to stop journalists from dispatching news to their respective media in the capital. Journalists have to dispatch their news via bus conductors, and the post office.⁴⁸⁹

On 30 June 2005, the government blocked two websites www.insn.org and www.samudaya.org, hosted from India and the United States respectively, for their alleged "offensive" content.⁴⁹⁰ In September 2005, the government also banned Britain-based Everest World Limited's online news service www.gorkhanews.com in Nepal.⁴⁹¹

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On 8 July 2005, central regional administrator, Rabindra Chakrabarty summoned and illegally detained Bhadrnath Adhikary, editor and publisher of 'Grameen Samachar', a fortnightly newspaper published from major industrial city of Birgunj in central region, for over 24 hours for exposing his alleged involvement in corruption. In its June 29 issue, 'Grameen Samachar' newspaper reported that Chakrabarty had used his influence to stop probe in 'suspicious death' of three Indian workers at the local Star Cement Industry after allegedly taking a bribe of Rs 200,000 (approx. US\$ 3,000). Adhikary was released after he was made to sign on an 'affidavit' saying that he would make his newspaper's executive editor, Raghav Shah, report to the regional administration office.⁴⁹²

On 30 July 2005, Kantipur distributor Ramakant Gautam was detained from Mahendrapool in Pokhara by the security forces. Gautam said the security forces severely beat him after he was taken to army barrack based at Fulbari, despite identifying himself as a newspaper distributor, not a Maoist. They even threatened to bury him in a ditch. He was however released on 31 July 2005.⁴⁹³

On the morning of 1 August 2005, Harihar Singh Rathour, a reporter for Kantipur daily and Kathmandu Post; Pushkar Thapa, a reporter for the daily Annapurna Post; Kamal Neupane, a reporter for Nepal Samacharpatra and INSEC representative Naman Kumar Shahi were summoned by Major Hikmat Bista at the army barracks of the Bhawani Baks battalion in Dailekh district in connection with their reports alleging that the Royal Nepalese Army was recruiting children to work as informants.⁴⁹⁴ Harihar Singh Rathour had also been summoned on 27 July 2005 for the same news report.⁴⁹⁵

On 2 August 2005, Dhanusha-based journalist Manoj Kumar Sha was assaulted by some unidentified persons.⁴⁹⁶

On 7 August 2005, Kantipur carried an opinion piece by columnist Krishna Jwala Devkota titled 'Why doesn't the army speak?' Since then he had been receiving threatening calls and e-mails from persons who claimed to be "government security forces".⁴⁹⁷

On 8 August 2005, the Parsa Chief District Officer reportedly summoned editor and publisher Krishna Kumar Khanal and managing director Bijay Kuswah to the DAO office in relation to a story they ran in the Birgunj Report Daily on 5 August 2005.⁴⁹⁸

On 22 August 2005, police indiscriminately thrashed journalists Ajaya Babu Siwakoti of Image Channel and Narendra Shrestha of The Kathmandu Post with batons while they were covering a demonstration at Baneshwor. Both were injured in the baton charge.⁴⁹⁹

On 25 August 2005, Government Spokesperson and Minister for Information and Communications, Tanka Dhakal, said action has been initiated against The Kathmandu Post and its sister publication, Kantipur Daily for publishing an "objectionable" cartoon in their 21 August 2005 editions. The chief district officer of Kathmandu has already summoned Director of the publications Binod Raj Gyawali and editors of Kantipur, Narayan Wagle, and the Post,

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Prateek Pradhan, in this connection. Similarly, Press Council has sought a written reply from the editor duo as to why action should not be taken against them for publishing the cartoon that violates the code of conduct of journalism.⁵⁰⁰

On the night of 26 August 2005, some armed persons, claiming themselves as security personnel, raided the home of a reporter of Channel Nepal TV, Ram Raj Pokhrel, and interrogated him “in a very offensive manner”. They searched his rented room at Butwal-10 in Rupandehi for about 25 minutes.⁵⁰¹

On 6 September 2005, at least a dozen journalists including photographer Rosan Rai of The Himalayan Times, Bhimsen Rajbahak of Communication Corner, Kiran Nepal of Himal Media, Bimal Gautam of World News Online, J P Gupta of Disha Nirdesh and Bharat Sahi of Chuli Weekly, were injured in brutal police assault when they were covering the ongoing street protests in New Road area, Kathmandu. It was alleged that plainclothes security personnel disguising themselves as journalists pelted stones at uniformed security personnel thereby inciting the action against the journalists. The journalists reportedly caught one such plainclothes policeman but he managed to escape in a security vehicle.⁵⁰² Bharat Shahi had to be admitted to Bir Hospital by the police in a serious condition.⁵⁰³

On 19 September 2005, The Kathmandu Post’s Dailekh correspondent, Harihar Singh Rathour, was arrested from his residence in Dailekh.⁵⁰⁴

On 4 December 2005, the central regional administrator in Hetauda, Rabindra Chakrawarti, summoned Santosh Neupane, editor of Hetauda Sandesh, a local daily, and warned him not to publish anything critical about the government. Neupane reportedly gave verbal explanation for five news reports that had been published on various dates in his daily.⁵⁰⁵ Chakrabarti and the police questioned the editor for more than eight hours and freed him on condition that he would be available as and when summoned by the administration. In response to a complaint filed by Neupane⁵⁰⁶, on 12 December 2005, the Appellate Court of Hetauda issued a show cause notice to the regional administrator Rabindra Chakrabarti and District Police Office of Hetauda to furnish in writing why they threatened and interrogated journalist Santosh Neupane and asked not to threaten, interrogate and torture the journalist on charges of writing any news.⁵⁰⁷

On 9 December 2005, the local administration of Myagdhi, Baglung and Parbat districts under Dhaulagiri zone in western region ordered the journalists of the three districts to be present before the Zonal Administration Office (ZAO) along with their license. The summon was reportedly issued as per direction of Dhaulagiri Zonal Administrator Ramji Bista.⁵⁰⁸ While the journalists of Baglung and Myagdi were summoned at the office on 15 December 2005, those from Parbat were asked to present themselves there on 18 December 2005. The journalists reportedly defied the order.⁵⁰⁹

On 19 December 2005, the police arrested Rajdhani daily reporter Yam Birahi and manhandled Prakash Acharya, Gorkhapatra daily reporter in separate incidents. According to

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a statement issued by Federation of Nepalese Journalists (FNJ) on 20 December 2005, Birahi was arrested by the police while he was walking home and detained for hours, whereas Acharya was seriously injured by the riot police on the morning of 19 December 2005 in front of Ratna Rajya Campus while he was returning after taking classes.⁵¹⁰

On 21 December 2005, a policeman reportedly tried to arrest Ram Bharat Saha, local correspondent of Tarun weekly, accusing him of publishing news items about Zonal Administrator Janak Jangali in the weekly. According to Saha, the policeman had come to his home in Janakpur and asked him to present himself before the 'SP sahib' at the district police office. But he declined to follow him without an arrest warrant.⁵¹¹

On 30 December 2005, the RNA in Dailekh reportedly ordered the District Police Office to immediately arrest Bindu Shahi, a member of Federation of Nepalese Journalists (FNJ) and correspondent of Kankrebihar, a vernacular daily.⁵¹²

On 2 January 2005, police beat up and detained journalist Moti Poudel of Kantipur daily and cameraman Kamal Panta of Kantipur Television Network from the premises of Surkhet Appellate Court while they were covering the news of re-arrest of four persons by the plainclothes policemen immediately after their release by the court. Police Inspector Gobindha Pathak of the Regional Police Office allegedly threatened the journalists to put them behind the bars accusing them of helping the Maoists. Police inspector Rajkumar Silwal of District Police Office also snatched Panta's camera and deleted the pictures, stating that he was ordered to do so by 'higher-ups'.⁵¹³

On 7 January 2006, nine army personnel arrested journalist Hari Narayan Gautam from a peaceful CPN-UML gathering at Kalimati in Baglung. During arrest, the security personnel identified themselves as Maoists. The security men took him to 23-brigade of the Royal Nepalese Army and released him after three hours.⁵¹⁴ The NHRC is reportedly investigating into the Baglung incident.⁵¹⁵

On 8 January 2006, Kathmandu Post reporter of Ilam, Benupraj Bhattarai, was summoned at the District Police Office and grilled by two inspectors and DSP Shishir Karmacharya for 45 minutes and pressurized him to reveal the source of his news report of January 6 that a group of students had waved black flags to the king during his visit to the district. Bhattarai was freed on condition that he would submit evidence of the alleged protest when asked for.⁵¹⁶

On 11 January 2006, Zonal Administrator of Gandaki zone, Ramji Bista, warned that action would be taken against those journalists "who are defaming the administration and security forces". Ramji Bista was reacting to the report that nine army personnel arrested journalist Hari Narayan Gautam from a peaceful CPN-UML gathering posing as Maoists.⁵¹⁷

On 15 January 2006, two local youths threatened to kill Birendra Rawal, the editor of a local vernacular weekly Hamro Seti Samachar for publishing news of alleged irregularity committed by the vice-president of the Kailali District Development Committee, Madan

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Kunwar during a tender process. They also threatened journalists, who dared to publish anything against government-nominated members and the state. The Kailali chapter of the Federation of Nepalese Journalists (FNJ) alleged that the youths sent by Madan Kunwar.⁵¹⁸

On 16 January 2006, Chief District Officer (CDO) Keshar Bahadur KC and DSP Pradeep Kumar Shrestha of Khotang grilled Post correspondent Dambar Singh Rai about a news story published in the Kantipur daily, sister publication of the Post on January 13 titled “Your Majesty Corruption soared after Feb 1”, and warned him not to write such news again.⁵¹⁹

On 19 January 2006, some men led by chairman of Nepal Telefilm Association, Ashok Shrestha, forcefully entered the office of Sanghu vernacular weekly and threatened the journalists and the editor.⁵²⁰

Nepal FM 91.8, run by Rainbow FM Pvt Ltd had to close down its operation since 18 January 2006 following government refusal to let it buy an additional transmitter. According to director of the FM, Bishnuhari Dhakal, the FM was closed down after the existing transmitter went out of order and the government did not pay any heed to the request made by the independent radios to buy the additional transmitter.⁵²¹

The government of Nepal put an embargo on Indian News channels and newspapers. The Ministry of Information and Communication has banned news broadcast by Indian news channel such as Aaj Tak and Star news in Nepal since 20 January 2006. The local administration in Nepalgunj has also started to censure the Indian newspapers that carried columns in support of the protest demonstrations by major political parties in Nepal. On 20 January 2006, the local authorities reportedly cut off those pages of Hindustan and Lokjagaran dailies that carried news reports on Nepal before they were allowed to be read in Nepal on the Nepalgunj boarder.⁵²²

On 20 January 2006, a police constable threatened to shoot Kavre-based correspondent of The Kathmandu Post, Khuman Singh Tamang when he was taking pictures of detained student leaders at Banepa Police office. The police constable reportedly placed his fingers on the trigger of his loaded SMG while an assistant Sub-inspector of Police who was standing next to the constable ordered him to shoot the reporter. The constable also tried to seize the camera of Raj Kumar Parajuli of Annapurna Post. Following strong protest by the reporters, Chief of Banepa Police Ram Prasad Gharti Magar pledged to transfer the policemen involved as punishment.⁵²³

On 20 January 2006, RNA personnel reportedly seized and returned after erasing the video footages of soldiers inside the Koteshwor residence of CPN-UML general secretary Madhav Kumar Nepal, who was placed under house-arrest, shot by the reporters from CNN-IBN and Star News TV channels.⁵²⁴ However, the RNA refuted the report saying no RNA soldier was posted at CPN-UML general secretary Madhav Kumar Nepal’s residence and as such no tapes of journalists were taken into control and erased.⁵²⁵

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On 21 January 2006 night, the security personnel manhandled and detained Khem Bhandari, editor of local daily 'Mahendranagar Post' and 'Abhiyan tabloid' from the Campus road in Mahendranagar when he was returning home from office before 9 p m, when the curfew was to begin in the area.⁵²⁶ Bhandari was released on 25 January 2005.⁵²⁷

On 23 January 2006, the Rupandehi-based reporter of The Himalayan Times, Mahendra Thapa, was beaten up by the police while covering a protest rally of the Joint Agitation Students' Committee in Butwal. Thapa sustained injuries in the head, knee and his left hand and was admitted at the Lumbini zonal hospital.⁵²⁸

On 24 January 2006, police reportedly manhandled Chudamani Wagle, editor of a local Nawaparicharcha weekly published from Sarlahi district, when he had gone to the District Police Office (DPO) to meet the arrested political party activists. Inspector Raj Kumar Silwal verbally abused Wagle and told him not to enter the DPO again.⁵²⁹

On 25 January 2005, security personnel arrested publisher and editor of local Madhesh Darpan weekly, Shiva Patel and two political leaders from their homes in Birgunj. All the three were handed three-month detention warrants.⁵³⁰

On 25 January 2006, journalist Dil Bahadur Air of Dadeldhura was arrested. Police also allegedly attacked Madhav Aryal and Tulsi Ram Pande in Palpa and Ghanashyam Khadka, Pradip Kafle, Rhishiram Pokhrel and Narayan Khadka in Tanahu.⁵³¹

c. Attacks by the Maoists

The media has also been target of the Maoists.

On the night of 24 February 2005, Maoists looted and set ablaze the state run Nepal Television's regional programme production and broadcasting centre in Kohalpur in Banke district, inflicting damage to the tune of crores of rupees.⁵³²

On 11 March 2005, JB Pun Magar, the Himal Khabarpatrika investigative journalist, who was abducted by suspected Maoists on 8 March 2005 while on assignment to cover the anti-rebel uprising in the district of Kapilbastu, was released unharmed at 9:00 a.m. in Kapilbastu. The released journalist said he was kept blindfolded, mentally tortured and threatened "to be careful" while filing stories.⁵³³

On 15 March 2005, suspected Maoists shot at editor and publisher of 'Dharan Today' newspaper, Khagendra Shrestha while he was working at his office in Dharan. He succumbed to gunshot injuries on 1 April 2005.⁵³⁴

On 17 May 2005, Maoists bombed a transmission station of Nepal Television (NTV) in Palpa, damaging equipment worth Rs 3.5 million.⁵³⁵

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On 19 May 2005, armed Maoists looted transmission equipment from Ghodaghodi FM station at Attariya in Kailali.⁵³⁶

In mid-May 2005, Maoists abducted Som Sharma, an Ilam-based journalist associated with Ankha, a weekly newspaper, from his rented residence at Mangalbare' bazaar in Ilam.⁵³⁷ In a letter to his family from captivity, Sharma said he was in poor health and was receiving nothing more than potatoes to eat.⁵³⁸ He was released on 9 July 2005 following several rounds of negotiations with a delegation of the Federation of Nepalese Journalists.⁵³⁹

On 31 May 2005, the Maoist cadres reportedly blasted a powerful bomb at Radio Nepal journalist and singer Komal Oli and journalist Narendra Oli's house in Tikari of Dang.⁵⁴⁰

On 3 June 2005, Bikram Giri, Darchula-based reporter of The Kathmandu Post, was abducted by the Maoists from Chhangru in Byas VDC Darchula district. Giri was heading for Kalapani to cover a news report on the Nepal-India border dispute on Kalapani when the Maoist cadres seized him⁵⁴¹ on charge of entering into their strongholds "without permission".⁵⁴² He was freed on 10 June 2005.⁵⁴³

In June 2005, Maoist insurgents warned Ilam-based reporter of Radio Nepal Umesh Gurung to quit his job and join the Maoist war. Maoists also imposed restrictions on the movement of the reporter out of the district.⁵⁴⁴ However, the Maoists later admitted their mistake and released the journalist from house arrest.⁵⁴⁵

On 3 July 2005, the Maoists also allegedly threatened Kantipur daily's Humala district based correspondent Jay Bahadur Rokaya,⁵⁴⁶ and Hari Bahadur Khadka, correspondent of the state-owned Radio Nepal.⁵⁴⁷

On 18 October 2005, the Maoists allegedly threatened Kamal Neupane, Dailkeh based reporter of Nepal Samacharpatra daily to give up his profession within three weeks or face consequences. In a letter to Neupane, a Maoist leader reportedly accused him of writing news against the Maoists.⁵⁴⁸ However, the regional Maoist leadership has pledged a probe into the alleged threat to the journalist, and asked Neupane to "continue his job without any fear".⁵⁴⁹

On 22 November 2005, Maoists abducted journalist Chandra Mani Kattel, a Biratnagar-based reporter of the 'Blast Times' daily, from Durgapuri in Morang district. The cadres accused Kattel of entering into their 'base area' without their permission and locked him up in an empty house. He was released at around 9 p.m after brief detention of nearly three hours and warned him "not to do so in future." Kattel said the cadres manhandled him at the time of abduction and forcibly took away his mobile telephone, which was later returned.⁵⁵⁰

XI. Attacks on Human Rights Defenders

Human rights defenders have been under attacks from the government. They have been arrested, detained in valley and prevented from fulfilling their mandate.

The most serious harassment has come in the name of providing more responsible and transparent work culture among the NGO activists. On 10 November 2005, the Social Welfare Council (SWC) introduced a 15-point Code of Conduct for Social Organisations-2005⁵⁵¹ to regulate the National and International Non-Governmental Organizations (NGOs). The Code of Conduct has imposed several restrictions on the NGOs. It stipulated that the office bearers of NGOs should not be involved in political activities, and nobody can head any social organization for more than two terms. It makes mandatory for the NGOs to publicize their audited financial and yearly progress reports and submit them to the respective District Administration Office and District Development Committee. The Code of Conduct also stipulated that no member of a social organization should receive a monthly salary from the organization except reimbursement of the expenditure incurred while executing the activities of the organization and those getting a monthly salary from an NGO should not be on its executive committee. Besides, NGOs should not carry out any activities that could be the subject of defamation, disrespect and contempt of court. Social organizations should not use resources received as foreign aid in the government's name and they should receive permission from the SWC before receiving any foreign assistance. The local bodies have to be informed before any programme is launched with foreign assistance.⁵⁵²

On 23 November 2005, the Supreme Court stayed the implementation of the NGO Code of Conduct until further order.⁵⁵³

However, the government continued to impose the Code of Conduct. In December 2005, the Food Management Committee (FMC), Jumla, had threatened the NGO workers in Jumla district to deny their basic right to food if they failed to fall in line with the NGO code of conduct. According to NGO Federation of Nepal, the FMC, Jumla had on 28 September 2005 decided to stop providing food to NGO workers. But following strong protests from human rights activists, journalists and NGO workers, it reviewed its decision and in a letter dated 27 November 2005, it informed the NGO workers that they would be provided their share of food quota only if they showed commitment to abide by the Code of Conduct.⁵⁵⁴

On 26 December 2005, the Supreme Court gave continuity to its stay order asking the government not to implement the controversial Code of Conduct for the NGOs until it

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receives written response from the concerned authorities.⁵⁵⁵ However, on 3 January 2006, member secretary at the SWC, Sharad Sharma, said the interim order of the Supreme Court was automatically stood lifted as the Ministry for Women, Children and Social Welfare and the SWC submitted written reply to the SC.⁵⁵⁶

The Social Welfare Council (SWC) also questioned the representatives and staffers of four International Non-Government Organisations (INGO) on “irregularities” in the financial sector and for “flouting” their agreement with SWC. According to Sharad Sharma, member secretary at SWC, four INGOs - Netherlands Leprosy Relief, I to I- UK, Rose Club-Korea and Stichting Veldwerk, Netherlands - have been warned to work as per the agreement they had made with the SWC.⁵⁵⁷

The Social Welfare Council (SWC) reportedly started posting supporters of the February 1 Royal move as “consultants” to Non-Governmental Organizations (NGOs).⁵⁵⁸

Arrests and intimidation

Following royal takeover and imposition of emergency, human rights defenders were arbitrarily arrested and threatened. A large number of human rights defenders have fled to India and many went into hiding fearing arrest and detention.

On 8 February 2005 at 10 pm, Sukharam Maharjan, Vice President of HURON Kirtipur Chapter and resident of Kirtipur municipality ward no 6, Kathmandu district was taken away by 5 security personnel in civil dress from his residence. Three persons, who identified themselves as security personnel, came inside the house, as other two stood outside. After asking his identity, they took him away without explaining the reasons for his arrest.⁵⁵⁹

On 9 February 2005, Krishna Pahadi of Society of Human Rights and Peace, Kathmandu was arrested by the security forces. On 10 May 2005, the government served an additional three-month detention order to Pahadi.⁵⁶⁰ He was later released on 4 July 2005.

On 10 February 2005, 11 human rights activists including Suresh Chandra Pokharel, vice president of Human Rights and Peace Society (HURPES), its treasurer Balaram Aryal, HURPES members Narayan Dutta Kandel, Laxmi Acharya, Suman Shrestha, Jayram Basnet, Jivlal Kharel, Laxman Acharya, Hiralal Acharya, Balram Neupane and representative of the Human Development and Peace Campaign, Basudev Devkota were arrested by the security forces from Kathmandu on the charge of protesting against the royal proclamation. They were released on 14 February 2005.⁵⁶¹

On 17 February 2005, Gauri Pradhan, a renowned human rights activist and founder president of Child Workers in Nepal Concerned Centre (CWIN), was arrested by the police without any reason upon his arrival at Tribhuvan International Airport, Kathmandu. Pradhan was reportedly returning home after taking part in meetings related to child rights held in the Netherlands and Geneva.⁵⁶² He was released on 28 February 2005 following a Supreme Court order.

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On 7 June 2005, Kathmandu District Administration ordered president of Nepal Bar Association, Shambu Thapa to clarify within three days as to why he had taken out a protest rally in the restricted areas of Putalisadak and Bagbazar on the morning of 4 June 2005.⁵⁶³

On 25 July 2005, 27 human rights activists, journalists and members of civil society groups, including Krishna Pahadi, Padma Ratna Tuladhar, Malla K Sundar and journalists - Kanak Mani Dixit, Shyam Shrestha, Sanjay Santoshi Rai and Purna Basnet were arrested from Bhotahity-Ratna Park intersection for demanding restoration of democracy.⁵⁶⁴ They were released later.

Denial of freedom of movement

The government has also been restricting the movement of human rights defenders.

On 24 February 2005, security officials at the immigration department in Kathmandu did not allow Dr. Om Gurung, general secretary of the Nepal Federation of Indigenous Nationalities to fly to Kolkata from Tribhuvan International Airport. Dr. Gurung was scheduled to participate in regional preparatory meetings of the 4th session of the United Nations Permanent Forum on Indigenous Issues being held in India. Gurung was leading a 25-member delegation representing about 25 organisations of indigenous communities in Nepal. All delegates had to cancel their flights due to the uncalled-for action of the security forces.⁵⁶⁵

On 26 February 2005, human rights defender Subodh Raj Pyakurel, Chairperson of Informal Sector Service Center (INSEC) was prevented from traveling to Nepalgunj, where he was supposed to conduct a training workshop on humanitarian laws for security persons located in the Mid-Western Development Region. This is despite the fact that it was the security forces who requested to hold the training workshop.

On 3 March 2005, former Speaker and member of the 1990 Constitution Drafting Committee, Daman Nath Dhungana moved the Supreme Court questioning the legality of travel restriction imposed on him by the authorities. The Supreme Court administration, however, rejected the petition citing the suspension of Article 23 that guarantees right to constitutional remedy in the ongoing State of Emergency. Senior Advocate himself, Dhungana was scheduled to leave for the United States on March 8 to deliver a guest lecture at a university based in California.⁵⁶⁶

On 10 March 2005, security personnel at the Tribhuvan International Airport once again barred former Speaker and prominent human rights activist Daman Nath Dhungana from boarding a flight for USA. Dhungana had been invited by the University of California-Berkeley to speak on 'Democracy, Maoist insurgency and Constitutional Solution' pertaining to the present political crisis in Nepal on 12 March 2005.⁵⁶⁷

On 7 May 2005, security personnel barred Srijana Pokhrel affiliated to Population Watch along with Deputy Speaker, Chitra Lekha Yadav and former lawmaker Urmila Aryal from flying to Delhi. They were on their way to take part in a regional workshop in Delhi.⁵⁶⁸

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In August 2005, the security forces barred human rights activists and journalists from visiting Pili, Kalikot district, where at least 43 army men and more than two dozen Maoists were killed in a clash. This is despite the fact that the army headquarters in Kathmandu had written to the human right groups requesting them to visit the clash site and also help release the army personnel captured by the Maoist cadres.⁵⁶⁹

On 11 November 2005, police arrested five people in Rajbiraj of Saptari district for trying to burn the copies of NGOs and INGOs Code of Conduct. The arrested persons were central members of Non-Governmental Organization (NGO) Federation Nepal, Durga Kumar Thapa and Bhagwati Chaudhary, NGO activists Sameer Jha and Jangali Singh and journalist Prakash Khatiwada.⁵⁷⁰

On 10 December 2005, police arrested over 100 people including rights activists, political supporters and students for protesting in a restricted area at Bhotahity demanding restoration of fundamental rights and democracy. Among the arrested included prominent human rights activists Krishna Pahadi, Subodh Pyakurel and Gauri Pradhan, former president of Federation of Nepalese Journalists (FNJ) Taranath Dahal, coordinator of CMDP Devendra Raj Pandey, student leaders Khimlal Bhattarai and Thakur Gaire. All the detained protestors were later released.⁵⁷¹

XII. Condition of prisoners/ detainees

The prison conditions in Nepal have further deteriorated as the International Committee of the Red Cross (ICRC) was forced to suspend its visits to the detention centres since May 2005 after the RNA failed to abide by the terms of an agreement with ICRC with regard to its working modalities practiced all over the world.⁵⁷² Only the National Human Rights Commission is being allowed to visit the prisons. The question arises as to why NHRC and not the ICRC, is allowed to visit the places of detention centre. This is despite the fact that International Committee of the Red Cross as a matter of principle does not make its findings public. Obviously, NHRC had no moral qualms or standards on prison visits and accepted the conditions of the RNA including the condition not to make cases of illegal detention public.⁵⁷³ Until January 2006, ICRC's has not resumed its visit to the prisons and detention centres as the RNA refuses to comply with ICRC's international standards on its working modalities.

The prison cells and detention centers in Nepal are devoid of basic sanitation and healthcare such as proper ventilations, adequate food, safe drinking water, toilet etc, and the prisoners are denied access to medical treatment, radio, newspapers,⁵⁷⁴ family members and lawyers. The prisons and detention centers were so overcrowded that there was no space to sleep. On 17 June 2005, NHRC accused the government of not implementing its recommendations, including reforms in the detention centres, although there is a legal provision to execute its recommendations within the given time frame.⁵⁷⁵

Following the arrest of pro-democracy activists after the royal coup, in Morang jail, there were reportedly as many as 611 prisoners against its total capacity of 200 inmates. At least 80 prisoners were made to sleep in one room, which lacked proper ventilation. According to former parliamentarian Lal Babu Pandit, who was detained in Morang jail for sixteen days following the royal takeover, his cell in Morang jail was so overcrowded that one had to wait for a turn to stand up. The inmates had to wait for at least two hours in queue to get their turn to take bath or to go to the toilet! In Prasi jail, the inmates had to sleep by turn due to lack of space.⁵⁷⁶ In Kharipati Electricity Training Center in Bhaktapur, there was reportedly no sufficient space for the inmates to sleep, and there was only one toilet to be used by 60 detainees including females!⁵⁷⁷

In a detention center at Kakani, nine people had to share a single toilet and they are forced to drink water, directly extracted from underground sources. Many detainees fell sick due to congestion and unhygienic conditions.⁵⁷⁸ Political detainees were denied good quality food. Dozens of political activists detained at the Mahendra Police Club went on hunger strike in March 2005 demanding hygienic food.⁵⁷⁹

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On the night of 5 May 2005, Nepali Congress Rajbiraj district president Ram Kumar Chaudhary, and party workers - Brij Kirshore, Umesh Mishara, Bikeshwar Yadav and Shusil Seva were allegedly beaten up by the security personnel in the Rajbiraj jail for demanding facilities, including proper medical treatment.⁵⁸⁰

No proper medical treatment was provided to the ailing inmates. Despite suffering from kidney problems, severe back pain and losing sensation in some parts of his body, Vice Chairman of the People's Front Nepal (PFN) Lila Mani Pokharel was denied treatment, even on the family's own expenses. Instead, the police allegedly threatened to lock up Mr Pokhrel in the prison toilet.⁵⁸¹

Nepali Congress central committee leader Ram Chandra Poudel was shifted to the Western Regional Hospital in Pokhara only when his condition had seriously deteriorated. But on 12 May 2005, he was brought back to Damauli prior to his complete treatment and was kept in Agriculture Apparatus Company's godown, instead of shifting him to a better hospital. At the Agriculture Apparatus Company's godown he was denied radio and bed facilities.⁵⁸² Ram Chandra Poudel was released on 28 June 2005 on the orders of the Supreme Court after 147 days under preventive detention.⁵⁸³ Another prisoner Bimalendra Nidhi also alleged denial of medical treatment at No 1 battalion of the Armed Police Force.⁵⁸⁴

Journalist Mahesh Pahari, 32 years, died on the night of 4 October 2005 allegedly due to lack of treatment while being detained in Pokhara jail. He had been suffering from tuberculosis since the last one-and-a-half month but the authorities refused to allow him to be taken to Kathmandu for treatment despite of a recommendation by the regional hospital in Pokhara.⁵⁸⁵

XIII. Internally displaced persons

Around 100,000 to 200,000 people have reportedly been internally displaced due to conflict with the Maoists since 1996. In addition, over two million people have reportedly fled to India and elsewhere.⁵⁸⁶ There was only one small camp for the entire IDP population, known as Regina camp located near the town of Nepalganj in western Nepal⁵⁸⁷ with around 200 families.⁵⁸⁸

The IDPs are both Maoist-induced and State-induced. But the little assistance provided by the government has been restricted to the Maoist-induced IDPs. The government does not recognize IDPs displaced by the security forces.

The IDPs have fled their villages for a variety of reasons. A majority among the IDPs are cadres of mainstream political parties such as United Marxist-Leninists (UML), Nepali Congress (NC) and Rastriya Prajatantra Party (RPP) whose political ideology and opinion are different from that of the Maoists. A large number of civilians have been displaced due to fear of being forcibly recruited into the CPN-Maoists under their 'one person from each household' policy, torture, abduction, killings, destruction of homes and properties, threats, confiscation of land, extortion and looting by the Maoists, and torture, arbitrary arrests and killing by the security forces.⁵⁸⁹ Thousands have also been displaced due to economic hardships, including food scarcity and unemployment.

In Nepal, only those persons who have been internally displaced as a result of developmental projects, economic opportunities and natural or man-made calamities are recognized as IDPs under the 1990 Constitution of Nepal and the 1995 Civil Acts Law. There is no legal rights of conflict induced IDPs. The government practices a flawed mechanism for classification and registration of IDPs. To be classified as an IDP, one has to return to the place of origin to be registered as an IDP at the office of the Chief District Officer. This process makes the IDPs vulnerable from the Maoists and even the security forces, and therefore, many refuse to identify themselves as IDPs.⁵⁹⁰

The government's assistance to IDPs has been very limited. The government set up compensation and resettlement funds for victims of the conflict, such as the Victims of Conflict Fund under which IDP families were entitled to an equivalent of US\$1.30 per day, but most of the money was spent by July 2002. All those displaced after July 2002 were therefore excluded from assistance and official recognition. Moreover, the government provided assistance to only the people displaced by the Maoists, and not to those displaced by the government security forces.⁵⁹¹

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Instead of proving humanitarian assistance, in 2005, the government dealt violently with the conflict induced IDPs.

On 15 May 2005, police used force to disrupt the “peaceful sit-in” programme of the Maoist victims and arrested over 200 of them, including “sick women and children” from in front of the Singha Durbar and areas around it. The Maoist victims have been demanding that they be provided with the status of internal refugees. The police allegedly forcibly dragged the protestors into police vans.⁵⁹² All the arrested Maoist victims, including chairman of the Maoist Victims Association, Upendra Aryal were released later on the same day.⁵⁹³

On 26 May 2005, security personnel arrested over 150 Maoist victims, including women and children, in the capital from a protest rally demanding food and shelter. Over 40 protestors, including a small child, were seriously injured in the police lathi charge.⁵⁹⁴

On 29 May 2005, plainclothes policemen arrested dozens of Maoist victims, including women and children from a protest program in Kathmandu. They were beaten up and dragged on the road into police vans.⁵⁹⁵

On 4 June 2005, a Maoist victim identified as Dal Bahadur Gharti, 33, died of injuries he sustained in police action t a protest programme organized by the Maoist Victims Association (MVA) on 3 June 2005.⁵⁹⁶

XIV. Increased risks for the Tibetan refugees

There are about 20,000 Tibetan refugees in Nepal.⁵⁹⁷ It is estimated that 2,500 to 3,000 Tibetan refugees enter Nepal every year after a dangerous journey through the Himalayan passes from the Chinese Autonomous Region of Tibet.⁵⁹⁸

In the second periodic report to the Committee Against Torture, the government of Nepal stated, “Nepal is also providing safe passage to those who are found to be asylum-seekers” and “HMG/N has pursued the policy that it will not expel, return or extradite any person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture”. These statements are simply false as the Tibetan refugees have been consistently refouled.

The risk of the Tibetan refugees further increased because of the support of the government of China to the royal takeover by King Gyanendra. In the light of limited arms embargo imposed by India, the United States and European Union following the Royal takeover, the government of China agreed to provide arms supply of about US\$ 1 million during the visit of Royal Nepal Army Chief, Pyar Jung Thapa in October 2005.⁵⁹⁹

On 21 January 2005, the government of Nepal shut down the Tibetan Refugee Welfare Office, without taking into consideration the fate of thousands of Tibetan refugees. The Tibetan Refugee Welfare Office has been helping to ensure the safety and well-being of Tibetans refugees. According to Human Rights Watch, the Tibetan Refugee Welfare Office sheltered some 1,000 Tibetan refugees at the time of its forcible closure.⁶⁰⁰

The government issued the notice of closure on the ground that the office was not properly registered under Nepali law. But, Nepali law does not give refugees/asylum seekers in Nepal the right to register associations or institutions in their name. This arbitrary closure order also it made difficult for the United Nations High Commissioner for Refugees, which has worked closely with the Tibetan Refugee Welfare office, to provide protection to the Tibetan asylum seekers in Nepal.⁶⁰¹

This has heightened the risk of the Tibetan refugees.

On 24 September 2005, a Tibetan exile returnee, Norbu Tsering, was arrested at the Nepal-Tibet border while on his way back to his native village in Kyidong (Ch: Jilong Xian) County, Shigatse Prefecture, Tibet Autonomous Region. On 28 September 2005, he was handed over

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to the Nepalese Immigration Department, which imposed a monetary penalty of Nepalese Rupees 28,651. Failing to pay the monetary penalty, Norbu Tsering was sentenced to three years and three months imprisonment in Dilli Bazaar Jail, Kathmandu.⁶⁰²

On 9 October 2005, a Tibetan refugee identified as Sonam Tsering was sentenced to three years imprisonment in Dilli Bazaar Jail in Kathmandu after he was arrested by the Nepalese police from Swayambunath area in Kathmandu on the night of 7 October 2005. He was holding “Tong Xin Zhang”, a travel permit which allows one to travel till the border. He was handed over to the Immigration Department of the Nepalese Home Ministry. The Immigration Department imposed a monetary penalty of Nepalese Rupees 27,000/- (approximately USD 375) or an imprisonment term of three years. Since Sonam failed to pay the penalty, he was sent to jail.⁶⁰³

On 27 November 2005, 18 Tibetans, including two women, were reportedly arrested by the Nepal Police in Bara district after they crossed into Nepal through Solukhumbu from China without legal documents.⁶⁰⁴ They were sent to the Central Jail in Kathmandu the next day as they failed to pay the fines. They were freed on 8 December 2005 after the Tibetan government-in-exile in India and Tibetan Reception Centre (TRC), a Kathmandu-based non-governmental organization, paid Rs 8500 (US\$121) on behalf of each 18 Tibetans and were immediately handed over to the Immigration Department. Another four Tibetans were held by the police separately in November 2005. They were later released after paying fines of Rs 18,700 (US\$267).⁶⁰⁵

It was feared that the Tibetan refugees who have been jailed for failing to pay fines might be handed over to the Chinese authorities on completion of their jail sentences.

XV. The World Bank: Nationalist education vs Peoples' education

The United Nations Committee on the Rights of the Child in its Concluding Observations in September 2005 expressed concerns “at the large-scale bombing, destruction and closing of schools by Maoist insurgents, which are violations of the fundamental rights to education of children”. The Committee noted that the climate of fear, insecurity and impunity resulting from the armed conflict and the states of emergency, declared in 2000 and 2004, have had a seriously negative physical and psychological impact on the sound development of children in the State party.⁶⁰⁶

Only if the World Bank (WB) which granted \$60 million for a five-year higher education reformation project⁶⁰⁷ read the Concluding Observations of the UN Committee on the Rights of the Child. The Committee on the Rights of the Child also expressed serious concerns that “primary education has not been made compulsory and that the target set by the State party to achieve universal primary education by 2000 was never met and has been extended to 2015”.

Under the World Bank grant, \$12 million will be used for 10+2. Out of the \$48 million meant for higher education, \$30 million will be used for decentralisation, to provide autonomy to Tribhuvan University campuses, provide block grants to smaller universities, and funds to public campuses on condition that they be transparent and accountable. About \$6 million will be used for research, PHD and MPhil courses, and \$8 million for student grants and loans. The remaining \$4 million will be used to strengthen the University Grants Commission.

Does the government of Nepal have the capacity to utilize funds for 10+2, which basically means the High Secondary schools? The education system in Nepal has been paralysed as the government in one hand and the Maoists and its affiliated All Nepal National Independent Students' Union- Revolutionary (ANNFSU-R) on the other have been trying to take over control of the schools to spread nationalist education and peoples' education respectively. The school authorities have been caught between the devil and the deep blue sea.

How can one expect the World Bank to effectively implement its reform programme? The CPN-Maoists have deprived thousands of school students their right to education by continued abduction of students and teachers, killings, threats, bombings of school buildings and forcible closure of educational institutions. According to Child Workers Network of Nepal, around 13,723 children were abducted along with teachers during January - September 2005.⁶⁰⁸ The security forces have also been forcibly using educational institutions as military camps and the first target against the pro-democracy movements are the college and university

campuses.

The following incidents of the Maoists in 2005 highlight what conceptually ails with the World Bank's programme, not to mention about the problems in its implementation.

a. Abduction of students and teachers

Thousands of students have been kidnapped in Nepal by the Maoists either for recruitment or ideological indoctrination. There have been regular reports of abductions of innocent civilians including students.

On 27 February 2005, the Maoists reportedly freed more than 250 students and teachers of Thumdevi Secondary School of Deurali VDC, who were abducted on 24 February 2005.⁶⁰⁹

On 2 April 2005, Maoist cadres reportedly abducted Begam Bahadur KC, head teacher of Janata Secondary School at Bagdula in Pyuthan district.⁶¹⁰

On 5 April 2005, armed Maoist cadres reportedly abducted over 100 students, who had completed their School Leaving Certificate examination in the morning of the same day from Barbote and Sukumbe villages in Ilam district.⁶¹¹

During the first half of May 2005, Maoists reportedly abducted nearly 500 students from various parts of Palpa, Tanahun, Baglung and Salyan districts.⁶¹²

On 17 May 2005, Maoists abducted a former official of Kaski District Education Office Balraj Paudel and a schoolteacher Tirtha Neupane of Jateshwar Middle School from their residences.⁶¹³

On 19 May 2005, Maoist cadres abducted 150 people, including students, teachers and villagers from Kosikot, Bindabasini, Channagada and Hutikot VDCs of Achham district.⁶¹⁴

On 20 May 2005, Maoists abducted seven teachers of Kirateshwar Secondary School at Chulachuli VDC in Ilam district.⁶¹⁵

On 21 May 2005, Maoists cadres abducted 11 students of Kalika Higher Secondary School from Bharat Pokari VDC when they were returning from school. They were released on 30 June 2005.⁶¹⁶

On 23 May 2005, Maoists cadres abducted schoolteacher, Narendra Karki from his residence at Ranigaon-4 of Panchthar district.⁶¹⁷

On 25 May 2005, NHRC appealed to the Maoists to immediately release the school students abducted by them including 11 ninth and tenth graders of Kalika Secondary School in Bharatpokhari VDC-2 in Kaski district abducted on 23 May 2005, six students from a school in the Siddheshwar area in Gulmi district abducted two weeks earlier.⁶¹⁸ On the same day,

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Maoists reportedly abducted Upendra Prasad Nepal from Patlepani in Bhojpur district, where he was working as resource person under District Education Office, Bhojpur.⁶¹⁹

On 26 May 2005, Maoists reportedly abducted students from seventh to tenth grades and teachers from Siddheshwor Secondary School in Phattepur area of Banke district.⁶²⁰

On 22 June 2005, Maoists abducted 90 students from Nepal Rashtriya Secondary School at Pudiamarahi village of Gulmi district.⁶²¹ All of them were freed on 27 June 2005.⁶²²

On 2 October 2005, Maoists abducted around 300 civilians, including students, teachers and farmers, from Bharapa, Subhang, Panchami, Tharpu, Yoyang and Nagi VDCs of Panchthar district reportedly for participation in an area-level training.⁶²³

On 5 October 2005, Maoists freed over 500 students and teachers abducted earlier from Panchthar and Taplejung districts.⁶²⁴

On 2 October 2005, Maoists abducted around 300 civilians, including students, teachers and farmers, from Bharapa, Subhang, Panchami, Tharpu, Yoyang and Nagi VDCs of Panchthar district reportedly for participation in an area-level training.⁶²⁵

On 5 October 2005, Maoists freed over 500 students and teachers abducted earlier from Panchthar and Taplejung districts.⁶²⁶

On 15 November 2005, Maoists abducted respectively 35 students and a teacher from Sitaram Secondary School in Yanjakot in Kaski district, and 20 students and one teacher from Dhruva Secondary School of Tarkang in Thumakodanda VDC in the same district.⁶²⁷ Most schools in Thumakodanda and adjoining areas have shut down due to fear.⁶²⁸ They were reportedly freed on 17 November 2005 after forcing them to take part in a district-level conference of the Maoist-affiliated All- Nepal Free Students' Union- (ANNISU-R) in Taparang, Kaski.⁶²⁹

On 15 November 2005, Maoists kidnapped 560 students and teachers from the school premises at Dhungesanghu, Change, Hangpang, Phoolbari and Nighuradin VDCs in Taplejung district. The kidnappings have severely affected the functioning of the schools.⁶³⁰

On 20 November 2005, Maoists reportedly abducted 125 students from several schools at Sirsha area in Dadeldhura district and five teachers from Deurali of Kaski district.⁶³¹

On 30 November 2005 at 10 am, Maoists abducted 14 teachers of Rastriya Secondary School and Subhadra Primary School from western Phakfok VDC in Ilam district. Locals said the Maoists took them away for "training". Educational activities in the schools have been hampered following the abduction of all the teachers.⁶³²

b. Forcible closure of educational institutions

Hundreds of thousands of students in Nepal have been affected by "educational strikes"

imposed by the CPN-Maoists and ANNFSU-R.

In February 2005, the Maoists imposed an indefinite educational bandh in Bardiya and Chitwan districts. A total of 371 schools have been closed in Bardiya district following the Maoist threats. The Maoists have reportedly instructed the teachers and students to boycott classes until further notice. The Maoists' diktat came a month before the School Leaving Certificate examinations and over 100,000 students in Bardiya district have been affected. In Chitwan district, over 70,000 students belonging to 240 schools (private and public) have been affected by the Maoists' educational bandh. The Maoists reportedly abducted over 200 students and teachers from Bhumadevi Secondary School at Deurali VDC in Nuwakot district.⁶³³

On 13 May 2005, ANNFSU-R forcibly closed down schools and colleges across the country in protest against "repressive" action of the government to oust the ANNFSU from Ratoghar.⁶³⁴ In May 2005, Maoists also closed all private schools in Ilam district.⁶³⁵ Over 25,000 students were affected when over 225 community schools in Ilam district remained shut for days since July 2005 due to warnings from the Maoists.⁶³⁶ More than 150,000 students had been affected after ANNISU-R forced all educational institutions, including 120 private schools, to close down in Chitwan district from 21 August 2005.⁶³⁷ Some 5,000 students were also affected due to closure of all the private and government schools in Udayapur district for days since 11 August 2005.⁶³⁸ At least 100 community schools of Jhapa district had remained closed since 22 August 2005 due to threats from ANNISU-R.⁶³⁹

On 17 September 2005, ANNISU-R issued fresh directives asking the community- managed schools to hand over their management back to the government within 21 October 2005.⁶⁴⁰

In early October 2005, over 50 out of 190 community-run schools were shut down following threats from ANNISU-R in Morang district. Over 25,000 students were reportedly affected.⁶⁴¹

In early November 2005, the Maoist cadres forcefully shut down schools in Banepa in Kavre district, 60 km east of Kathmandu, depriving over 10,000 students their right to schooling. The Maoists reportedly opposed government's policy under which it handed over management of these schools to the local community under its programme of running schools by public participation.⁶⁴²

On 13 November 2005, ANNISU-R issued a notice asking all government schools in Dharan to shut down for four days in protest against the government's decision to hand over schools to communities. The revolutionary students reportedly threatened school authorities of dire consequences if they failed to comply with the shutdown directive. Around 25,000 pupils studying in 20 government schools in Dharan have been affected by the closure. According to teachers, the shutdown would affect the forthcoming last terminal examinations in schools.⁶⁴³

In Pyuthan district, ANNISU-R activists seized examination question papers for the Naitik (Moral Education) subject for grades six, seven and eight from a store belonging to the

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examination committee at Bagdula, ahead of the examination scheduled to start from 15 November 2005. Student wing of Maoists ANNISU-R claimed that the papers were seized as per the central level policy of the organization. ANNISU-R has been maintaining that the moral education subject is “nothing but mere glorification of the royal family”.⁶⁴⁴

Students at Bangesal VDC in Pyuthan district reportedly could not appear for the half-yearly examinations that started on 16 November 2005 after the Maoist affiliated ANNISU-R padlocked schools in the district.⁶⁴⁵

In November 2005, ANNISU-R also locked up Surodaya Secondary School in Damak saying the school was being run by foreigners, and the school have remained close for the last two months following threats from the ANNISU-R activists. The closure has adversely affected over 1100 students of the school and particularly the 81 candidates who were scheduled to take their upcoming School Leaving Certificate (SLC) examinations. No classes were held in the school. The ANNISU-R reportedly refused to lift the closure of Suryodaya school even after appeal by the Office of High Commission for Human Rights not to deprive the students their right to education.⁶⁴⁶

In November 2005, ANNISU-R also shut down over two dozen schools in Tehrathum and Dailekh districts and vowed not to allow re-opening of the schools until the government annuls the agreement reached with the schools to hand over their management to local communities. Of the 239 schools in the district, 71 were handed over to the community so far. The cadres also threatened to shut down other community schools if the government failed to comply with their demand.⁶⁴⁷

On 21 November 2005, Maoists reportedly forced students and teachers across Darchula district in far western region to go to the district headquarters to participate in a “peace campaign” of the Maoists. The Maoists closed the schools in various parts of the district, and made participation in the campaign mandatory for students from grades six to ten, all teachers (including female) and members of school management committees. Due to this, half-yearly examinations that started from 21 November 2005 have been disrupted.⁶⁴⁸

On 6 December 2005, ANNISU-R locked out Harihar Higher Secondary School in Pokharathok VDC in Arghakhanchi.⁶⁴⁹

On 7 December 2005, the Maoists cadres reportedly locked a community school, Bhadaure Primary School, at Kathjor VDC-2 in the same district in protest against the management transfer of the school to the community. At least 300 students, who were preparing for second terminal examination, were affected due to the lockout.⁶⁵⁰

The Maoist affiliated All Nepal National Teachers’ Organization (ANNTO) called a closure of schools at Ramechhap district from 11 December 2005 to 15 December 2005 putting forth various demands. Around 50,000 students of 400 schools have been directly affected by the closure. The District Examination Committee postponed the quarterly examinations till 15

December 2005 due to the closure.⁶⁵¹

On 11 December 2005, the school management committees of all 23 schools in Dolakha district reportedly jointly decided to hand over the managements back to the government following a Maoist threat. The Maoists had been padlocking 20 community schools in the district since 23 Nov 2005 to force the schools to hand their management back to the government.⁶⁵²

On 11 December 2005, ANNTO called indefinite closure of over 500 schools in Dhading district. The ANNTO demanded that the temporary teachers be posted permanently and annulment of teaching license provision as preconditions to lift the shutdown. Thousands of students in the district have been affected as all the schools continued to remain shut as on 13 December 2005.⁶⁵³

On 11 December 2005, Maoists forcefully locked a higher secondary school in Bhaluwai area in Sindhuli district.⁶⁵⁴

As of 16 December 2005, some 150 children had been deprived of primary education after Maoists padlocked six child development centers (CDC) for the last three months in the rural areas of Rupendehi district. Gyankunj, Budhajyoti, Udaya, Jhutthur, Dishanirdesh and Santideep CDCs from Amawa, Manmatoriya and Khadgavan VDCs of the district have been padlocked by the cadres.⁶⁵⁵

Maoists have also padlocked administrative department of five schools in Saptari district - Sitapur School, Martigadhi Hariharpur School, Dighwa School, proposed Dharampur School and Rastriya Primary School, Mohanpur. The Maoists Area no. 1 in-charge of Saptari, Pradeep reportedly said that they have padlocked the schools' administrations and put forward different demands including transfer of school management from the community to the government, dismissal of resource centres among others.⁶⁵⁶

c. Attacks on educational institutions

The Maoists also disrupted studies by bombing or setting afire the school buildings and terrorizing the students and teachers.

On 14 February 2005, suspected Maoists bombed six schools - Ratmata Secondary School, Solawang Secondary School, Kailideu Lower Secondary School, Thurpunge Lower Secondary School, Dangdunge Primary School and Garadhunga Primary School in Musikot, the district headquarters of Rukum. Some 50 candidates for the School Leaving Certificate (SLC) exams were immediate victims of the attacks.⁶⁵⁷

On 20 February 2005, alleged Maoists detonated explosives in several schools including Mahendra High School, Modern Public School, Mangal Secondary School, Chandra Mewalal Secondary School and Bheri Technical School.⁶⁵⁸

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At around 11.30 pm on 10 March 2005, alleged Maoists cadres detonated a powerful bomb at the proposed Mahendranagar Medical College in Khairbhatti. Before exploding the bomb, hundreds of Maoists coming in a tractor had encircled the college from all sides. The Maoists also looted various medical equipments worth millions of rupees including microscopes, refrigerators and fans from the college before triggering the explosion.⁶⁵⁹

On 2 April 2005, suspected Maoists exploded a bomb at the Dipendra Police Boarding School at Guleriya in Dang district, causing heavy damage. The school was serving as an examination center for students taking School Leaving Certificate examination.⁶⁶⁰

On 1 May 2005, alleged Maoists bombed Sun Shine Boarding School in Siddharthnagar in Rupandehi district and heavily damaged the school building.⁶⁶¹

On 2 May 2005, Lakshmi Adarsha Higher Secondary School was set afire at Sishuwa, Lekhnath-7 in Kaski district, damaging the library and laboratory sections of the school.⁶⁶²

On 27 May 2005, the Maoist cadres bombed a school building at Srijanachowk in Kaski district, damaging school properties.⁶⁶³

On 9 June 2005, two classrooms of Deepshikha Boarding School in Dang suffered damages in an explosion allegedly triggered by the Maoists.⁶⁶⁴

On 16 June 2005, Maoist cadres exploded bombs at two private schools in Myagdi - Lokdeep Residential Secondary School at Mangalaghat and New Best Point Higher Secondary School at Kalipur - causing heavy damages to the buildings.⁶⁶⁵

On 22 June 2005, suspected Maoists exploded a small bomb at the premises of Nobel Academy, a private school at New Baneshwore in Kathmandu.⁶⁶⁶

On 25 June 2005, M M Academy, the only private boarding school in Khalanga, the district headquarters of Salyan was bombed by Maoists for refusing to follow its diktat.⁶⁶⁷

While international agencies must continue to provide access to basic services, they must also the ground realities into consideration. The World Bank has decided to extend support for higher education to the government of Nepal when primary and secondary educational systems have virtually collapsed.

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