



Amnesty International Briefing on concerns regarding human rights in Nepal

In view of the EU Troika mission to Nepal, Amnesty International presents in this briefing an update on the main human rights concerns in Nepal.

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In view of the EU Troika mission to Nepal, Amnesty International presents in this briefing an update on the main human rights concerns in Nepal. Amnesty International urges the EU Troika to take the following elements into consideration during their discussion in the country and to raise the individual cases listed in annex with the Nepalese authorities.

1. Human Rights Defenders under threat

Since King Gyandendra of Nepal seized power on 1 February 2005, his government has initiated a sweeping crackdown on dissent that includes Human Rights Defenders among the main targets. For the first three months the king imposed a State of Emergency, under which a number of fundamental rights—including the right to privacy and freedom of expression, press, assembly, movement and association—were suspended. At least 45 Human Rights Defenders were among the estimated 3,000 political prisoners detained during this period. Many other Human Rights Defenders were subjected to threats, intimidation, and restrictions on their freedom of movement.

Although the State of Emergency was lifted on 29 April 2005, basic civil and political rights remain restricted, and activists who challenge these restrictions are vulnerable to abuses. Human Rights Defenders—including journalists, student leaders, and peace activists—are routinely assaulted by police and even arrested for their participation in political demonstrations. In September, the United Nations Office of the High Commissioner for Human Rights (OHCHR) in Nepal expressed serious concern about reports of excessive use of force by police against public demonstrations and the “increasing restrictions imposed on peaceful public gatherings”. The OHCHR said it had received information about “incidents of police throwing stones at demonstrators leading to injuries, the use of tear gas 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”.

The government is tightening bureaucratic restrictions on local and international non-governmental organisations, including through an amendment to the Social Welfare Act issued by royal ordinance in July. The amendment extends the power of the government’s Social Welfare Council to include “supervision” of the activities of NGOs, and authorises the Council to draft and implement a new “Code of Conduct” to regulate such organisations. A draft Code of Conduct circulated in September included a number of troubling provisions, such as restrictions on the use of an organisation’s resources for any “political objective”, a ban on expressing “any information . . . which affects law and order [or] peace and security”, and a requirement that any social organisation receiving assistance from a foreign government or commission must get permission from the Social Welfare Council.

Recent statements by government officials and in government-controlled media also indicate an increasingly hostile atmosphere for Human Rights Defenders, political activists, and other critics of the regime. On 21 September, a regional conference of district development committees in the eastern region issued a statement that “street protests launched by some political parties were not in the interest of the people, rather it would only help the terrorists,” as reported by the state-run newspaper *The Rising Nepal*. “This is not a time for agitation and protests,” the meeting declared. Another proposal reportedly said that “there had been unscrupulous activities going on against the country’s sovereignty in the name of civil society, and asked all patriotic and nationalistic citizens to keep vigil against such elements.” King Gyanendra himself sounded a similar theme in a speech on 22 September to local government administrators in central Nepal, noting that “some foreigners are pouring money” into their region, which includes Kathmandu, “and carrying out unwanted activities”. He said that local officials should take care of this problem, and also “keep this place pollution-free. I am not only talking of environmental pollution, but political, social and other sectors as

well." Human Rights Defenders told Amnesty International that these remarks are thinly veiled threats against them.

Nepal's independent media have also been hit hard over the past months. On 3 February, the state-owned newspaper *Gorkhapatra* published a notice that "His Majesty's Government has banned for six months any interview, article, news, notice, view or personal opinion that goes against the letter and spirit of the Royal Proclamation on 1 Feb 2005 and that directly or indirectly supports destruction and terrorism." FM radio stations were banned from broadcasting news altogether. On 1 March the Ministry of Information and Communication issued a national directive prohibiting the media from reporting any security matters without obtaining prior information from the security forces and threatening prosecution for any media publishing material that supports "subversive activities". A media monitoring committee was reportedly established to keep track of critical news reporting.

Journalists have challenged the restrictions, with some success – but at great personal risk. The Federation of Nepalese Journalists estimates that hundreds of journalists have been arrested at various times since February. The threat is most acute at the district level, where even journalists working for powerful media companies are vulnerable to frequent harassment and threats by the security forces.

In one landmark case, the Supreme Court in August ruled that the government's restrictions on radio broadcasters violated the people's right to information, and issued a stay order that effectively prevented the government from shutting down a private radio station that had aired news broadcasts. That ruling encouraged many radio stations to resume broadcasting news and current affairs, but journalists are operating with caution.

In line with the EU guidelines on human rights defenders, Amnesty International urges the EU Troika to raise the individual cases listed in annex with the Nepalese authorities.

2. Erosion of the rule of law

During the course of the conflict, Amnesty International has received reports of hundreds of "disappearances", thousands of arbitrary arrests, the widespread use of torture, and incidents of rape by Nepali security forces. The Communist Party of Nepal (Maoist) have been responsible for killings, abductions, torture, the use of children in military activities and indiscriminate attacks on civilians, among other abuses. At the heart of the problem is the environment of impunity within which the security forces and the CPN (Maoist) operate. Despite high profile pledges of commitment to human rights, both the Nepali government and the CPN (Maoist) leadership have failed to investigate human rights abuses or punish those responsible. Both sides must take immediate steps to comply with international human rights and humanitarian law.

Government security forces have also failed to abide by Nepal's own laws, and have routinely demonstrated their disregard for the authority and independence of the judiciary. This is most apparent in the number of recent cases in which detainees freed on court orders have been immediately rearrested, often directly in front of the court house. Even when the security forces have openly defied orders of the Supreme Court, there are generally no consequences. Judges appear reluctant to issue contempt of court orders to security forces personnel, or to consider any other legal sanction.

In a speech delivered on 20 September, Tulsi Giri, Vice Chairman of the king's Council of Ministers, delivered the most succinct statement to date about the regime's attitude toward the rule of law in Nepal. "We are fighting anarchy and we have to move ahead by circumventing constitutional provisions," he said, as translated by the *Nepali Times*.

In line with the EU guidelines on torture, Amnesty International urges the EU Troika to raise the individual cases listed in annex with the Nepalese authorities.

3. Children caught in the conflict

Amnesty International welcomes the EU Troika's *démarche* on 12 August raising concerns about how the ongoing armed conflict is affecting children in Nepal. It highlighted several key issues featured in AI's recent report on "Nepal: Children Caught in the Conflict" - including the abduction of children and use of child soldiers by the CPN (Maoist) and the responsibility of the Government of Nepal to ensure that children affected by conflict are properly rehabilitated.

International condemnation of the Maoists' record with regard to abuses of children's rights is crucially important, as is the repeated emphasis that the Maoist forces must abide by international humanitarian law. Even after the Maoists declared a unilateral cease-fire on 3 September, new abuses have been reported. As recently as 22 September, the Informal Sector Service Centre (INSEC), a Nepali human rights organisation, reported that suspected Maoist fighters had abducted hundreds of students and teachers from schools in the north-western district of Accham.

Amnesty International estimates that since the beginning of the conflict the CPN (Maoist) has abducted tens of thousands of school children, along with their teachers, for "political education" sessions. Typically, CPN (Maoist) cadres enter a high school and force students and teachers to accompany them to a remote location for mass sessions held with others taken from the surrounding area. While most of the abducted children return home after a few days, those who do not are believed to have been recruited by the CPN (Maoist). The scale and frequency of these abductions suggests that they are central to the CPN (Maoist) mobilisation strategy.

There have been reports that the CPN (Maoist) have deliberately killed children. In addition, the CPN (Maoist) practices of indiscriminate attacks and attacks targeting civilians and civilian objects result in the deaths of children.

While urgent attention to Maoist abuses is vital, the EU should also raise more pointed concerns about the human rights violations by the government, which has failed to abide by its obligations under the Convention on the Rights of the Child.

Amnesty International has reported that the security forces have used schools for military purposes, detained and tortured children suspected of involvement with the CPN (Maoist), and committed extra-judicial executions of individuals under 18. Extra-judicial executions by the security forces have been a constant feature of the conflict and the scale of these killings has increased significantly in the last year. Reports of children being extra-judicially executed by security forces raise concern that security forces do not distinguish between adult and child combatants or suspects.

In line with the EU guidelines on children in armed conflict, Amnesty International urges the EU Troika to raise the individual cases listed in annex with the Nepalese authorities.

ANNEX

1. Human rights defenders cases

Harihar Singh Rathaur, reporter, *Kantipur* publications

Harihar Singh Rathaur, a reporter based in the mid-western district of Dailekh, came under mounting pressure from local officials and security forces earlier this year following a series of controversial articles, including one reporting that the Royal Nepalese Army (RNA) recruited children as informants. On 16 September, an army spokesman publicly accused Rathaur of receiving payment from the Communist Party of Nepal (Maoist). On 18 September, Rathaur and several other journalists were briefly detained by police and threatened. On 19 September, as the journalists were preparing to leave Dailekh for their safety, Rathaur was arrested on suspicion of collaborating with the Maoists. While Rathaur was released on 22 September after protests by local and international journalists' organisations and intense efforts by editors at *Kantipur*—who have themselves been threatened by officials—it will be difficult for him and his colleagues to work safely in Dailekh.

Krishna Pahadi, founding chairman, Human Rights and Peace Society

Krishna Pahadi, the founding chairman of the Human Rights and Peace Society (HURPES) and the former Chairman of Amnesty International Nepal, was detained on 9 February 2005, for helping to plan a political rally. He spent nearly five months as a prisoner of conscience, before being freed on 4 July. Even after his release, Pahadi has been under constant surveillance, and recently has been the subject of a smear campaign, with government officials and state-controlled media publicly branding him a troublemaker for his role in organising demonstrations calling for peace and respect for human rights.

Lok Prasad Panta, social worker and community activist

Lok Prasad Panta spent more than seven months in detention before being released from Surkhet Jail in the mid-western town of Birendranagar on 17 September 2005. Though he was released "unconditionally", Lok Prasad Panta was asked to sign a statement that he was not involved with the Communist Party of Nepal (Maoist), and would not join the Maoists in the future. Police also warned Lok Prasad Panta, who is a member of Amnesty International Nepal and well-known locally as a community activist, that he should not participate in political gatherings nor travel outside Surkhet district without official permission.

Lok Prasad Panta was first arrested on 3 February, amid a crackdown on political leaders and human rights defenders that followed King Gyanendra's seizure of power on 1 February. On 10 March, the Court of Appeal in Birendranagar determined that his detention was illegal and ordered his immediate release. However, as Lok Prasad Panta was returning home – accompanied by a crowd that included family members, his lawyer, journalists, and human rights defenders – he was seized by police officers and taken away in a police van. Police in Birendranagar initially denied he was in their custody, and waited several days before informing family members of his detention. After about one week, police transferred him to Surkhet Jail, where he was held for six months in preventive detention under the provisions of the Terrorist and Disruptive Activities (Control and Punishment) Ordinance.

2. Rule of law cases

Kanchanpur detainees

On 19 September 2005, 11 detainees were rearrested immediately after being released before the Kanchanpur District Court in the town of Mahendranagar, in western Nepal. This was the third time security forces have rearrested the group, despite repeated court orders for their release. Their whereabouts are unconfirmed and they may be at risk of torture or ill-treatment. The Nepali rights group Advocacy Forum is pursuing this case.

The 11 men - 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 Dhimi - were first taken into custody on 17 August 2004, while attending a mass meeting held by the Communist Party of Nepal (CPN) (Maoist) in Kanchanpur district. The security forces broke up the meeting, arresting any participants who did not flee. The detainees, all from Jogbudha Village Development Committee in the neighbouring Dadeldhura district, claim they were forced by the CPN (Maoist) to attend the meeting, and did not flee as they were not guilty of any crime.

Raj Kumar Pariyar (m), aged 25

Raj Kumar Pariyar was freed on 24 August 2005 following a second Supreme Court ruling that his detention was illegal and that he should be released immediately. However, lawyers and human rights defenders recognized members of the security forces dressed in plain clothes waiting outside the Supreme Court building and feared that he could be re-arrested once again. Raj Kumar Pariyar remained inside the court until representatives of Nepal's National Human Rights Commission arrived on the scene and escorted him to safety.

Raj Kumar Pariyar was first arrested by Royal Nepalese Army (RNA) personnel on 11 January 2004 and "disappeared" for nearly one year. During this time, he was reportedly tortured while in custody of the Jagadal battalion at Chhauni army barracks in Kathmandu.

Keshav Thapa (m), aged 35, farmer and security guard

Farmer Keshav Thapa, a resident of Tathali village development committee in Bhaktapur district, was tortured during an interrogation session at the Surya Binayak army barracks in Bhaktapur in April 2005, and then arrested and tortured again after filing a complaint with the Bhaktapur district court in June. He was released following appeals by Amnesty International and local human rights groups.

3. Children's rights cases

Maina Sunuwar (f), aged 15, "disappeared", tortured, killed

On 17 February 2004, around 15 security force personnel kidnapped Maina Sunuwar from her home, where they had gone looking for her mother, who had witnessed an extrajudicial killing. Her mother raised the case of her daughter's "disappearance" publicly, and spent months trying to locate her. She was eventually informed that her daughter had died in custody.

On 28 September 2005, a military court found three army officers guilty of torturing Maina Sunuwar, but sentenced them to only six months in prison. The army claims the men have spent that amount of time in detention already, and so have been released.

The army attempted to intimidate witnesses as well as human rights defenders who had pursued justice in this case. Some of the human rights monitors were forced to go into hiding, while others fled the country.

Asmita B.K. (f), aged 14, suspected extra-judicial execution

Asmita B.K., a resident of Tarkang Village Development Committee (VDC) in Kaski district, was reportedly taken into custody and shot dead by members of the security forces on 6 September 2005 at Kuiuwan, Chautaripakha, Lwanganhalel VDC, Kaski district. She had been attending a meeting with members of the Communist Party of Nepal (Maoist) when the security forces arrived. She was said to be unarmed, according to a report prepared by the Human Rights Organisation of Nepal (HURON).

Radha Bhusal (f), aged 15, student

Geeta Nepali (f), aged 15

On 5 September 2005, Radha Bhusal and Geeta Nepali were re-arrested by police shortly after they were released before the district court in Kapilvastu, in southern Nepal, close to the border with India. The reasons for their re-arrest are not known. They are at risk of torture, ill-treatment or "disappearance".

The girls were re-arrested in the presence of lawyers and other human rights defenders and taken away in a Toyota police van with the license plate "Ba 1 Jha 6431". The van drove off in the direction of the Kapilvastu district police station, in Taulihawa, the district capital, where it is believed that the girls are being held. When a lawyer asked about the detention of the girls, an officer at the police station replied, "You have done your job. Don't disturb us from doing our job." Later, police denied any knowledge of their detention.

Govinda Pariyar, aged 15, imprisoned

Somu Bahadur Moktan, aged 15, imprisoned

In February 2005 Amnesty International met two 15-year old boys in Kathmandu jail, Govinda Pariyar from Tanahu district and Somu Bahadur Moktan from Ramechhap district. Somu Bahadur Moktan was mentally disabled and unable to communicate properly. These boys were arrested by Royal Nepalese Army (RNA) personnel in summer 2004 on suspicion of being associated with the CPN (Maoist). After their arrest they were held for 11 days in an army barrack where they were severely beaten with pipes and kicked with boots. Govinda told AI delegates that during the interrogation and torture, Somu replied "yes" to every question posed by the security forces, causing them to believe that the two boys were associated with the CPN (Maoist), despite the fact that Somu's mental disability is very obvious. After the 11 days they were transferred to prison, where they have remained. Govinda's face is badly scarred from the beating; he is disturbed and often screams at night. The boys have been given a detention order but neither of them has seen a lawyer and they have no idea when they may be released.
