

AMNESTY INTERNATIONAL

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Nepal: Code of Conduct and the Protection of Human Rights

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Amnesty International wrote today to senior Ministers in the Government of Nepal and to leaders of the Communist Party of Nepal (CPN - Maoist) -- welcoming recent moves towards peace and expressing its hope that the budding peace process will help to ensure lasting improvements in the human rights situation throughout the country. However, the organization expressed its concern about several human rights related aspects of the Code of Conduct (CoC) which was made public on 13 March 2003. The CoC is aimed at regulating the cease-fire declared between the Government and the CPN (Maoist) on 29 January 2003.

Lack of clarity regarding the relationship between the CoC and Nepal's obligations under international human rights treaties

The organization is concerned that the CoC may fall short of the country's obligations under the international human rights treaties to which Nepal is a state party. The organization urges both parties to make a further joint declaration to supplement the human rights guarantees contained in the CoC which it considers vital to the success of the peace process. The declaration should pledge unequivocal adherence to all human rights guaranteed in the international human rights treaties to which Nepal is a party.

Omissions regarding specific human rights abuses which have been reported regularly in the context of the "people's war"

Amnesty International welcomed the inclusion in the CoC of provisions to ensure that human rights are protected during the cease-fire, including the statement that "both sides will respect the fundamental rights of the people". Amnesty International said it hoped this to mean all rights as set out in all the international human rights treaties that Nepal has ratified and urged both parties to make this explicit in the above-mentioned joint declaration. It also welcomed provisions for the gradual release of prisoners; the prohibition on "searches, arrests and kidnappings" and guarantees for the free movement of people, food, medicine and other essential supplies, and the return of all internally displaced people to their homes.

However, the CoC is silent on other long-standing human rights concerns reported in the context of the "people's war" over the last seven years. Amnesty International believes additional clauses must be incorporated into the CoC calling for: an immediate halt to the use of landmines; an end to the recruitment

of children and the return of those children recruited to date to their families and communities; the investigations of the whereabouts of the more than 200 people reported to have "disappeared" after they were arrested by the security forces; and the establishment of an initial truth process to account for the killings of civilians and other unlawful killings by both sides.

The nature of the monitoring mechanism provided for in the CoC

Both parties should give high priority to the establishment of an independent and effective monitoring body to monitor compliance with the provisions of the CoC at the earliest opportunity . The relevant provision in the CoC is ambiguous. It merely says that "a monitoring team will be formed with the consent of both parties." Amnesty International urged both parties to clarify the exact composition, mandate and powers of the monitoring mechanism -- both at the national and district level. Apparently, the government has proposed that monitoring should be carried out by representatives of both parties with the assistance of local human rights organizations and representatives of civil society. Amnesty International is concerned by the limited capacity of local organizations to take on a role as monitors and the possible threats to any such local monitors' security. The organization therefore urged both parties to invite international monitors. It believes their presence would strengthen the cease-fire and would increase the effectiveness of the monitoring mechanism provided for under the CoC.

Background

Amnesty International has been campaigning in the context of the current session of the United Nations Commission on Human Rights, which started in Geneva, Switzerland, this week for the deployment in Nepal of international human rights monitors (with a mandate to monitor and report on respect for human rights in an open and transparent manner and to undertake advocacy and capacity building with key institutions such as the judiciary).

The organization has also been urging for several years for the strengthening of the National Human Rights Commission (NHRC) which has a mandate to monitor the human rights situation in Nepal. Since the appointment of the NHRC members in mid-2000, Amnesty International has been concerned about the lack of cooperation extended to them by the government, civil service and security forces and the lack of response by the Maoists to the NHRC's repeated calls to end human rights abuses. Amnesty International urges the Government and the CPN (Maoist) to make a public commitment for full cooperation with the NHRC - as an unequivocal indication of their commitment to uphold the human rights provisions in the CoC. In addition, the Government must increase the financial contributions to the NHRC to enable it to carry out its mandate. The organization also urges that offices of the NHRC be established at the district, or at least at the regional level, with priority given to those areas where human rights abuses have most often been reported.

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