

Urgent Action In Focus

An insight into the stories behind UAs

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Amnesty International visit Nepal

Amnesty International conducted a research mission to Nepal from 23 January to 4 February 2004. The organization has visited the country several times since the start of the armed insurgency by the Communist Party of Nepal (CPN) (Maoist) in 1996.

Since the breakdown of the last round of peace talks in August 2003, arbitrary arrests, "disappearances", extrajudicial executions, torture, and other serious human rights violations by the security forces and human rights abuses by the CPN (Maoist) have escalated.

Places visited

Amnesty International delegates conducted field research outside Kathmandu and visited Nuwakot, Dhanusha, Sarlahi and Kavre districts. They looked into reports human rights abuses by members of the CPN (Maoist) and also visited prisons in Malangwa and Mahotari. They met with local human rights groups, and others including villagers, families of victims and journalists. They met with Senior Superintendent of Police Chuda Bahadur Shrestha at the Dhanusha regional police headquarters, but were unable to meet with the Major in charge at the Biman army barracks in Dhanusha district.

The delegates spent three days meeting with government authorities including Prime Minister Surya Bahadur Thapa; Major General Kul Bahadur Khadka, Chief



AI delegate's meeting with members of the Royal Nepal Army (RNA) human rights cell in Kathmandu © AI

of the National Security Council; Deputy Superintendent of Police Nawa Raj Silwal, from the Human Rights Cell at Police Headquarters, Ravi Raj Thapa, Additional Inspector General of Police of the Armed Police Force and Major General Amar Panta and other members of the Royal Nepal Army (RNA) human rights cell; most of whom are the targets of UA appeals. They also met with members of the National Human Rights Commission (NHRC) and Kul Ratna Bhurtel of the Human Rights Promotion Centre.

"Disappearances"

Human rights groups in Kathmandu have reported that they have recorded over 250 cases of "disappearance" since the end of the cease-fire in August 2003. Urgent Action members have sent appeals on behalf of a number of those involved. In Janakpur, Amnesty International investigated reports of the "disappearance" after arrest by the security forces personnel of seven students and one teacher: Sanjeev

Kumar Karna, Durgesh Kumar Labh, Pramod Narayan Mandal, Sailendra Yadav, Jitendra Jha, Manoj Dutta, Ram Chandra Lal Karna and Indra Kant Jha who all featured in UA 332/03 (ASA 31/077/2003, 14 November 2003). They also received a report of the "disappearance" of Sanjay Kumar Ray after he was arrested from his newspaper shop in Janakpur municipality on 23 August 2003. The whereabouts of all those named above remain unknown.

Recent reports of "disappearances" in Kathmandu include Dr Birendra Jhapali, a director of a private hospital, who was actively engaged in the second round of negotiations between the Maoists and government representatives. He was arrested by security forces on 20 January 2003 and not released until 24 February 2004. (UA 53/04, ASA 31/026/2004, 11 February 2004)

Amnesty International interviewed relatives of Krishna Khatri Chhetri, (known as Krishna KC), former vice-president of the All Nepal National Independent Students Union (Revolutionary), who was reportedly arrested on 13 September by security forces personnel and who remains "disappeared" (UA 267/03, ASA 31/033/2003, 17 September 2003). They interviewed the relatives of Sarita Devi Sharma Poudel, a mother of two small children, who was reportedly arrested by security forces personnel from her rented accommodation in Baluwatar, Kathmandu, in mid-October 2003 and who remains "disappeared".

Extrajudicial executions

Following the resumption of hostilities in August 2003, extrajudicial executions by the security forces reportedly increased. According to one of the main human rights organizations in Kathmandu, 1499 people have been killed by the state and 556 by the Maoists since then. These figures include 19 people attending a Maoists meeting in Doramba, Ramechhap district in August 2003, who were arrested by army personnel and then

extra-judicially executed. An investigation by the National Human Rights Commission (NHRC) found that the majority had died from gun shots to the head which were fired at close range.



AI Delegate meeting father of Maya Tamang, aged 17 who was killed by security forces © AI

Civilians targeted by both sides

The team did not get access to prisoners held in army custody. They did however visit Malangwa and Mahotari prisons, where they found a total of 32 prisoners held in preventive detention under the Public Security Act. The team spoke to several detainees including two prisoners who had been arrested on suspicion of assisting the Maoists after they had been forced to hand over their tractors.

Civilians are often forced to give money, food, shelter and donations to the Maoists. As a result, they have become increasingly subject to arbitrary arrest, harassment or threats by the security forces because of their perceived support for or cooperation with the Maoists. One prisoner said he had been arrested because his son (who was shot dead in front of him) was a suspected Maoist.

According to local security officials, Maoists are continuing their extortion activities especially among the business community. They are also continuing to summarily execute members of political parties, those they consider to be informants, as well as those who refuse to comply with extortion demands.

Amnesty International has also received numerous reports of the harassment of

lawyers, journalists and other professionals, involving searches of their houses, by the security forces.

Village Defence Force

Following an announcement by Prime Minister Surya Bahadur Thapa, on 4 November 2003, that "Rural Volunteer Security Groups and Peace Committees" also later referred to as Village Defence Forces, (VDFs), would be established, Amnesty International expressed grave concern that the creation of such groups could lead to an increase in incidents of human rights violations. Amnesty International asked the authorities for clarification on the training and supervision of members of the VDFs as well as measures to ensure that such groups operate within the law and with a framework that ensures accountability.

Amnesty International went to investigate reports that a VDF had been set up in Saduwa VDC in Sarlahi district. Local villagers who were interviewed said that they had not been issued with any arms either officially or unofficially. However, according to other sources, some villagers had been provided with arms unofficially at least for a certain period. It would appear that VDFs had been initiated in a few districts, but as a result of international concern, this policy has so far remained in a preparatory stage and has not been fully implemented.

Given the weak institutional protection of human rights and especially the level of impunity already prevailing in the country, Amnesty International continues to recommend that the government should not proceed with the establishment of VDFs.

Arbitrary detention, torture and other cruel, inhuman or degrading treatment or punishment

With regard to arrest and detention procedures, the civil administration and judiciary is by and large being bypassed or ignored due to the powerful role now played by the unified command of the

army. District Security Committees, comprising the Chief District Officer (CDO), the local army commander, the most senior police official in the area and local intelligence officer are reported to be the body currently making decisions about who is to be arrested and who should be released.

Several hundred active Maoists are reported to be illegally detained at army barracks throughout the country for interrogation and security purposes. According to a report in the *Nepali Times* on 10 October 2003, Brigadier General B A K Sharma, the then Head of the RNA Human Rights cell tried to justify this illegal detention by stating that "This is not war, it is terrorism. To combat it we must investigate people. Sometimes we cannot let a detainee go because if he disappears, our investigation is ruined. Now are such detentions illegal or legal? We try our best to receive the CDOs (Chief District Officer's) authorization when detaining people in our barracks."

Those released report that detainees are held blindfolded, sometime in handcuffs, and subjected to beatings and other forms of torture and ill-treatment in order to extract information. The majority are being held incommunicado without access to lawyer, family members, or medical treatment. Family members are often too scared to report arrests and "disappearances" to the authorities. Civilians who are considered to be related in some way to the Maoist movement (e.g. they have a relative who is a member, or they have given food, shelter or support with money or equipment) are arrested and detained under preventive legislation and sent to prison.

During January 2004, in the context of demonstrations organized by the main political parties and student groups – ostensibly to call for democratic reforms – hundreds of people were arrested, and in a number of cases, subjected to ill-treatment at the hands of the police. While police authorities, whom Amnesty

International met during the visit, stated that the police have reacted to attacks against them, the organization urged them to conduct inquiries to establish whether excessive force had been used. Amnesty International further stressed to the authorities that even short periods of detention for exercising the freedom of expression and association was a violation of human rights.

Response from the government of Nepal

In meetings with the authorities, Amnesty International expressed concerns about the increasing number of reports it has received showing a pattern of gross violations committed by the security forces particularly since the collapse of the cease-fire in August 2003. Of particular concern were the allegations of "disappearances", extrajudicial executions and systematic torture. The Prime Minister expressed his commitment to the rule of law and told the Amnesty International delegation that his government would give high priority to the strengthening of the National Human Rights Commission (NHRC). Officials of the Royal Nepal Army (RNA) have denied security forces were involved in systematic human rights violations and stated that any wrong doing or criminal behaviour was investigated and punished according to military law. In reply to an inquiry about reports that there were hundreds of detainees held in army barracks, the RNA told Amnesty International that there were only very few detainees held in military barracks who all have access to relatives. If relatives were refused access they should contact the RNA human rights cell.

Amnesty International delegates pointed out that it had received a number of reports which suggested that a policy of eliminating the armed opposition at the very least by some security forces units was in operation. Detainees were also being held incommunicado which prompted the organization to call for the

names of those detained to be made publicly available. The organization was alarmed by the reports of "disappearances" carried out by individuals in plain clothes. Amnesty International reminded the authorities that if internal remedies to obtain redress and justice were exhausted, international justice mechanisms such as the International Criminal Court would have to be considered. The delegates were encouraged by the authorities offer to improve communications with Amnesty International and will be carefully assessing whether concrete steps are being taken by the authorities to stop the human rights situation from spiralling out of control. It will also monitor whether the authorities are implementing Amnesty International's recommendations.

Conclusions

The Amnesty International delegation concluded that there is strong evidence to suggest that the security forces, under the unified command of the army, are operating a policy of killing all those suspected of being active Maoists or supporters, even if they are unarmed, or have surrendered or been taken into custody. Civilians are also subjected to abuses, including abductions and killings, by the Maoists. They are often too scared to carry out funeral rites for victims of human rights abuses for fear of further attack. These attacks on civilians not taking part in the conflict constitute serious breaches of international humanitarian law.

Amnesty International is concerned about the lack of proper civilian control of the administration of justice and alarmed at how the judicial process is failing to adequately address the current human rights crisis. The organization believes that Urgent action is needed by the international community, civil society, government authorities and other actors to avert a slide towards continued human rights abuses in the country. Military influence on large sections of the judicial

process in the country is tantamount to control of that process by the military. While in many cases of illegal detention and "disappearance" *habeas corpus* petitions have been lodged in the Supreme Court, in response to "show cause" notices issued by the court, the authorities deny arrest or fail to respond in substance. Lack of respect by the authorities for the due process of law has become a matter of grave concern.

**The full version of this document
Amnesty International's visit to
Nepal: Official Statement, ASA
31/14/04, 4 February 2004.**