

NEPAL

@Reports of possible extrajudicial executions, arbitrary arrests and torture between 25 June and 20 July 1993

Introduction

Between 25 June and 20 July at least 20 people were reportedly shot dead by police in possible extrajudicial executions and several hundred people were arrested, including possible prisoners of conscience, during nationwide strikes and demonstrations called by the main opposition party, the Communist Party of Nepal (United Marxist-Leninist), (CPN-UML), in alliance with other opposition parties. It was reported that many detainees were severely beaten, and one man is alleged to have died as a result of a beating in police custody in Bhaktapur, a town near Kathmandu. These events have not been made the subject of any official investigation, to Amnesty International's knowledge.

In September, the Parliamentary Foreign Affairs and Human Rights Committee decided to constitute five teams to inspect jails, police stations and the offices of government attorneys in order to study the human rights situation in the country. No specific inquiry into the possible extrajudicial executions, arbitrary arrests and torture reported in June and July was announced, however.

Background

The strikes and demonstrations began after two senior members of the Communist Party of Nepal (United Marxist-Leninist), (CPN-UML), were killed in a road accident. The CPN-UML believed the men may have been victims of a political killing which had been made to look like an accident.

On 16 May 1993 the then General Secretary, Madan Bhandari, and Jeev Raj Ashrit, a member of the party's Standing Committee, died in a jeep accident at Dasdhunga. The government constituted a one-man commission, headed by former Supreme Court Justice Prachand Raj Anil, to investigate the incident. In a report made public on 17 June, the Justice Anil concluded that the accident was not due to any conspiracy but had resulted from negligence on the part of the driver. The CPN-UML disputed these findings and conducted its own investigation headed by K P Oli. It concluded that there were a number of points left unclarified, raising the suspicion that the two men may have been the victims of a political killing.

The CPN-UML called a general strike in Kathmandu and neighbouring towns on 25 June to urge the government to institute a Commission of Investigation headed by a sitting judge of the Supreme Court to conduct a further inquiry into the deaths of the two CPN-UML members. The strike was followed by three days of protest demonstrations which turned violent at times, with resulting acts of vandalism, arson and destruction of public and private property. The government imposed a curfew from 7pm to 4am every night from 26 to 30 June under Clause 6(a) of the Local Administration Act which gives powers to the security forces to shoot curfew breakers on sight.

Following these demonstrations, six other opposition parties allied with the CPN-UML in protest against the shooting dead by police of a number of demonstrators. The alliance announced a variety of demands for the government to fulfil, including the resignation of Prime Minister Girija Prasad Koirala. They pledged to continue their program of strikes and demonstrations towards this end.

Two further strikes were called on 4 and 20 July. Members of local human rights organizations formed a committee to monitor the situation and to try to prevent further human rights violations occurring. They intervened in a number of situations in Kathmandu and neighbouring towns on 4 July to prevent an escalation of violence. In Kathmandu, Tripureswor and Patan, police refrained from opening fire and dispersed the crowd using tear gas and batons; in Siraha, a town in the Terai Region, police fired into the air, reportedly injuring one person. Although hundreds of people were arrested in Kathmandu that day, no deaths were reported.

During a two-day nationwide transport strike called on 19 and 20 July, when crowds of protestors attempted to obstruct the roads to prevent vehicles passing, further clashes between police and demonstrators occurred and the police again opened fire on the crowd, resulting in the deaths and injury of a number of people.

Further agitation by the seven-party alliance was halted, however, when the country was hit by severe flooding in late July and August. Several hundred people are estimated to have died in the floods, thousands were made homeless and a nationwide relief operation was launched.

Representatives from the government and the CPN-UML met several times to discuss a possible resolution to the crisis and on 17 August it was reported that a settlement had been reached. Prime Minister Koirala agreed to complete the setting up of a commission of investigation under a sitting judge to probe further into the Dasdhunga incident. It was also agreed that all those detained during the strikes and demonstrations would be released and any cases against them withdrawn; the government would finance all treatment of the injured; an additional 25,000 rupees would be provided to the families of those killed, making a maximum of 50,000 rupees compensation; arrangements would be made for the livelihood

of those disabled during the protests. In addition, it was agreed that a team from both parties would investigate teachers' grievances, such as transfers, and look into possible amendments in the current education rules and regulations; on the Tanakpur¹ issue it was agreed to extend the period of the all-party parliamentary committee to work out a consensus. An all-party commission would be set up to check rising prices.

The other six opposition parties did not support the agreement, and left the CPN-UML-led alliance. They pledged to continue their struggle against the government in an attempt to force the Prime Minister to resign.

Reports of possible extra-judicial killings

The general strike on 25 June reportedly began peacefully with a procession intended to end in a rally at the Open Theatre (Khulla Manch) in Kathmandu. However, some of the participants vandalised property and a number of vehicles were damaged and acts of arson committed. Police used tear gas and baton charges to disperse the crowd and fired bullets in an attempt to bring the situation under control. At least ten people were killed. At least 40 people were arrested for breaking the curfew between 26 and 30 June and it was reported that three curfew violators were shot and killed by police at Samakhushi, Thupathali and Indrachowk. One of them, Ratna Sagar Napit, was reportedly shot dead during the curfew on 26 June while leaving his house in Gausala, Kathmandu, to go outside to the toilet.

The injuries reportedly sustained by those injured or killed in police firing suggest that no attempt was made by police to avoid fatalities, and that people were shot who may have been attempting to flee. Many people were reportedly shot from behind, receiving bullet wounds in their chests, shoulders and arms.

Home Minister Sher Bahadur Deupa stated in Parliament that seven people were killed by police firing in Kathmandu between 25 and 28 June; four during the demonstrations and three people for violation of the dusk to dawn curfew. According to unofficial reports, a total of sixteen people were killed, thirteen in Kathmandu and three people in Patan, a neighbouring town, where similar disturbances had occurred. Their names are listed below.

During a nationwide transport strike called by the alliance of left-wing parties led by the CPN-UML on 20 July, it was reported that a further five people from Jhapa, Chitwan, Rupandehi and Nawal Parasi Districts were killed when police again resorted to firing on the

¹ The Government of India started the construction of a hydro-electric dam on the Mahakali river on the Indo-Nepal border in 1983. An agreement was reached between India and Nepal on the question of rights over territory and water resources in 1991. The Government of Nepal has since tried to endorse the agreement on the strength of a majority vote in Parliament but the opposition, which does not consider the agreement to be in the country's best interests, demands a two-thirds majority vote in Parliament or a general consensus on the issue.

crowds. It is alleged that no warning was given before the police opened fire. Amnesty International believes that a full, independent investigation should be held into these killings to establish whether they amounted to extrajudicial killings.

List of people killed in possible extrajudicial executions by the police:

Rita Silpakar (female), 24
Raja Ram Shakya, 30
Krishna Narayan Manandhar, 28
Mahesh Manandhar, 25
Rajesh Bajracharya
Ram Prasad Sapkota, 31
Ashim Rai, 19
Sudama Thapa, 21
Ratna Sagar Napit
Bharat Tuladhar
Mohit Krishna Bajju, 13
Manoj Gautam, 17
Suresh Basadoti, 18
Ashok Ratna Karmacharya
Ram Maharjan
Rabindra Shrestha
Moti Neupane
Kaushila Rana Magar (female), 25
Nara Bahadur Nepali
Purna Pariyar, 34
Yam B Karki

Reports of arbitrary arrests, torture and ill-treatment

Hundreds of people were arrested between 25 June and 20 July, including possible prisoners of conscience, most of whom were released by 8 August. During the initial demonstrations between 25 and 28 June the Home Minister, Sher Bahadur Deupa, stated that 300 people had been arrested. According to police sources, however, some 1,280 persons were arrested between 24 June and 4 July 1993, most of whom were later released. Among them it was reported that 57 had been charged under the Curfew Defiance Act and 93 under the Public Offences and Penalties Act which permits administrative detention pending investigation for up to 35 days on order of the Chief District Officer. Others were arrested and detained without any charge and later released. Many of those detained between 25 and 28 June were held at a detention centre at the Mahendra Police Club, an unofficial place of detention, presumably because police stations were full.

It is difficult to ascertain the exact number of people detained in this period since it appears that no warrants for arrest were issued and no accurate records of prisoners were kept at the

detention centres. No lists of people detained or released were compiled or made public and family members were not informed of the whereabouts of relatives or allowed to visit detainees. Detainees were reportedly denied access to a lawyer and medical care.

Human rights activists who visited the detention centre at the Mahendra Police Club on 29 June said that police officials had informed them that 94 detainees were held there. In fact the team counted 134 detainees. The team also visited the Hanuman Dhoka police station in the centre of Kathmandu, where they were told by one police officer that there were 16 detainees; however another police officer told them that about 60 detainees had recently been transferred to another detention centre. At least 20 people were reported to have been detained at the Nakhhu Jail in Lalitpur District.

During the nationwide transport strike on 20 July the Home Ministry stated that 400 people had been arrested. A local human rights organization, however, claimed that between one and two thousand people had been arrested in the Kathmandu valley alone, a large number of them taken into preventive detention to foil the two-day nationwide strike. Among those detained were 16 opposition members of parliament who had been leading the processions, 12 of whom were arrested in Kathmandu, two in Chitwan, one in Pokhara and one in Kanchanpur. They were released later the same day.²

Local human rights workers interviewed a number of detainees, many of whom said they had been beaten on arrest and during interrogation. Some of the 134 detainees interviewed at the detention centre at the Mahendra Police Club said that during interrogation by police officials they had been beaten severely on the shins with sticks causing bruising with the result that some of them were unable to walk properly; they also said that they had not been given any food for three days and had been forced to sleep on a cement floor. A detainee at the Mahendra Police Club said many of the detainees he saw there, who were aged between 11 and 65, were covered in blood from the beatings they had received on arrest and that they did not receive any medical treatment except pain killers. All of them, including the injured, were forced to sleep on the cement floor and no food was given to them. A doctor who went to the Mahendra Police Club to investigate reports of torture informally interviewed some detainees who complained that, as a result of beatings, one had suffered a sprained ankle, one an injured eye and one a fractured hand.

Two members of parliament, Jagrit Bhetwal and Amik Shrechan, who were participating in the demonstrations on 20 July, were beaten by police on arrest; Mr Amik Shrechan was later admitted to hospital for treatment.

² Under Article 62(6) of the Constitution, no member of parliament should be arrested while parliament is in session unless suspected of having committed a specific criminal offence, in which case the arresting officer is required to inform the Chairman of the House immediately.

Death in Custody

The case of Bijaya Lama

During the 5 July demonstration in Bhaktapur, a small town near Kathmandu, police were patrolling the streets. In one area, Suryavinayak, the Chief District Office (CDO) and District Superintendent of Police (DSP) accompanied the patrols through the streets that evening, according to an eye-witness, shouting through a megaphone telling people to stay at home and close their doors and windows. However, some people remained in the street, and their numbers swelled as people defied the police orders and left their houses to join them. The police then surrounded them and started to make arrests. One eye-witness testified that he saw a number of people being arrested and beaten by police. One of those arrested was Bijaya Lama, an 18-year-old labourer who worked at the Bhujunga Carpet Factory in Suryavinayak, Bhaktapur. Another prisoner detained that day at the Bhaktapur police station, said he saw Bijaya Lama in the police station:

"I was staying at a friend's room. Suddenly, police entered the room and arrested me at about 8.00pm on 5 July. I was severely beaten with sticks and boots on the way to the DSP's office. I was interrogated. They accused me of being a terrorist. [.....] We were altogether seven persons in custody. We were also beaten in police custody. One of us was very serious. His body was wet with blood. He vomited twice. He was unconscious. No treatment, no care for him. Till this time [night] I was unaware of his name. In the meantime, one policeman came inside. He looked at him. [....] Then the policeman murmured that his name was Bijaya Lama. His name was written on one of his hands. Then, I also read it on his hand. Police dragged him outside next morning [on 6 July 1993] at about 8.00am. I don't know what happened after that."

The following morning at 8.45am Bijaya Lama was brought by police to Bhaktapur Hospital where, according to hospital records, he was diagnosed as suffering from a head injury; he was referred to the Bir Hospital for treatment, where he died.

According to a relative Bijaya Lama had left his house at about 7.30pm the previous night and did not come back. When the relative inquired at the police station he was told that the police did not know anything about Bijaya Lama. The relative later returned to the police station with Bijaya Lama's employer and this time they were told that he had been sent to Bhaktapur Hospital for treatment. At the hospital they saw Bijaya Lama, his face covered in dried blood from the head injury. There were three policemen keeping watch nearby. The relative then left the hospital to obtain the money to pay for the treatment and while he was away the police took Bijaya Lama to Bir Hospital. When the relative returned he could not find out where the patient had been taken.

The issue of Bijaya Lama's death, apparently as a result of injuries he received while in police custody, was raised in Parliament in mid-July. The explanation given by Home Minister Deupa was that the police had found Bijaya Lama lying unconscious in the street and had taken him to hospital where he later died.

Amnesty International's Concerns and Recommendations

A new Constitution was drawn up in 1990 after the introduction of a multi-party system of democratic government in Nepal, which provides substantial human rights protection. Nepal is now party to a number of international human rights instruments including the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The government has publicly declared its desire to protect and enhance human rights.

While the human rights situation in the country improved when the new government took office, reports of possible extrajudicial execution, arbitrary arrest, torture and ill-treatment continued to be reported, and adequate safeguards against the violation of human rights were not introduced. Possible extrajudicial executions and torture by the police were not subject to proper investigation, and no known action was taken against the perpetrators. For example, six supporters of the main opposition party, who were arrested in Sindhuli district in October 1992 and questioned about two murders, were tortured by police after denying any involvement. No action is known to have been taken to investigate the reports of torture or to bring those responsible to justice. In another case, a 24-year-old woman, Manikala Rai, was reportedly beaten and raped in police custody at Buddhanilkanttha, Kathmandu, after being arrested on 13 December 1992. According to reports, the sub-inspector at the police station was dismissed from the police force for having beaten and raped Manikala Rai, but it is not known whether a full and impartial investigation has been held into the incident, in which four other policemen were allegedly involved, or whether action has been taken to bring those responsible to justice.

Amnesty International believes that the phenomenon of impunity, or exemption from punishment, for human rights violators actively contributes to continuing violations. It believes that the Government of Nepal should set up, without delay, a complaints mechanism and procedure for independent and impartial investigation of alleged human rights violations, including extrajudicial killing, torture and ill-treatment so that those responsible for such violations can be identified and brought to justice. The Government of Nepal should also ensure that police are instructed in the proper, proportionate use of force and that they are instructed to avoid lethal methods of crowd control unless faced with life-threatening situations. In June 1992, Amnesty International published *Nepal: A Summary of human rights concerns* (AI Index: ASA 31/02/92), which contained a set of recommendations for safeguarding against continued human rights violations. These included recommendations for preventing torture, extrajudicial killings and arbitrary arrest

and detention without trial. The major points in these recommendations are summarized below.

In response, the government wrote to Amnesty International in October 1992, stating its intention of enacting legislation which would make torture a criminal offence and outlined plans for the training of security personnel in human rights protection and promotion. In response to Amnesty International's comment that police should first order the crowd to disperse, and then use sticks, teargas, water and blank fire before using live ammunition, the government pointed out that it does not have water cannon and rubber bullets at its disposal, but that it intended to prevent the recurrence of extrajudicial killings by police firing on crowds in the future. It said that an "orientation class" for security personnel to train them in human rights standards had been started. Since then, draft legislation has been prepared which would make torture a criminal act and require victims to be compensated, but this bill has yet to become law. The description of events in Nepal in June and July 1993 given above shows that the government has failed so far to take effective preventive action.

During June and July 1993 Amnesty International issued several appeals to the Government of Nepal to take action to halt possible extrajudicial executions, torture and arbitrary arrests by police, and to investigate the violations committed so far. In September it was reported that the Parliamentary Foreign Affairs and Human Rights Committee had decided to constitute five teams to inspect jails, police offices and the offices of government attorneys in the five development regions in order to investigate the current human rights situation in the country. A Joint Parliamentary Committee was also constituted in September to inquire into the ill-treatment of members of parliament arrested during the July demonstrations. However, there has been no announcement of a full, independent investigation into the possible extrajudicial killings, arbitrary arrests and torture in June and July, and nor is Amnesty International aware of any official action to bring those responsible to justice. Steps have been taken by the government to compensate relatives of victims killed in the disturbances, which is an important acknowledgment of government responsibility. These are ex-gratia payments made at the discretion of the government since there is no legal means by which compensation can be awarded by the courts.³

Summary of Amnesty International's recommendations for the prevention of extrajudicial executions, torture and arbitrary arrests

1. The government should ensure the independent and impartial investigation of all allegations of serious human rights violations such as torture and extrajudicial

³ A draft bill relating to compensation for torture was discussed in Parliament (Lower House) in August 1993. It was agreed that the draft bill would be sent to a special committee of parliamentarians for further discussion and amendment, before being presented to the House of Representatives (Upper House).

execution or unlawful killing. The findings of all such investigations should be made public; the government should take action to bring to justice anyone against whom there is reasonable evidence of involvement in serious human rights violations;

2. The government should review and amend existing legislation, particularly the Local Administration Act and the Police Act, to ensure that there are strict legal limits on the use of force and firearms by their security forces, in accordance with international standards such as the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
3. The government should order a review of post mortem procedures in cases of suspicious death; ensure that post mortem examinations are carried out independently of anyone implicated in the death; and allow the presence during examination of a medical or other representative of the family of the deceased;
4. As required by the Convention against Torture (Articles 4 and 14) the government should enact legislation which makes torture a criminal offence and give victims or their families the enforceable right to fair and adequate compensation and rehabilitation;
5. As required by the Convention against Torture (Article 12) the government should ensure impartial investigation whenever there is reasonable grounds to believe that an act of torture or cruel, inhuman or degrading treatment or punishment has been committed. To this end, the government should give consideration to establishing a complaints mechanism and a formal investigation procedure;
6. The government should issue immediate instructions that there must be an end to the use of torture and, as required by the Convention against Torture (Article 10) the government should ensure that all personnel involved in the arrest, detention and interrogation of suspects are fully aware of the prohibition of torture and ill-treatment in both Nepali and international law;
7. The government should ensure that arrest and detention are subject to effective judicial control and that arrested persons are informed immediately of the charges against them and of their legal rights;
8. The government should ensure that the constitutional provision for detainees to be brought before a judicial authority within 24 hours of arrest is strictly complied with in all circumstances;
9. There should be a legal obligation on the authorities to inform the family of the detainee promptly after arrest of the whereabouts and legal status of the detainee and thereafter of any transfers;

10. The government should end the practice of incommunicado detention by ensuring the drawing up of clear and precise regulations to ensure detainees' right of prompt and regular access to independent doctors and lawyers and the right to be visited by their relatives;
11. The government should ensure that detaining authorities in police stations and prisoners at all times keep an up-to-date register of all those detained on the premises, including details of transfer or release. Such registers should be regularly inspected by government official and should be open to public inspection;
12. The government should continue to implement training programs for security forces in order that they are made fully aware of the human rights of citizens through knowledge of international human rights instruments and related Nepali law.