
AMNESTY INTERNATIONAL

NEPAL
MEMORANDUM TO THE GOVERNMENT

JUNE 1990

SUMMARY

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In April 1990 King Birendra of Nepal lifted a thirty-year-old ban on political parties, following a two-month nationwide campaign for multi-party democracy organized by the Nepali Congress (NC) party and the United Left Front (ULF). On 19 April an NC/ULF coalition government took office. The government is an interim one, to stay in office until the holding of free and fair elections within a year of its coming to power. It is committed to the protection of human rights, constitutional change, and the holding of free and fair elections within a year of its coming to power. Since early April, most political prisoners have been released.

A three-member Amnesty International delegation was in Nepal from 12 to 22 April. The delegation visited Kathmandu, Bhaktapur, Pathan, Chitwan, and Hetauda. Delegates investigated reports of human rights violations and met the newly appointed head of the interim government, Prime Minister K.P. Bhattarai, as well as officials in the Foreign Ministry and the Ministry of Law and Justice. In May 1990 Amnesty International presented a memorandum to the interim government based on the findings of the delegation. Amnesty International confirmed reports that thousands of people had been detained between February and mid-April for peacefully supporting the pro-democracy campaign. Many had been tortured in police custody, and most had been held in overcrowded and insanitary conditions. Official records of arrests were often inaccurate or non-existent. Amnesty International also found that a number of people killed after police opened fire on demonstrators may have been victims of extrajudicial executions; and that the police had repeatedly obstructed doctors carrying out their professional duty to provide medical assistance to the injured.

The memorandum recommends steps which Amnesty International believes the government should take to ensure the effective future protection of human rights in Nepal. Recommendations include ratification of United Nations human rights instruments and incorporation of the safeguards guaranteed therein into the Nepali constitution and legislation; official condemnation of torture, including a statement of intent to bring torturers to justice; a review of the training of police personnel and instructions to the police with regard to post mortem procedures; and the drawing up of specific rules for the conduct of investigation commissions such as the one which has been set up to investigate loss of life between February and April 1990. Amnesty International also urges the government to release Christians convicted solely for conversion and/or proselytization -- whom it regards as prisoners of conscience -- and to order a retrial of all remaining political prisoners serving sentences.

This summarizes a 14-page document, Nepal: Memorandum to the Government Concerning

Human Rights Protection, AI Index: ASA 31-10-90, issued by Amnesty International in June 1990. Anyone wanting further details or to take action on this issue should consult the full document.

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United Kingdom

MEMORANDUM TO THE GOVERNMENT OF NEPAL

This memorandum is presented to Prime Minister K.P. Bhattarai, heading an interim administration committed to establishing multi-party constitutional democracy and protecting human rights in Nepal. The government took office on 19 April 1990 after a period of political upheaval in which nationwide demands for political reform were accompanied by persistent reports of large-scale human rights violations, especially after 18 February 1990. This memorandum is based on the findings of an Amnesty International delegation which visited Nepal between 12 and 22 April during the period that the interim administration was established. The delegation received information from a wide range of sources which confirmed that large-scale human rights abuses had taken place in the period to 6 April, when massive demonstrations for multi-party democracy were put down with unprecedented harshness by the police, later assisted by the army, killing dozens of unarmed demonstrators. This prompted the fall of the Marich Man Singh Shrestha government, the lifting of the ban on political parties and the resumption of normal political activity. Since then, nearly all political prisoners have been released and other important steps have been taken to improve respect for human rights.

In this memorandum, Amnesty International summarizes its findings and proposes a number of steps which, if implemented, could create a structure for long-term and effective protection of those human rights which have been so widely abused.

Amnesty International makes the following recommendations:

International human rights protection

Nepal is one of the first countries to have ratified the UN Convention on the Rights of the Child, but is not yet a party to the major human rights instruments adopted by the United Nations. In order to ensure the protection of human rights in the long term, under any future government:

1. a. The government should, at the earliest possible date, become a state party to the International Covenant on Civil and Political Rights (ICCPR - which guarantees those human rights generally recognized by the international community) and to the Optional Protocols to that Covenant. The first Protocol grants individuals the right to address the Human Rights Committee about the application of specific rights guaranteed in the Covenant, but only after all domestic remedies have been fully exhausted. The government should also become a party to the UN Convention against Torture.

Nepal, with Sri Lanka, is the only country in the Subcontinent where no executions have taken place for over a decade. The Second Optional Protocol

to the International Covenant on Civil and Political Rights aims to abolish the death penalty in all countries. When the General

Assembly of the United Nations adopted the Second Optional Protocol on 15 December 1989, Nepal voted in its favour.

1. b. The government should ratify the Second Optional Protocol to the ICCPR. In doing so, Nepal would set an important precedent in the region.

The Amnesty International delegation found that legal protection of human rights in Nepal could be greatly strengthened. It noted, for example, the absence of any constitutional or other legal prohibition against torture (although Section 15 of the Police Act prohibits the police from "harassing" the general public and criminals). Other countries which have revised their constitutions have incorporated prohibition of torture among the fundamental rights given constitutional protection. A commission to frame a new constitution is now being established in Nepal and this presents an important opportunity to strengthen legal mechanisms to protect human rights.

2. The government should incorporate in Nepali legislation the human rights and safeguards guaranteed in recognized international standards -- notably those provided in the International Covenant for Civil and Political Rights -- and strengthen them by incorporating them in the newly to-be-drafted constitution. Especially important are constitutional provisions to protect the right to life, the rights not to be tortured and not to be arbitrarily detained, and the right to fair trial. The ICCPR provides that the right to life and the prohibition of torture can never be suspended, even in times of "public emergency which threatens the life of the nation".

Detention procedures

The Amnesty International delegation found that thousands of people were arrested and detained between February and April and were held in police stations and in ad hoc places of detention. They were often held in overcrowded and unhygienic conditions. The delegation was told by many - although not all - released detainees whom they met that their names and personal data were not entered into police registers, at least during the initial detention period when no formal detention order was issued. As a result, official records of their detention in police custody often did not exist and relatives failed in many cases to establish where detainees were held.

Although Amnesty International appreciates the difficulties of the arresting authorities in maintaining proper records during periods like those which existed between February and April 1990 -- when thousands of people were being arrested and detained -- we understand that the failure to maintain proper records of arrest and detention is a long-standing problem, to which several released prisoners interviewed by the Amnesty International delegation testified. The Law Ministry confirmed there was no obligation in Nepali law for the police to inform the relatives of an arrest, place of detention or transfer. Indeed, some requests by detainees to inform their relatives that they were detained were flatly refused. The result was that relatives were often unable to locate a detainee. In the absence of proper records, there is a danger that detained people will go "missing" within the system.

3. The government should incorporate safeguards into Nepali domestic law and regulations to protect people from arbitrary arrest and detention.
 - a. These should provide for detainees to be promptly informed of the reasons for arrest and charges against them, for the maintenance of proper arrest records registering the name, reason for arrest, place of detention, first appearance before a judicial authority and the identity of those carrying out the arrest. Early access to lawyers and relatives should be guaranteed: such access should not be denied for more than a matter of days.
 - b. There should be an obligation to inform relatives -- or other appropriate persons -- of an arrest, the place of arrest and any transfer.
 - c. Independent control or supervision of detention by an independent body should be established.

Amnesty International recommends that the government do this by incorporating into Nepali law specific principles contained in the United Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment. Implementation of Principles 1, 2, 4, 6, 10, 11, 12, 13, 15, 16, 17, 18, 19, 23 and 32 are especially important. (Their text is attached to this memorandum.)

Remaining political prisoners

The Amnesty International delegation learned that, following an announcement by King Birendra, releases of uncharged political prisoners began on 6 April, and that since then, and especially after the interim administration took office, prisoners charged with political offences have also been released. However, a few such prisoners serving prison sentences for politically motivated offences remain held. They include 12 prisoners sentenced for carrying out bombings in Kathmandu in 1985. These prisoners were sentenced by a special court sitting in camera. The court also passed four death sentences under the Destructive Crimes (Special Control and Punishment) Act, enacted in August 1985 and applied retroactively, on four people tried in absentia. Several Christians sentenced to between one and six years' imprisonment for conversion or proselytization also remain in custody.

4. The government should release Christians held solely for conversion and/or proselytization, and order a retrial of all remaining political prisoners. They should be given a fair and open trial with full legal safeguards, as provided in Article 14 (3) of the ICCPR, (the text of which is attached). If there are substantive allegations that evidence relied upon to convict them has been obtained under torture or duress, these should be properly investigated and no such evidence should be admitted during retrial.

Torture

The Amnesty International delegation found evidence that torture was routinely used especially during the recent period of political unrest following the launching of the Movement for Restoration of Democracy on 18 February 1990.

On the basis of more than 80 interviews with torture victims carried out by the Amnesty International delegation --whose members included a forensic medical expert experienced in the examination of torture victims -- it is clear that beatings, including on the soles of the feet, were widespread. Many victims sustained broken limbs as a result of beatings in custody. In other cases, detainees were tortured by having pins inserted under their fingernails, by having toenails ripped off and by the insertion of lathis (sticks) in body orifices. Nearly all torture occurred in police detention, when detainees had no access to the outside world.

As already noted, torture is not specifically prohibited either in Nepali law or the constitution, and a torture victim has to prove torture in order to have evidence so extracted set aside by a court of law before which s/he is on trial. Contrary to some other legal systems, courts in Nepal have no duty to investigate torture allegations or order a medical examination of a detainee. (In India, for example, Section 54 of the Code of Criminal Procedure obliges a magistrate to order that a detainee brought before him be medically examined if the latter makes a bona fide request for such an examination - enabling him to prove he was subjected to physical injury.) Nor does Nepali law permit a torture victim to bring a civil claim for damages against the person or authority responsible for torturing him.

5. The government should issue a public statement condemning torture in all circumstances and stating that it will bring to justice those responsible for torturing prisoners.

Regarding the law:

6. a. The government should order a review of Nepali law to bring it into line with international human rights instruments, for example Article 7 of the ICCPR, the United Nations Declaration against Torture, and Article 5 of the Code of Conduct for Law Enforcement Officers. (The Code prohibits torture by law enforcement officials and specifies that no superior orders or exceptional circumstances such as "internal political instability or any other public emergency" can ever be invoked to justify torture. The text of Article 5 is attached to this memorandum.)
- b. Legal provision should be made to enable victims of torture to bring civil claims for compensation.
 7. The government should include the absolute prohibition of torture in the training of all law enforcement personnel, especially those in charge of arresting and interrogating suspects or detainees. (Amnesty International recommends that the United Nations Code of Conduct for Law Enforcement Officers be used for training purposes.)

Killings of demonstrators

The exact number of people killed during what were largely peaceful demonstrations since 18 February is not known. On 6 April alone, the estimates of those shot by police range from less than twenty to over six hundred.

Article 3 of the Local Administration Act requires that the police have first to take a series of measures before using lethal force: an order to the crowd to disperse, the use of lathis (sticks), teargas, water, then the firing of blank cartridges and finally the use of live ammunition, but only if aimed below the knee. Amnesty International's delegates found prima facie evidence that on several occasions police apparently disregarded these rules, including on 6 April. In a number of cases, demonstrators were shot in the head, shoulders or chest, apparently in contravention of the specific obligation under the Act not to shoot above the knee.

8. The government should review the training of police personnel involved in crowd control in order to ensure that all police personnel are aware of, and are required to observe, the rules laid down in Article 3 of the UN Code of Conduct for Law Enforcement Officers and Article 3 of the Local Administration Act, both of which impose strict limitations on the use of force by police. (The text of Article 3 of the UN Code, with a Commentary thereto, is attached.)

Some demonstrators died from injuries which suggest they were shot by police or army personnel using high velocity ammunition. International legal standards, as laid down in Article 3 of the Code of Conduct for Law Enforcement Officials and its Commentary, have stressed that the use of force has to be proportionate to the legitimate aim to be achieved.

9. If it is indeed established that high velocity ammunition has been used against demonstrators, its use during crowd control should be barred.

A commission has been set up to investigate cases of "injury and loss of life and property" between 18 February and 13 April. It consists of a Supreme Court judge, two regional judges, and other independent members. It began work on 16 April. Amnesty International welcomes the decision to appoint a commission to investigate the killings of demonstrators and believes it is important that measures be adopted for the commission to carry out its work effectively.

10. The government should draw up specific rules for the conduct of effective investigations, to include the following: the investigative body should be independent and impartial, and have powers to compel officials allegedly involved to appear and testify; investigations should seek to establish the cause, manner and time of death, the persons responsible, and any pattern or practice which may have brought about that death; relatives should have access to the hearing and they and other

witnesses should be protected from threats of violence or other intimidation; adequate post-mortem examinations should be carried out in all cases; the report should describe all injuries, including any evidence of torture; the report of the investigation should be made within reasonable time, list the methods of investigation used and the evidence relied upon for its findings and should be made public immediately.

In drawing up rules for such investigations, the government may wish to incorporate some of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by ECOSOC on 24 May 1989 and endorsed by the General Assembly of the United Nations on 15 December 1989, which the above recommendations reflect. Principles 9, 10, 13, 15, 16 and 17 are especially important, and their text is attached to this memorandum.

Nepali law requires that if a person dies in unnatural circumstances, a post-mortem examination shall be carried out and the body shall be handed over to the relatives who need to sign a certificate of receipt of the body.

The Amnesty International delegation found that formalities were not always followed: in several cases police had disposed of the bodies of the dead before informing the relatives, or had refused to allow relatives to claim the body, forcing them to sign a paper stating that the body had been released, while in fact retaining it. This has greatly upset the relatives, who were unable to carry out cremation rites.

The Amnesty International delegation was, however, unable effectively to investigate reports that the bodies of many unidentified victims of police shootings, particularly on 6 April, were removed by the police or army, taken to a military zone outside Kathmandu, and disposed of in secret by the police.

11. The government should instruct all police officers that, in all cases, and in accordance with the requirements of Nepali law, the body of any person who dies in unnatural circumstances is to be returned to the family and shall not be disposed of until a post-mortem examination has been carried out. When the identity of the dead person has been established, a notification of death should be posted, and the family or relatives of the deceased should be immediately informed.

Amnesty International's delegates found evidence that between 6 and 9 April the police in Kathmandu repeatedly interfered with the work of doctors seeking to treat those shot and wounded during demonstrations -- for example, by forcibly preventing the patients from being brought to Kathmandu's two major hospitals. The delegation also found evidence of police interference with the work of doctors in Chitwan.

- 12.a. The government should issue standing orders to the police not to obstruct doctors and nurses in their professional duties.
- b. The government should also issue orders that those carrying out post-mortem examinations should have adequate time and

facilities to do so.

Accountability

The delegation was given the names of several officials who had allegedly been responsible for the torture of detainees or for excessive use of force against demonstrators leading to serious injury and loss of life. Amnesty International understands that the government has not announced its intention of bringing criminal proceedings against all officials who have committed human rights violations of this type, although some police officials implicated have been transferred. Fears were expressed to the delegation in Kathmandu that allegedly guilty officials may be permitted to continue their law enforcement duties. Were this to happen, the possible involvement of such officials in future human rights violations would lead to a further and dangerous loss of confidence in the police.

Absence of any prosecution also carries the risk that justice will be taken into popular hands and, as the events during the weeks after the government took office have shown, that reprisals will be carried out. In those cases where there is prima facie evidence of torture or extrajudicial killing the individual should be charged, and the evidence against him tested before a court of law with full legal safeguards for both witnesses and defendant. If an official is found to have inflicted torture or broken Nepali law while using firearms, he should be removed from the police force and should face the normal civil and criminal penalties. While Amnesty International does not underestimate the practical and other difficulties inherent in this policy, we believe it is necessary to build public confidence in the police as an impartial law enforcement agency, and to establish proper standards of police conduct.

13. The government should announce publicly its intention to institute proceedings in those cases in which there is evidence to sustain a charge.

Compensation

Before it left office, the Chand government announced on 10 April that the relatives of those killed or injured since 18 February would be granted initial relief. This sum was increased on 26 April, when the interim government announced that Rs 25,000 would be paid to the families of each of those killed.

Amnesty International is concerned that all the relatives involved receive adequate compensation.

14. The government should ensure that all families of victims of extrajudicial killings receive adequate compensation speedily and that measures are taken to ensure that all potential beneficiaries are informed they can receive such compensation.

APPENDIX

EXCERPTS FROM UNITED NATIONS STANDARDS**Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment**

Principle 1: All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

Principle 2: Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.

Principle 4: Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

Principle 6: No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.* No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

Principle 10: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.

Principle 11:

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
 2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.
 3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

Principle 12:

1. There shall be duly recorded:
 - a. The reasons for the arrest;
 - b. The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;

* The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses,

whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time.

- c. The identity of the law enforcement officials concerned;
- d. Precise information concerning the place of custody.

- 2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

Principle 13: Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights.

Principle 15: Notwithstanding the exceptions contained in principle 16, paragraph 4, and principle 18, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be delayed for more than a matter of days.

Principle 16:

- 1. Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.
 - 2. If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.
 - 3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in this principle. Special attention shall be given to notifying parents or guardians.
 - 4. Any notification referred to in this principle shall be made or permitted to be made without delay. The competent authority may however delay a notification for a reasonable period where exceptional needs of the investigation so require.

Principle 17:

- 1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with

reasonable facilities for exercising it.

2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

Principle 18:

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.
2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his legal counsel.
3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.
4. Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.
5. Communications between a detained or imprisoned person and his legal counsel mentioned in this principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuing or contemplated crime.

Principle 19: A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

Principle 23:

1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.
2. A detained or imprisoned person, or his counsel when provided by law, shall have access to the information described above.

Principle 32:

1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.
2. The proceedings referred to in paragraph 1 shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

International Covenant on Civil and Political Rights

Article 14

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - a. To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - b. To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - c. To be tried without undue delay;
 - d. To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - e. To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - f. To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - g. Not to be compelled to testify against himself or to confess guilt.

Code of Conduct for Law Enforcement Officials

Article 3: In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary:

- a. This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.
 - b. National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national

principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.

c. The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 5 No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Principles on the Effective Prevention and Investigation of Extra- Legal, Arbitrary and Summary Executions

9. There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.

10. The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. The same shall apply to any witness. To this end, they shall be entitled to issue summons to witnesses including the officials allegedly involved and to demand the production of evidence.

13. The body of the deceased shall be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to be carried out. The autopsy shall, at a minimum, attempt to establish the identity of the deceased and the cause and manner of death. The time and place of death shall also be included in the autopsy report in order to document and support

the findings of the investigation. The autopsy report must describe any and all injuries to the deceased including any evidence of torture.

15. Complainants, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation. Those potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations.

16. Families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. The family of the deceased shall be present at the autopsy. When the identity of a deceased person has been determined, a notification of death shall be posted, and the family or relatives of the deceased immediately informed. The body of the deceased shall be returned to them upon completion of the investigation.

17. A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.

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Amnesty International

1 Easton Street London WC1X 8DJ

22 May 1990

MEMORANDUM TO THE GOVERNMENT OF NEPAL

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1. a. The government should, at the earliest possible date, become a state party to the International Covenant on Civil and Political Rights (ICCPR - which guarantees those human rights generally recognized by the international community) and to the Optional Protocols to that Covenant. The first Protocol grants individuals the right to address the Human Rights Committee about the application of specific rights guaranteed in the Covenant, but only after all domestic remedies have been fully exhausted. The government should also become a party to the UN Convention against Torture.

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1. b. The government should ratify the Second Optional Protocol to the ICCPR. In doing so, Nepal would set an important precedent in the region.

The Amnesty International delegation found that legal protection of human rights in Nepal could be greatly strengthened. It noted, for example, the absence of any constitutional or other legal prohibition against torture (although Section 15 of the Police Act prohibits the police from "harassing" the general public and criminals). Other countries which have revised their constitutions have incorporated prohibition of torture among the fundamental rights given constitutional protection. A commission to frame a new constitution is now being established in Nepal and this presents an important opportunity to strengthen legal mechanisms to protect human rights.

2. The government should incorporate in Nepali legislation the human rights and safeguards guaranteed in recognized international standards -- notably those provided in the International Covenant for Civil and Political Rights -- and strengthen them by incorporating them in the newly to-be-drafted constitution. Especially important are constitutional provisions to protect the right to life, the rights not to be tortured and not to be arbitrarily detained, and the right to fair trial. The ICCPR provides that the right to life and the prohibition of torture can never be suspended, even in times of "public emergency which threatens the life of the nation".

Detention procedures

The Amnesty International delegation found that thousands of people were arrested and detained between February and April and were held in police stations and in ad hoc places of detention. They were often held in overcrowded and unhygienic conditions. The delegation was told by many - although not all - released detainees whom they met that their names and personal data were not entered into police registers, at least during the initial detention period when no formal detention order was issued. As a result, official records of their detention in police custody often did not exist and relatives failed in many cases to establish where detainees were held.

Although Amnesty International appreciates the difficulties of the arresting authorities in maintaining proper records during periods like those which existed between February and April 1990 -- when thousands of people were being arrested and detained -- we understand that the failure to maintain proper records of arrest and detention is a long-standing problem, to which several released prisoners interviewed by the Amnesty International delegation testified. The Law Ministry confirmed there was no obligation in Nepali law for the police to inform the relatives of an arrest, place of detention or transfer. Indeed, some requests by detainees to inform their relatives that they were detained were flatly refused. The result was that relatives were often unable to locate a detainee. In the absence of proper records, there is a danger that detained people will go "missing" within the system.

3. The government should incorporate safeguards into Nepali domestic law and regulations to protect people from arbitrary arrest and detention.

- a. These should provide for detainees to be promptly informed of the reasons for arrest and charges against them, for the maintenance of proper arrest records registering the name, reason for arrest, place of detention, first appearance before a judicial authority and the identity of those carrying out the arrest. Early access to lawyers and relatives should be guaranteed: such access should not be denied for more than a matter of days.
- b. There should be an obligation to inform relatives -- or other appropriate persons -- of an arrest, the place of arrest and any transfer.
- c. Independent control or supervision of detention by an independent body should be established.

Amnesty International recommends that the government do this by incorporating into Nepali law specific principles contained in the United Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment. Implementation of Principles 1, 2, 4, 6, 10, 11, 12, 13, 15, 16, 17, 18, 19, 23 and 32 are especially important. (Their text is attached to this memorandum.)

Remaining political prisoners

The Amnesty International delegation learned that, following an announcement by King Birendra, releases of uncharged political prisoners began on 6 April, and that since then, and especially after the interim administration took office, prisoners charged with political offences have also been released. However, a few such prisoners serving prison sentences for politically motivated offences remain held. They include 12 prisoners sentenced for carrying out bombings in Kathmandu in 1985. These prisoners were sentenced by a special court sitting in camera. The court also passed four death sentences under the Destructive Crimes (Special Control and Punishment) Act, enacted in August 1985 and applied retroactively, on four people tried in absentia.

Several Christians sentenced to between one and six years' imprisonment for conversion or proselytization also remain in custody.

4. The government should release Christians held solely for conversion and/or proselytization, and order a retrial of all remaining political prisoners. They should be given a fair and open trial with full legal safeguards, as provided in Article 14 (3) of the ICCPR, (the text of which is attached). If there are substantive allegations that evidence relied upon to convict them has been obtained under torture or duress, these should be properly investigated and no such evidence should be admitted during retrial.

Torture

The Amnesty International delegation found evidence that torture was routinely

used especially during the recent period of political unrest following the launching of the Movement for Restoration of Democracy on 18 February 1990.

On the basis of more than 80 interviews with torture victims carried out by the Amnesty International delegation --whose members included a forensic medical expert experienced in the examination of torture victims -- it is clear that beatings, including on the soles of the feet, were widespread. Many victims sustained broken limbs as a result of beatings in custody. In other cases, detainees were tortured by having pins inserted under their fingernails, by having toenails ripped off and by the insertion of lathis (sticks) in body orifices. Nearly all torture occurred in police detention, when detainees had no access to the outside world.

As already noted, torture is not specifically prohibited either in Nepali law or the constitution, and a torture victim has to prove torture in order to have evidence so extracted set aside by a court of law before which s/he is on trial. Contrary to some other legal systems, courts in Nepal have no duty to investigate torture allegations or order a medical examination of a detainee. (In India, for example, Section 54 of the Code of Criminal Procedure obliges a magistrate to order that a detainee brought before him be medically examined if the latter makes a bona fide request for such an examination - enabling him to prove he was subjected to physical injury.) Nor does Nepali law permit a torture victim to bring a civil claim for damages against the person or authority responsible for torturing him.

5. The government should issue a public statement condemning torture in all circumstances and stating that it will bring to justice those responsible for torturing prisoners.

Regarding the law:

6. a. The government should order a review of Nepali law to bring it into line with international human rights instruments, for example Article 7 of the ICCPR, the United Nations Declaration against Torture, and Article 5 of the Code of Conduct for Law Enforcement Officers. (The Code prohibits torture by law enforcement officials and specifies that no superior orders or exceptional circumstances such as "internal political instability or any other public emergency" can ever be invoked to justify torture. The text of Article 5 is attached to this memorandum.)

- b. Legal provision should be made to enable victims of torture to bring civil claims for compensation.

7. The government should include the absolute prohibition of torture in the training of all law enforcement personnel, especially those in charge of arresting and interrogating suspects or detainees. (Amnesty International recommends that the United Nations Code of Conduct for Law Enforcement Officers be used for training purposes.)

Killings of demonstrators

The exact number of people killed during what were largely peaceful demonstrations since 18 February is not known. On 6 April alone, the estimates of those shot by police range from less than twenty to over six hundred.

Article 3 of the Local Administration Act requires that the police have first to take a series of measures before using lethal force: an order to the crowd to disperse, the use of lathis (sticks), teargas, water, then the firing of blank cartridges and finally the use of live ammunition, but only if aimed below the knee. Amnesty International's delegates found prima facie evidence that on several occasions police apparently disregarded these rules, including on 6 April. In a number of cases, demonstrators were shot in the head,

shoulders or chest, apparently in contravention of the specific obligation under the Act not to shoot above the knee.

8. The government should review the training of police personnel involved in crowd control in order to ensure that all police personnel are aware of, and are required to observe, the rules laid down in Article 3 of the UN Code of Conduct for Law Enforcement Officers and Article 3 of the Local Administration Act, both of which impose strict limitations on the use of force by police. (The text of Article 3 of the UN Code, with a Commentary thereto, is attached.)

Some demonstrators died from injuries which suggest they were shot by police or army personnel using high velocity ammunition. International legal standards, as laid down in Article 3 of the Code of Conduct for Law Enforcement Officials and its Commentary, have stressed that the use of force has to be proportionate to the legitimate aim to be achieved.

9. If it is indeed established that high velocity ammunition has been used against demonstrators, its use during crowd control should be barred.

A commission has been set up to investigate cases of "injury and loss of life and property" between 18 February and 13 April. It consists of a Supreme Court judge, two regional judges, and other independent members. It began work on 16 April. Amnesty International welcomes the decision to appoint a commission to investigate the killings of demonstrators and believes it is important that measures be adopted for the commission to carry out its work effectively.

10. The government should draw up specific rules for the conduct of effective investigations, to include the following: the investigative body should be independent and impartial, and have powers to compel officials allegedly involved to appear and testify; investigations should seek to establish the cause, manner and time of death, the persons responsible, and any pattern or practice which may have brought about that death; relatives should have access to the hearing and they and other witnesses should be protected from threats of violence or other intimidation; adequate post-mortem examinations should be carried out in all cases; the report should describe all injuries, including any evidence of torture; the report of the investigation should be made within reasonable time, list the methods of investigation used and the evidence relied upon for its findings and should be made public immediately.

In drawing up rules for such investigations, the government may wish to incorporate some of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by ECOSOC on 24 May 1989 and endorsed by the General Assembly of the United Nations on 15 December 1989, which the above recommendations reflect. Principles 9, 10,13,15, 16 and 17 are especially important, and their text is attached to

this memorandum.

Nepali law requires that if a person dies in unnatural circumstances, a post-mortem examination shall be carried out and the body shall be handed over to the relatives who need to sign a certificate of receipt of the body.

The Amnesty International delegation found that formalities were not always followed: in several cases police had disposed of the bodies of the dead before informing the relatives, or had refused to allow relatives to claim the body, forcing them to sign a paper stating that the body had been released, while in fact retaining it. This has greatly upset the relatives, who were unable to carry out cremation rites.

The Amnesty International delegation was, however, unable effectively to investigate reports that the bodies of many unidentified victims of police shootings, particularly on 6 April, were removed by the police or army, taken to a military zone outside Kathmandu, and disposed of in secret by the police.

11. The government should instruct all police officers that, in all cases, and in accordance with the requirements of Nepali law, the body of any person who dies in unnatural circumstances is to be returned to the family and shall not be disposed of until a post-mortem examination has been carried out. When the identity of the dead person has been established, a notification of death should be posted, and the family or relatives of the deceased should be immediately informed.

Amnesty International's delegates found evidence that between 6 and 9 April the police in Kathmandu repeatedly interfered with the work of doctors seeking to treat those shot and wounded during demonstrations -- for example, by forcibly preventing the patients from being brought to Kathmandu's two major hospitals. The delegation also found evidence of police interference with the work of doctors in Chitwan.

- 12.a. The government should issue standing orders to the police not to obstruct doctors and nurses in their professional duties.
- b. The government should also issue orders that those carrying out post-mortem examinations should have adequate time and facilities to do so.

Accountability

The delegation was given the names of several officials who had allegedly been responsible for the torture of detainees or for excessive use of force against demonstrators leading to serious injury and loss of life. Amnesty International understands that the government has not announced its intention of bringing criminal proceedings against all officials who have committed human rights violations of this type, although some police officials implicated have been transferred. Fears were expressed to the delegation in Kathmandu that allegedly guilty officials may be permitted to continue their law enforcement duties. Were this to happen, the possible involvement of such officials in future human rights violations would lead to a further and

dangerous loss of confidence in the police.

Absence of any prosecution also carries the risk that justice will be taken into popular hands and, as the events during the weeks after the government took office have shown, that reprisals will be carried out. In those cases where there is prima facie evidence of torture or extrajudicial killing the individual should be charged, and the evidence against him tested before a court of law with full legal safeguards for both witnesses and defendant. If an official is found to have inflicted torture or broken Nepali law while using firearms, he should be removed from the police force and should face the normal civil and criminal penalties. While Amnesty International does not underestimate the practical and other difficulties inherent in this policy, we believe it is necessary to build public confidence in the police as an impartial law enforcement agency, and to establish proper standards of police conduct.

13. The government should announce publicly its intention to institute proceedings in those cases in which there is evidence to sustain a charge.

Compensation

Before it left office, the Chand government announced on 10 April that the relatives of those killed or injured since 18 February would be granted initial relief. This sum was increased on 26 April, when the interim government announced that Rs 25,000 would be paid to the families of each of those killed.

Amnesty International is concerned that all the relatives involved receive adequate compensation.

14. The government should ensure that all families of victims of extrajudicial killings receive adequate compensation speedily and that measures are taken to ensure that all potential beneficiaries are informed they can receive such compensation.

APPENDIX

EXCERPTS FROM UNITED NATIONS STANDARDS**Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment**

Principle 1: All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

Principle 2: Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.

Principle 4: Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

Principle 6: No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.* No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

Principle 10: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.

Principle 11:

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
 2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.
 3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

Principle 12:

1. There shall be duly recorded:
 - a. The reasons for the arrest;
 - b. The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;

* The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses,

whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time. c. The identity of the law enforcement officials concerned;

d. Precise information concerning the place of custody.

2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

Principle 13: Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights.

Principle 15: Notwithstanding the exceptions contained in principle 16, paragraph 4, and principle 18, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be delayed for more than a matter of days.

Principle 16:

1. Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.
 2. If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.
 3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in this principle. Special attention shall be given to notifying parents or guardians.
 4. Any notification referred to in this principle shall be made or permitted to be made without delay. The competent authority may however delay a notification for a reasonable period where exceptional needs of the investigation so require.

Principle 17:

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with

reasonable facilities for exercising it.

2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

Principle 18:

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.
 2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his legal counsel.
 3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.
 4. Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.
 5. Communications between a detained or imprisoned person and his legal counsel mentioned in this principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuing or contemplated crime.

Principle 19: A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

Principle 23:

1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.
 2. A detained or imprisoned person, or his counsel when provided by law, shall have access to the information described above.

Principle 32:

1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.
 2. The proceedings referred to in paragraph 1 shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

International Covenant on Civil and Political Rights

Article 14

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - a. To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - b. To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - c. To be tried without undue delay;
 - d. To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - e. To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - f. To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - g. Not to be compelled to testify against himself or to confess guilt.

Code of Conduct for Law Enforcement Officials

Article 3: In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary:

- a. This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.
- b. National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.
- c. The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 5 No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Principles on the Effective Prevention and Investigation of Extra- Legal, Arbitrary and Summary Executions

9. There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.

10. The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. The same shall apply to any witness. To this end, they shall be entitled to issue summons to witnesses including the officials allegedly involved and to demand the production of evidence.

13. The body of the deceased shall be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to be carried out. The autopsy shall, at a minimum, attempt to establish the identity of the deceased and the cause and manner of death. The time and place of death shall also be included in the autopsy report in order to document and support the findings of the investigation. The autopsy report must describe any and all injuries to the deceased including any evidence of torture.

15. Complainants, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation. Those potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations.

16. Families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. The family of the deceased shall be present at the autopsy. When the identity of a deceased person has been determined, a notification of death shall be posted, and the family or relatives of the deceased immediately informed. The body of the deceased shall be returned to them upon completion of the investigation.

17. A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report

shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.

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