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Part 2

His Majesty's Government

Ministry of Law, Justice and Parliamentary Affairs

The below-mentioned Ordinance promulgated by His Majesty King Gyanendra Bir Bikram Shah Dev is published for information to the general public.

Ordinance No. 1 of the year 2058 (2001)

An Ordinance made to provide for the prevention and punishment of terrorist and disruptive acts:

Preamble :

Whereas, it is expedient to make legal provisions on the prevention of terrorist and disruptive acts for the maintenance of peace and order in the Kingdom of Nepal and for the security of the general public; and at present Parliament is not in session;

Now, therefore, His Majesty King Gyanendra Bir Bikram Shah Dev has promulgated this Ordinance under Article 72 of the Constitution of the Kingdom of Nepal, 2047 (1990).

1. Short Title and Commencement: (1) This Ordinance may be cited as the "Terrorist and Disruptive Acts (Prevention and Punishment) Ordinance, 2058 (2001)".

(2) This Ordinance shall come into force at once.

2. Definitions : Unless the subject or the context otherwise requires, in this Ordinance;

(a) "Arms" means any rifle, gun, cannon, pistol, revolver or similar other means or device of any kind, or spear, knife, *Khukuri* or *Mudha* or other risky weapon with or without sharp edge and also includes any big stick and stone.

(b) "Ammunition" means any fog-signal, fuse, gun-powder, cap, bullet, shot, detonator, cartridge and other ammunition of similar kind.

(c) "Bomb" means any grenade made of any kind of substance or means and which goes off automatically or with the help of any other means, that is used in military or non-military uses, or any other kind of shell filled with explosive substance or any kind of substance to explode or causing explosion.

(d) "Explosive Substance" means tri-nitro-toluene (TNT), amatol, barotol, pentolight, RDX, torpekus, plastic explosives, dynamites, gunpowder, nitro-glycerin, gelnite, stemite, selsite, gun-cotton, blasting powder, mercury or other metal flunite that causes loss and damage when exploded and any other substances produced or used with intent to cause effect

with explosion whether or not such substances are equivalent to those mentioned.

- (e) "Poisonous Substance" means any kind of poison or solid or liquid substance with which such poison is mixed and also includes any kind of noxious flame or gas.
- (f) "Security Personnel" means the Police or Armed Police or Royal Nepal Army or the person designated by His Majesty's Government in the prevention and control of terrorist and disruptive acts.
- (g) "Terrorist and disruptive act" means the terrorist and disruptive act as referred to in Section 3.
- (h) "Terrorist" means any person or group involved in the terrorist and disruptive act as referred to in Section 3.
- (i) "Accomplice" means the following person :
 - (1) A person who is in contact or involved with any person or group involved in the terrorist and disruptive act,
 - (2) A person who gives any information to, or assists in giving information to, any person or group involved in the terrorist and disruptive act or who transmits or publishes or disseminates information of the person or group involved in the terrorist or disruptive act,
 - (3) Any person who gives financial or any other kind of assistance directly or indirectly to the person or group involved in the terrorist and disruptive act.

- (j) "Property" means governmental or public or private movable or immovable property situated in or outside the Kingdom of Nepal.
 - (k) "Informer" means any person who gives information to, or assists in giving information to, the security personnel and His Majesty's Government in respect of the terrorist and disruptive act and explosive substances.
 - (l) "Security Official" means the Chief District Officer or such gazetted officer-level employee of His Majesty's Government as may be specified by His Majesty's Government by publishing a notification in the Nepal Gazette.
 - (m) "Order" means an order issued by His Majesty's Government or the Security Official.
3. Terrorist and Disruptive Crime : (1) If any person commits any of the following acts, such person shall be deemed to have committed the terrorist and disruptive crime:
- (a) Any act to cause loss of, or damage to, or destruction of, the property in any place or make such plot or any act to cause death of, or injuries to any person in such place or to set fire on such place or any act to cause physical or mental loss or damage in any other manner or any acts to cause death of, or injuries to, any person by using a poisonous substance in daily consumable goods or in a public place or any act to terrorize the general public or passer-bys or

assembling people by committing any of the above-mentioned acts, by using any kinds of arms, bombs, explosive substances or any other devices or articles, with intent to undermine or jeopardize the sovereignty and integrity of the Kingdom of Nepal or in any part thereof or the security of a Nepalese diplomatic mission or property situated abroad, or

- (b) Any act to detain or manhandle or terrorise any person in any place or any type of vehicle or to kidnap any person from such place and vehicle or kidnap any person who is travelling by such vehicle, with or without such vehicle, or terrorise with such act by threatening to kill, mutilate, injure any person or cause any other kind of destruction to such person by using, or threatening to use, the substance mentioned in clause (a), for the purpose referred to in that clause, or by using, or threatening to use, any substance or device other than such substance, or
- (c) Any act to produce, distribute, store, transport or export or import, sell, carry or install any kind of arms, or bombs or explosive substances or poisonous substances or aid and abet in such act, with the intention referred to in clause (a) or (b), or
- (d) Any acts such as to gather people, give trainings for the object as referred to in clause (a) or (b), or

- (e) Any other act committed in a manner to create an environment of terror or fear in the public life, or
- (f) Any act to forcefully collect cash or goods-in-kind, to loot property for the object as referred to in this sub-section.

(2) Any person who attempts or conspires to commit a terrorist and disruptive act or instigates or compels any other person to commit that act or gathers more than one person to commit, or to cause the commission of, that act or establishes any gang or group to commit such act or makes arrangement to commit such act or takes part in such act with or without receiving remuneration or publicizes or causes to publicize such act or causes obstruction in the public (governmental) communication system or gives shelter to or harbors any person involved in the terrorist and disruptive act shall also be deemed to have committed the terrorist and disruptive crime.

(3) Any person who commits any act referred to in sub-section (1) or (2) and who aids and abets to commit such act shall be liable to action and punishment under this Ordinance.

4. Extra-territorial Application of the Ordinance: Any person who commits a terrorist and disruptive act targeting the Kingdom of Nepal or a Nepalese citizen or any property belonging to the Kingdom of Nepal staying outside the Kingdom of Nepal shall be subject to the action and punishment under this Ordinance as if such person committed that crime within the Kingdom of Nepal.

5. Special Power to Prevent Terrorist and Disruptive act:

Notwithstanding anything contained in the prevailing law, His Majesty's Government, in any or all parts of the Kingdom of Nepal, and the Security Official, in the area within his jurisdiction, may in order to prevent the terrorist and disruptive crime, order to carry out any or all of the following acts:

- (a) To arrest, without warrant, any person suspected of being involved in a terrorist and disruptive act,
- (b) In the event of a suspicion that any illegal arms, ammunition, bombs or explosive substances are stored or any suspect related with a terrorist is hiding out, to search any house, shop, godown, transport vehicle or any other place belonging to any person whomsoever at any time without any notice,
- (c) For purposes of preventing the terrorist and disruptive act, to search any person or goods that the person is carrying with him or any means or motor vehicle which he has used in any place or road or junction,
- (d) If any person objects to or obstructs in making arrest under clause (a) or doing search or taking any other action under clause (b) or (c), to use necessary force or use arms,
- (e) If it appears that any person who commits or is committing the terrorist and disruptive act will go

away or escape or cannot be arrested, to use necessary force or use arms,

- (f) In the course of setting free any place or motor vehicle, or aircraft or ship or any other means of transport forcefully detained or possessed by any person committing the terrorist and disruptive act or setting free any persons being taken hostages in such vehicles, to use necessary force or arms to save them from any possible bodily damage, risks or other loss or damage,
- (g) In cases where any person or group of persons with or without arms attacks any security personnel in the course of carrying out the duty or doing any act in connection with duty, to use necessary force or use arms,
- (h) In cases where any person or group of persons with any arms gives or attempts to give threat to any security personnel on duty in any particular place with intent to cause bodily harm to such personnel, to use necessary force or use arms,
- (i) In cases where any person or group of persons throws stones, big sticks or any other articles with intent to cause bodily injuries to those persons to be guarded by the security personnel or to the general public, employees on governmental duty, or

governmental property being guarded by the security personnel or to the security personnel, to use necessary force or use arms,

- (j) In cases where there is an encounter with any armed person or group or where any person or group of persons with or without arms causes obstruction to the security personnel in carrying out the specified act, to use necessary force or use arms,
- (k) The security personnel is to use necessary force or use arms on or against any person or group of persons carrying arms, in the area where arms are stored or trainings launched with intent to commit the terrorist and disruptive act,
- (l) The security personnel is to take control of the arms with any armed person or group of persons or disarm such person or group as per necessity,
- (m) To have surveillance of any suspicious person or place and, if required, arrest such person or lock-out or blockade the suspicious person or place and, if required, arrest such person or lock-out or blockade the suspicious place,
- (n) To withhold the bank account or passport of any person suspected of being involved in the terrorist and disruptive act, for a certain period.

6. Power to Requisition Property : His Majesty's Government or the security personnel may requisition such private or governmental vehicle, food or other things or property as may be required in the course of prevention and control of the terrorist and disruptive act, on condition of providing proper compensation or returning such requisitioned things subsequently.

7. Power to Declare Terror Affected Area and Terrorist : (1) His Majesty's Government may declare any area that is or might be affected by the terrorist and disruptive activities as the terror affected area.

(2) His Majesty's Government may issue an order to control expression of opinion, press and publication or movement and communication system in any part of the Kingdom of Nepal in cases where a state of emergency has been declared in the Kingdom of Nepal or in the terror affected area declared under sub-section (1).

(3) His Majesty's Government may declare any person, organization, association or group involved in the crime punishable under this Ordinance as the terrorist.

(4) Notwithstanding anything contained in this Section, in cases where a state of emergency has been declared or ordered in accordance with the Constitution of the Kingdom of Nepal, 2047 (1990), the declaration of terror affected area shall be deemed to have *ipso facto* been made.

8. Power to Prohibit on Carrying Arms or Ammunition: (1) Notwithstanding anything contained in the prevailing law, His

Majesty's Government may issue an order to prohibit any person from carrying any arms or ammunition licensed under the prevailing law in the terror- affected area declared under Section 7 or in cases where a state of emergency has been declared or ordered in accordance with the Constitution of the Kingdom of Nepal, 2047 (1990) for a specified period of time or to require such person to surrender such arms or ammunition in such place and for such period of time as may be specified.

(2) Any arms or ammunition held by a person who violates the order referred to in sub-section (1) shall be confiscated.

9. Power to Hold in Detention : (1) If there is a reasonable ground for believing that any person has to be prevented from committing any acts that could result in the terrorist and disruptive act, the Security Official may issue an order to detain such a person in any particular place for a period not exceeding ninety days.

(2) If it appears to detain any person for a period of time in excess of the period referred to in sub- section(1), the Security Official may, with the approval of His Majesty's Government, Ministry of Home Affairs, detain such person for another period of time not exceeding ninety days.

10. Punishment : (1) If any terrorist and disruptive act punishable under this Ordinance has resulted in the death of any person, the principal who has committed, or caused the commission of, or conspired to commit, such a crime and any person who has ordered to commit such

a crime shall be punished with imprisonment for life, with confiscation of his entire property.

(2) In cases where the crime has already been committed but it has not resulted in the death of any person, the principal who has committed, or caused the commission of, or conspired to commit, such a crime and the person who has ordered to commit such a crime shall be punished with imprisonment for life.

(3) If any person attempts to commit, or instigates or compels any one to commit, or gathers more than one person or establishes a group to commit, a crime under this Ordinance or makes arrangement to commit or cause to commit such act or is involved in such act with or without taking remuneration or produces or distributes or holds or transports or imports or exports or otherwise exchanges arms, bombs, explosive substances or poisonous substances with intent to commit such act or propagates or causes to propagate such act or harbors, hides any person involved in such act shall be punished with imprisonment for a term from five to ten years according to the gravity of the offence.

(4) In cases where any person having committed the terrorist or disruptive act has caused loss of, or damage to, any property, such loss or damage shall be recovered from proceeds of confiscation of the property that belongs to such person as his partition share. If the amount of compensation to be paid cannot be fully recovered from his property, the offender has to undergo imprisonment for the period to

be set as if the remaining amount was the amount of unrealized fine, in accordance with the prevailing law.

(5) Any accomplice of any offence punishable under this Ordinance shall be punished with half a punishment to be imposed on the principal.

(6) If any person knowingly obstructs in making a search under clause (b) or (c) of Section 5, such person shall be punished with imprisonment for a term not exceeding one year or with a fine of up to ten thousand rupees or with both.

11. To Hold in Detention for Trial : In trying a person who is accused of having committed the crime under this Ordinance at a time when a state of emergency has been declared or ordered under the constitution of the Kingdom of Nepal, 2047 (1990), such accused shall generally be tried by holding him in detention.
12. Permission to Hold Assembly and Exercise the Freedom of Expression : Nothing contained herein shall prevent the holding of assembly peacefully and without arms, the exercise of the freedom of opinion and expression or making movement in any part of the Kingdom of Nepal for other purposes without prejudice to this Ordinance, in the terror- affected area declared under Section 7 or in cases where a state of emergency has been declared or ordered under the Constitution of the Kingdom of Nepal, 2047 (1990).
13. Coordination Committee: (1) There shall be formed one coordination committee under convenorship of the concerned Regional Administrator or the Chief District Officer, and comprising the Royal

Nepal Army, Nepal Police, Armed Police, National Investigation and the chief of other governmental body as its members as per necessity so as to prevent or control the terrorist and disruptive act in its jurisdiction.

(2) The coordination committee referred to in sub-section (1) shall set its procedures on its own.

14. Confiscation : (1) If any person has committed any crime punishable under this Ordinance and used any property, equipment or vehicle for the commission of such crime, such property, equipment or vehicle shall also be confiscated.

Provided, however, that in cases where such property, equipment or vehicle has been used without consent of the owner, such property, equipment or vehicle shall not be confiscated.

(2) The means of publicity, arms, cash and goods in-kind that have been used in the commission of the act punishable under Section 3 or in assisting commission of that act shall all be confiscated.

(3) If any person is held to have committed any act punishable under this Ordinance from any place outside the Kingdom of Nepal, in addition to imposition of the punishment referred to in Section 10 on such person, the movable and immovable property belonging to such person as his partition share situated in the Kingdom of Nepal shall also be confiscated.

15. Adjudicating Authority and Appeal : (1) A court constituted or designated by His Majesty's Government by publishing a notification

in the Nepal Gazette shall have the power to try the cases relating to the offences under this Ordinance.

(2) The court referred to in sub-section (1) shall, while trying and disposing the cases under this Ordinance, follow the procedures referred to in the Special Court Act, 2031 (1975).

(3) An appeal against a judgment or a final order made by the court referred to in sub-section (1) may be made to the Supreme Court.

16. To Be State Cases : A case under this Ordinance shall be a state case and that case shall be deemed to be included in Schedule-1 of the State Cases Act, 2049 (1993).

17. Special Procedures : (1) Notwithstanding anything contained in the prevailing law, if any person who commits any act punishable as the terrorist and disruptive crime under this Ordinance is not found and is absconding, a 15-day warrant, setting out his identification to the extent possible, shall be issued to arrest such person. Nothing shall prevent taking action against the person who has not been found or arrested even within that time-limitation.

(2) Any person, employee or security personnel may be used as an informer in any group committing the terrorist and disruptive act; and that person, employee or security personnel shall not be held liable to any punishment under the prevailing law on the ground of such involvement in that group.

(3) The identity of an informer shall be kept confidential.

(4) Notwithstanding anything contained in the prevailing law, if an accused charged in a case instituted under this Ordinance discloses any important matter or evidence to His Majesty's Government, Police employee or other official in a believable manner, or renders direct assistance in finding out the main offender who has really led the crime, such an accused may be taken as a governmental witness; and if such an accused is so taken as a governmental witness, such an accused shall not be punished under the prevailing law.

Provided, however, that if such person sets down a false matter or furnishes a fabricated evidence or appears to have so acted with premeditation in absence of any reasonable ground, such person shall be deemed to be an accused, and the adjudicating authority may punish him if punishment has been claimed.

(5) Notwithstanding anything contained in the prevailing law, an accused charged in the crime under this Ordinance may be held in police custody for investigation for a period not exceeding ninety days from the date of arrest, with the approval of the adjudicating authority.

18. Control in the Means of Communication : His Majesty's Government may control the means of communication such as letters, telephones or faxes that belong to any person or group involved in the terrorist and disruptive activities.
19. Provisions Relating to Treatment Expenditure and Compensation : (1) If any security personnel or police deputed in controlling and investigating the terrorist and disruptive acts dies or sustains injuries,

His Majesty's Government shall provide reasonable medical expenditure and compensation.

(2) His Majesty's Government shall make provision on necessary medical treatment of any person affected or victimized from the terrorist and disruptive activities and on relief to be granted to such person.

20. Saving for the Act Done in Good Faith : Any official or person shall not be liable to punishment for any activity carried out or attempted to be carried out in good faith under this Ordinance or the rules framed under this Ordinance.
21. No Application of Limitation : No limitation shall apply to the filing of cases under this Ordinance.
22. Power to Give Reward : His Majesty's Government may give proper reward to any person who arrests, or renders assistance in arresting, a person who plays the main role in the commission of the terrorist and disruptive act.
23. Delegation of Powers: His Majesty's Government may, as per necessity, delegate any of the powers conferred on it under this Ordinance to any official or may withdraw the delegated power.
24. Power to Frame Rules : His Majesty's Government may frame necessary rules to carry out the objective of this Ordinance.

25. Saving: The matters contained in this Ordinance shall be governed by this Ordinance, and the other matters shall be governed by the prevailing law.

Date of Royal Assent : 2058-8-11-2 (Nov. 26, 2001)

By order,

Udaya Nepali Shrestha

Secretary of His Majesty's Government

Nepal Gazette

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No. 51) Kathmandu, 11th Mangsir 2058 (26 November 2001) (Backdated
Additional Issue 48)

Part 4 COMMUNIQUÉ of

The Principal Press Secretariat of His Majesty the King

Whereas, the Cabinet meeting held on 2058-8-11 (Nov. 26, 2001) has made a submission to His Majesty the King for the issuance of an order of a state of emergency in respect of the whole of the Kingdom of Nepal under clause (1) of Article 115 of the Constitution of the Kingdom of Nepal, 2047 (1990) and for suspension of sub-clauses (a), (b) and (d) of clause (2) of Article 12, clause (1) of Article 13 and Articles 15, 16, 17, 22 and 23 (except the right to the remedy of *habeas corpus*) of the Constitution of the Kingdom of Nepal, 2047 (1990) in accordance with clause (8) of Article 115 as a grave emergency has arisen in regard to the sovereignty, integrity and security of the Kingdom of Nepal;

Now, therefore, His Majesty has, in accordance with clause (1) of Article 115 of the Constitution of the Kingdom of Nepal, 2047 (1990), issued an order of a state of emergency in respect of the whole of the

Kingdom of Nepal and has, in

accordance with clause (8) of Article 115, suspended sub-clauses (a), (b) and (d) of clause (2) of Article 12, clause (1) of Article 13 and Articles 15, 16, 17, 22 and 23 (except the right to the remedy of *habeas corpus*) of the Constitution of the Kingdom of Nepal 2047 (1990).

As commanded,
Pashupati Bhakta Maharjan
Principal Secretary of
His Majesty the King

Nepal Gazette

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No. 51) Kathmandu, 11th Mangsir 2058 (26 November 2001) (Additional
50)

Part 3

His Majesty's Government

Ministry of Home Affairs

ORDER

In exercise of the powers conferred by sub-section (3) of Section 7 of the Terrorist and Disruptive Act (Control and Punishment) Ordinance, 2058 (2001), His Majesty's Government has declared as terrorist the Nepal Communist Party (Maoist) group and any person, organization or group, who is directly or indirectly involved in, or renders assistance in, the activities carried out by that group.

By order,

Keshabraaj Rajbhandari

Secretary of His Majesty's Government

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Part 3

His Majesty's Government

Ministry of Information and Communication

NOTICE -1

In exercise of the powers conferred by sub-section (1) of Section 15 of the Press and Publication Act, 2048 (1991), His Majesty's Government has, in view of the national interest, prohibited the publication of any interview, article, news, news or reading material or view guided to entice / facilitate the slogan "let us move ahead on the path of people's war to establish people's regime" or to encourage disruptive and terrorist activity such as battery, looting, kidnapping, arsoning, murder, violence or guided with intent to support that purpose, for a period not exceeding six months of the date of publication of this notice. It is also informed, by this notice, that if any person publishes the prohibited matters in volition of this notice, such person shall be liable to action under the Press and Publication Act, 2048 (1991).

Nepal Gazette

Published by His Majesty's Government

No. 51) Kathmandu, 11th Mangsir 2058 (Nov. 26, 2001) (Additional Issue
49)

Part 3

His Majesty's Government

Ministry of Information and Communication

NOTICE -2

In exercise of the powers conferred by sub-section (1) of Section 7 of the National Broadcasting Act, 2049 (1992), His Majesty's Government has, in view of the national interest, prohibited the publication of any interview, article, news, news or reading material or view guided to entice / facilitate the slogan "let us move ahead on the path of people's war to establish people's regime" or to encourage disruptive and terrorist activity such as battery, looting, kidnapping, arsoning, murder, violence or guided with intent to support that purpose, for a period not exceeding six months of the date of publication of this notice. It is also informed, by this notice, that if any person publishes the prohibited matters in violation of this notice, such person shall be liable to action under the National Broadcasting Act, 2049 (1992).

Nepal Gazette

Published by His Majesty's Government

Part 2

His Majesty's Government

Ministry of Law, Justice and Parliamentary Affairs

The below-mentioned Ordinance promulgated by His Majesty King Gyanendra Bir Bikram Shah Dev is published for information to the general public.

Ordinance No. 1 of the year 2058 (2001)

An Ordinance made to provide for the prevention and punishment of terrorist and disruptive acts:

Preamble :

Whereas, it is expedient to make legal provisions on the prevention of terrorist and disruptive acts for the maintenance of peace and order in the Kingdom of Nepal and for the security of the general public; and at present Parliament is not in session;

Now, therefore, His Majesty King Gyanendra Bir Bikram Shah Dev has promulgated this Ordinance under Article 72 of the Constitution of the Kingdom of Nepal, 2047 (1990).

1. Short Title and Commencement: (1) This Ordinance may be cited as the "Terrorist and Disruptive Acts (Prevention and Punishment) Ordinance, 2058 (2001)".

(2) This Ordinance shall come into force at once.

2. Definitions : Unless the subject or the context otherwise requires, in this Ordinance;

(a) "Arms" means any rifle, gun, cannon, pistol, revolver or similar other means or device of any kind, or spear, knife, *Khukuri* or *Mudha* or other risky weapon with or without sharp edge and also includes any big stick and stone.

(b) "Ammunition" means any fog-signal, fuse, gun-powder, cap, bullet, shot, detonator, cartridge and other ammunition of similar kind.

(c) "Bomb" means any grenade made of any kind of substance or means and which goes off automatically or with the help of any other means, that is used in military or non-military uses, or any other kind of shell filled with explosive substance or any kind of substance to explode or causing explosion.

(d) "Explosive Substance" means tri-nitro-toluene (TNT), amatol, barotol, pentolight, RDX, torpekus, plastic explosives, dynamites, gunpowder, nitro-glycerin, gelignite, stemite, selsite, gun-cotton, blasting powder, mercury or other metal flunite that causes loss and damage when exploded and any other substances produced or used with intent to cause effect

with explosion whether or not such substances are equivalent to those mentioned.

- (e) "Poisonous Substance" means any kind of poison or solid or liquid substance with which such poison is mixed and also includes any kind of noxious flame or gas.
- (f) "Security Personnel" means the Police or Armed Police or Royal Nepal Army or the person designated by His Majesty's Government in the prevention and control of terrorist and disruptive acts.
- (g) "Terrorist and disruptive act" means the terrorist and disruptive act as referred to in Section 3.
- (h) "Terrorist" means any person or group involved in the terrorist and disruptive act as referred to in Section 3.
- (i) "Accomplice" means the following person :
 - (1) A person who is in contact or involved with any person or group involved in the terrorist and disruptive act,
 - (2) A person who gives any information to, or assists in giving information to, any person or group involved in the terrorist and disruptive act or who transmits or publishes or disseminates information of the person or group involved in the terrorist or disruptive act,
 - (3) Any person who gives financial or any other kind of assistance directly or indirectly to the person or group involved in the terrorist and disruptive act.

- (j) "Property" means governmental or public or private movable or immovable property situated in or outside the Kingdom of Nepal.
 - (k) "Informer" means any person who gives information to, or assists in giving information to, the security personnel and His Majesty's Government in respect of the terrorist and disruptive act and explosive substances.
 - (l) "Security Official" means the Chief District Officer or such gazetted officer-level employee of His Majesty's Government as may be specified by His Majesty's Government by publishing a notification in the Nepal Gazette.
 - (m) "Order" means an order issued by His Majesty's Government or the Security Official.
3. Terrorist and Disruptive Crime : (1) If any person commits any of the following acts, such person shall be deemed to have committed the terrorist and disruptive crime:
- (a) Any act to cause loss of, or damage to, or destruction of, the property in any place or make such plot or any act to cause death of, or injuries to any person in such place or to set fire on such place or any act to cause physical or mental loss or damage in any other manner or any acts to cause death of, or injuries to, any person by using a poisonous substance in daily consumable goods or in a public place or any act to terrorize the general public or passer-bys or

assembling people by committing any of the above-mentioned acts, by using any kinds of arms, bombs, explosive substances or any other devices or articles, with intent to undermine or jeopardize the sovereignty and integrity of the Kingdom of Nepal or in any part thereof or the security of a Nepalese diplomatic mission or property situated abroad, or

- (b) Any act to detain or manhandle or terrorise any person in any place or any type of vehicle or to kidnap any person from such place and vehicle or kidnap any person who is travelling by such vehicle, with or without such vehicle, or terrorise with such act by threatening to kill, mutilate, injure any person or cause any other kind of destruction to such person by using, or threatening to use, the substance mentioned in clause (a), for the purpose referred to in that clause, or by using, or threatening to use, any substance or device other than such substance, or
- (c) Any act to produce, distribute, store, transport or export or import, sell, carry or install any kind of arms, or bombs or explosive substances or poisonous substances or aid and abet in such act, with the intention referred to in clause (a) or (b), or
- (d) Any acts such as to gather people, give trainings for the object as referred to in clause (a) or (b), or

- (e) Any other act committed in a manner to create an environment of terror or fear in the public life, or
- (f) Any act to forcefully collect cash or goods-in-kind, to loot property for the object as referred to in this sub-section.

(2) Any person who attempts or conspires to commit a terrorist and disruptive act or instigates or compels any other person to commit that act or gathers more than one person to commit, or to cause the commission of, that act or establishes any gang or group to commit such act or makes arrangement to commit such act or takes part in such act with or without receiving remuneration or publicizes or causes to publicize such act or causes obstruction in the public (governmental) communication system or gives shelter to or harbors any person involved in the terrorist and disruptive act shall also be deemed to have committed the terrorist and disruptive crime.

(3) Any person who commits any act referred to in sub-section (1) or (2) and who aids and abets to commit such act shall be liable to action and punishment under this Ordinance.

4. Extra-territorial Application of the Ordinance: Any person who commits a terrorist and disruptive act targeting the Kingdom of Nepal or a Nepalese citizen or any property belonging to the Kingdom of Nepal staying outside the Kingdom of Nepal shall be subject to the action and punishment under this Ordinance as if such person committed that crime within the Kingdom of Nepal.

5. Special Power to Prevent Terrorist and Disruptive act:

Notwithstanding anything contained in the prevailing law, His Majesty's Government, in any or all parts of the Kingdom of Nepal, and the Security Official, in the area within his jurisdiction, may in order to prevent the terrorist and disruptive crime, order to carry out any or all of the following acts:

- (a) To arrest, without warrant, any person suspected of being involved in a terrorist and disruptive act,
- (b) In the event of a suspicion that any illegal arms, ammunition, bombs or explosive substances are stored or any suspect related with a terrorist is hiding out, to search any house, shop, godown, transport vehicle or any other place belonging to any person whomsoever at any time without any notice,
- (c) For purposes of preventing the terrorist and disruptive act, to search any person or goods that the person is carrying with him or any means or motor vehicle which he has used in any place or road or junction,
- (d) If any person objects to or obstructs in making arrest under clause (a) or doing search or taking any other action under clause (b) or (c), to use necessary force or use arms,
- (e) If it appears that any person who commits or is committing the terrorist and disruptive act will go

away or escape or cannot be arrested, to use necessary force or use arms,

- (f) In the course of setting free any place or motor vehicle, or aircraft or ship or any other means of transport forcefully detained or possessed by any person committing the terrorist and disruptive act or setting free any persons being taken hostages in such vehicles, to use necessary force or arms to save them from any possible bodily damage, risks or other loss or damage,
- (g) In cases where any person or group of persons with or without arms attacks any security personnel in the course of carrying out the duty or doing any act in connection with duty, to use necessary force or use arms,
- (h) In cases where any person or group of persons with any arms gives or attempts to give threat to any security personnel on duty in any particular place with intent to cause bodily harm to such personnel, to use necessary force or use arms,
- (i) In cases where any person or group of persons throws stones, big sticks or any other articles with intent to cause bodily injuries to those persons to be guarded by the security personnel or to the general public, employees on governmental duty, or

governmental property being guarded by the security personnel or to the security personnel, to use necessary force or use arms,

- (j) In cases where there is an encounter with any armed person or group or where any person or group of persons with or without arms causes obstruction to the security personnel in carrying out the specified act, to use necessary force or use arms,
- (k) The security personnel is to use necessary force or use arms on or against any person or group of persons carrying arms, in the area where arms are stored or trainings launched with intent to commit the terrorist and disruptive act,
- (l) The security personnel is to take control of the arms with any armed person or group of persons or disarm such person or group as per necessity,
- (m) To have surveillance of any suspicious person or place and, if required, arrest such person or lock-out or blockade the suspicious person or place and, if required, arrest such person or lock-out or blockade the suspicious place,
- (n) To withhold the bank account or passport of any person suspected of being involved in the terrorist and disruptive act, for a certain period.

6. Power to Requisition Property : His Majesty's Government or the security personnel may requisition such private or governmental vehicle, food or other things or property as may be required in the course of prevention and control of the terrorist and disruptive act, on condition of providing proper compensation or returning such requisitioned things subsequently.

7. Power to Declare Terror Affected Area and Terrorist : (1) His Majesty's Government may declare any area that is or might be affected by the terrorist and disruptive activities as the terror affected area.

(2) His Majesty's Government may issue an order to control expression of opinion, press and publication or movement and communication system in any part of the Kingdom of Nepal in cases where a state of emergency has been declared in the Kingdom of Nepal or in the terror affected area declared under sub-section (1).

(3) His Majesty's Government may declare any person, organization, association or group involved in the crime punishable under this Ordinance as the terrorist.

(4) Notwithstanding anything contained in this Section, in cases where a state of emergency has been declared or ordered in accordance with the Constitution of the Kingdom of Nepal, 2047 (1990), the declaration of terror affected area shall be deemed to have *ipso facto* been made.

8. Power to Prohibit on Carrying Arms or Ammunition: (1) Notwithstanding anything contained in the prevailing law, His

Majesty's Government may issue an order to prohibit any person from carrying any arms or ammunition licensed under the prevailing law in the terror- affected area declared under Section 7 or in cases where a state of emergency has been declared or ordered in accordance with the Constitution of the Kingdom of Nepal, 2047 (1990) for a specified period of time or to require such person to surrender such arms or ammunition in such place and for such period of time as may be specified.

(2) Any arms or ammunition held by a person who violates the order referred to in sub-section (1) shall be confiscated.

9. Power to Hold in Detention : (1) If there is a reasonable ground for believing that any person has to be prevented from committing any acts that could result in the terrorist and disruptive act, the Security Official may issue an order to detain such a person in any particular place for a period not exceeding ninety days.

(2) If it appears to detain any person for a period of time in excess of the period referred to in sub- section(1), the Security Official may, with the approval of His Majesty's Government, Ministry of Home Affairs, detain such person for another period of time not exceeding ninety days.

10. Punishment : (1) If any terrorist and disruptive act punishable under this Ordinance has resulted in the death of any person, the principal who has committed, or caused the commission of, or conspired to commit, such a crime and any person who has ordered to commit such

a crime shall be punished with imprisonment for life, with confiscation of his entire property.

(2) In cases where the crime has already been committed but it has not resulted in the death of any person, the principal who has committed, or caused the commission of, or conspired to commit, such a crime and the person who has ordered to commit such a crime shall be punished with imprisonment for life.

(3) If any person attempts to commit, or instigates or compels any one to commit, or gathers more than one person or establishes a group to commit, a crime under this Ordinance or makes arrangement to commit or cause to commit such act or is involved in such act with or without taking remuneration or produces or distributes or holds or transports or imports or exports or otherwise exchanges arms, bombs, explosive substances or poisonous substances with intent to commit such act or propagates or causes to propagate such act or harbors, hides any person involved in such act shall be punished with imprisonment for a term from five to ten years according to the gravity of the offence.

(4) In cases where any person having committed the terrorist or disruptive act has caused loss of, or damage to, any property, such loss or damage shall be recovered from proceeds of confiscation of the property that belongs to such person as his partition share. If the amount of compensation to be paid cannot be fully recovered from his property, the offender has to undergo imprisonment for the period to

be set as if the remaining amount was the amount of unrealized fine, in accordance with the prevailing law.

(5) Any accomplice of any offence punishable under this Ordinance shall be punished with half a punishment to be imposed on the principal.

(6) If any person knowingly obstructs in making a search under clause (b) or (c) of Section 5, such person shall be punished with imprisonment for a term not exceeding one year or with a fine of up to ten thousand rupees or with both.

11. To Hold in Detention for Trial : In trying a person who is accused of having committed the crime under this Ordinance at a time when a state of emergency has been declared or ordered under the constitution of the Kingdom of Nepal, 2047 (1990), such accused shall generally be tried by holding him in detention.
12. Permission to Hold Assembly and Exercise the Freedom of Expression : Nothing contained herein shall prevent the holding of assembly peacefully and without arms, the exercise of the freedom of opinion and expression or making movement in any part of the Kingdom of Nepal for other purposes without prejudice to this Ordinance, in the terror- affected area declared under Section 7 or in cases where a state of emergency has been declared or ordered under the Constitution of the Kingdom of Nepal, 2047 (1990).
13. Coordination Committee: (1) There shall be formed one coordination committee under convenorship of the concerned Regional Administrator or the Chief District Officer, and comprising the Royal

Nepal Army, Nepal Police, Armed Police, National Investigation and the chief of other governmental body as its members as per necessity so as to prevent or control the terrorist and disruptive act in its jurisdiction.

(2) The coordination committee referred to in sub-section (1) shall set its procedures on its own.

14. Confiscation : (1) If any person has committed any crime punishable under this Ordinance and used any property, equipment or vehicle for the commission of such crime, such property, equipment or vehicle shall also be confiscated.

Provided, however, that in cases where such property, equipment or vehicle has been used without consent of the owner, such property, equipment or vehicle shall not be confiscated.

(2) The means of publicity, arms, cash and goods in-kind that have been used in the commission of the act punishable under Section 3 or in assisting commission of that act shall all be confiscated.

(3) If any person is held to have committed any act punishable under this Ordinance from any place outside the Kingdom of Nepal, in addition to imposition of the punishment referred to in Section 10 on such person, the movable and immovable property belonging to such person as his partition share situated in the Kingdom of Nepal shall also be confiscated.

15. Adjudicating Authority and Appeal : (1) A court constituted or designated by His Majesty's Government by publishing a notification

in the Nepal Gazette shall have the power to try the cases relating to the offences under this Ordinance.

(2) The court referred to in sub-section (1) shall, while trying and disposing the cases under this Ordinance, follow the procedures referred to in the Special Court Act, 2031 (1975).

(3) An appeal against a judgment or a final order made by the court referred to in sub-section (1) may be made to the Supreme Court.

16. To Be State Cases : A case under this Ordinance shall be a state case and that case shall be deemed to be included in Schedule-1 of the State Cases Act, 2049 (1993).

17. Special Procedures : (1) Notwithstanding anything contained in the prevailing law, if any person who commits any act punishable as the terrorist and disruptive crime under this Ordinance is not found and is absconding, a 15-day warrant, setting out his identification to the extent possible, shall be issued to arrest such person. Nothing shall prevent taking action against the person who has not been found or arrested even within that time-limitation.

(2) Any person, employee or security personnel may be used as an informer in any group committing the terrorist and disruptive act; and that person, employee or security personnel shall not be held liable to any punishment under the prevailing law on the ground of such involvement in that group.

(3) The identity of an informer shall be kept confidential.

(4) Notwithstanding anything contained in the prevailing law, if an accused charged in a case instituted under this Ordinance discloses any important matter or evidence to His Majesty's Government, Police employee or other official in a believable manner, or renders direct assistance in finding out the main offender who has really led the crime, such an accused may be taken as a governmental witness; and if such an accused is so taken as a governmental witness, such an accused shall not be punished under the prevailing law.

Provided, however, that if such person sets down a false matter or furnishes a fabricated evidence or appears to have so acted with premeditation in absence of any reasonable ground, such person shall be deemed to be an accused, and the adjudicating authority may punish him if punishment has been claimed.

(5) Notwithstanding anything contained in the prevailing law, an accused charged in the crime under this Ordinance may be held in police custody for investigation for a period not exceeding ninety days from the date of arrest, with the approval of the adjudicating authority.

18. Control in the Means of Communication : His Majesty's Government may control the means of communication such as letters, telephones or faxes that belong to any person or group involved in the terrorist and disruptive activities.
19. Provisions Relating to Treatment Expenditure and Compensation : (1) If any security personnel or police deputed in controlling and investigating the terrorist and disruptive acts dies or sustains injuries,

His Majesty's Government shall provide reasonable medical expenditure and compensation.

(2) His Majesty's Government shall make provision on necessary medical treatment of any person affected or victimized from the terrorist and disruptive activities and on relief to be granted to such person.

20. Saving for the Act Done in Good Faith : Any official or person shall not be liable to punishment for any activity carried out or attempted to be carried out in good faith under this Ordinance or the rules framed under this Ordinance.
21. No Application of Limitation : No limitation shall apply to the filing of cases under this Ordinance.
22. Power to Give Reward : His Majesty's Government may give proper reward to any person who arrests, or renders assistance in arresting, a person who plays the main role in the commission of the terrorist and disruptive act.
23. Delegation of Powers: His Majesty's Government may, as per necessity, delegate any of the powers conferred on it under this Ordinance to any official or may withdraw the delegated power.
24. Power to Frame Rules : His Majesty's Government may frame necessary rules to carry out the objective of this Ordinance.

25. Saving: The matters contained in this Ordinance shall be governed by this Ordinance, and the other matters shall be governed by the prevailing law.

Date of Royal Assent : 2058-8-11-2 (Nov. 26, 2001)

By order,

Udaya Nepali Shrestha

Secretary of His Majesty's Government

Nepal Gazette

Published by His Majesty's Government

No. 51) Kathmandu, 11th Mangsir 2058 (26 November 2001) (Backdated
Additional Issue 48)

Part 4 COMMUNIQUÉ of

The Principal Press Secretariat of His Majesty the King

Whereas, the Cabinet meeting held on 2058-8-11 (Nov. 26, 2001) has made a submission to His Majesty the King for the issuance of an order of a state of emergency in respect of the whole of the Kingdom of Nepal under clause (1) of Article 115 of the Constitution of the Kingdom of Nepal, 2047 (1990) and for suspension of sub-clauses (a), (b) and (d) of clause (2) of Article 12, clause (1) of Article 13 and Articles 15, 16, 17, 22 and 23 (except the right to the remedy of *habeas corpus*) of the Constitution of the Kingdom of Nepal, 2047 (1990) in accordance with clause (8) of Article 115 as a grave emergency has arisen in regard to the sovereignty, integrity and security of the Kingdom of Nepal;

Now, therefore, His Majesty has, in accordance with clause (1) of Article 115 of the Constitution of the Kingdom of Nepal, 2047 (1990), issued an order of a state of emergency in respect of the whole of the

Kingdom of Nepal and has, in

accordance with clause (8) of Article 115, suspended sub-clauses (a), (b) and (d) of clause (2) of Article 12, clause (1) of Article 13 and Articles 15, 16, 17, 22 and 23 (except the right to the remedy of *habeas corpus*) of the Constitution of the Kingdom of Nepal 2047 (1990).

As commanded,
Pashupati Bhakta Maharjan
Principal Secretary of
His Majesty the King

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50)

Part 3

His Majesty's Government

Ministry of Home Affairs

ORDER

In exercise of the powers conferred by sub-section (3) of Section 7 of the Terrorist and Disruptive Act (Control and Punishment) Ordinance, 2058 (2001), His Majesty's Government has declared as terrorist the Nepal Communist Party (Maoist) group and any person, organization or group, who is directly or indirectly involved in, or renders assistance in, the activities carried out by that group.

By order,

Keshabraj Rajbhandari

Secretary of His Majesty's Government

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Part 3

His Majesty's Government

Ministry of Information and Communication

NOTICE -1

In exercise of the powers conferred by sub-section (1) of Section 15 of the Press and Publication Act, 2048 (1991), His Majesty's Government has, in view of the national interest, prohibited the publication of any interview, article, news, news or reading material or view guided to entice / facilitate the slogan "let us move ahead on the path of people's war to establish people's regime" or to encourage disruptive and terrorist activity such as battery, looting, kidnapping, arsoning, murder, violence or guided with intent to support that purpose, for a period not exceeding six months of the date of publication of this notice. It is also informed, by this notice, that if any person publishes the prohibited matters in volition of this notice, such person shall be liable to action under the Press and Publication Act, 2048 (1991).

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Part 3

His Majesty's Government

Ministry of Information and Communication

NOTICE -2

In exercise of the powers conferred by sub-section (1) of Section 7 of the National Broadcasting Act, 2049 (1992), His Majesty's Government has, in view of the national interest, prohibited the publication of any interview, article, news, news or reading material or view guided to entice / facilitate the slogan "let us move ahead on the path of people's war to establish people's regime" or to encourage disruptive and terrorist activity such as battery, looting, kidnapping, arsoning, murder, violence or guided with intent to support that purpose, for a period not exceeding six months of the date of publication of this notice. It is also informed, by this notice, that if any person publishes the prohibited matters in violation of this notice, such person shall be liable to action under the National Broadcasting Act, 2049 (1992).