

Directives of the Chief of the Army Staff Related to Human Rights

Security personnel of the RNA, mobilized to control the Maobadi terrorist activities as per the decision of National Security Council, must conduct their operations to win the hearts and minds of the people and must realize that success is only possible if people are willing to co-operate with the security personnel. The RNA, dedicated to serve the nation, crown and people, since its establishment, must concentrate its effort to protect the fundamental rights and democratic norms as directed by the Constitution of the Kingdom of Nepal (1990).

Security personnel must consider the fact that the people involved in the Maobadi terrorist activities are our own people who have been misled and have taken the wrong path. The security personnel also need to realize that their mission is not to totally eliminate them but to disarm them. All reasonable care should be taken to ensure the safety and well being of innocent people during the conduct of military operations. Security personnel, mobilized at each level to protect the rights of the Nepalese people, must implement the following procedures meant to protect human rights during military operations.

1. Processes and the procedures to be followed while making an arrest.

- (a) The reasons for the arrest should be given to the detainee. Family members or relatives should be informed as soon as possible.
- (b) Minimum necessary force should be used when arresting a person.
- (c) If armed, he/she should be disarmed and taken into control.
- (d) Suspected areas should be cordoned off safely.
- (e) He/she should be taken into custody with observance of all legal processes from authorized local administration.

(f) The evidence or the materials found with the suspect should be recorded to ensure that the evidence is properly preserved.

2. **Procedure to be followed during a search:-**

(a) Detailed receipts should be given to the concerned people about confiscated items.

(b) At least two local people or member of the VDC or municipality should be present with the security forces as witness during the search. If the people mentioned above cannot be present in the incident, a government official must be present. As far as possible, the accused should also be present during the search.

(c) Suspected bags and items should be searched carefully.

(d) Only female Police or women should be employed to search the body of females. If this is not possible minimum two persons should conduct the search.

(e) Policemen should be detailed to search the area or people, and army personnel should supervise as far as possible.

3. **Procedure to be followed in check points.**

(a) Behavior and Language of security personnel should be courteous.

(b) Suspected bags and items should be searched carefully. He/she may be requested to take the items out from his/ her bag. The conduct of the search should be done in a decent manner.

(c) Behave professionally and with due respect while conducting body searches.

(d) People should be thanked for their time and patience.

(e) Women should never be sexually harassed.

(f) Only Female Police or women should be employed to search the body of females. If this is not possible minimum two persons should conduct the search.

4. **Regarding terrorist detainees.** If people involved in the terrorist activities surrender or are arrested by security personnel, he/she should be treated humanely and legal procedure should be initiated at the earliest.

5. **Procedure to be followed after arrest.**

- (a) Disarm and Search.
- (b) Provide necessary security, protection and care.
- (c) Evacuate safely to designated location.
- (d) Segregate him/her from weapon, ammunition or important military documents (map, planning, orders and directives, communication sets etc.) during the search. Confiscation Certificates relating to his/her identity and personal items should be prepared and kept available.

6. **Security, Protection and Care.**

- (a) He/she should be transferred to a secure location as soon as possible.
- (b) Attempts must be made to protect the detainees from abusive and violent action from the local people.
- (c) Do not take any revenge or reprisal against the detainees.

7. **Evacuation**

- (a) If the tactical situation permits, the detainees should be evacuated immediately and adequate measures must be taken so that he/she is secured and cannot escape.
- (b) Treat humanely during evacuation. Food, clothes, medicine and other essential items should be provided.

8. **Behavior while dealing with detainees**

- (a) Death in custody shall not be tolerated and no activities should be done to affect his/her health.
- (b) No experiments should be carried out on the detainees. No medicines or treatment which will degrade his/her personnel dignity, should be used.

(c) Detainees should not be treated any different on the basis of religion, group, sex, caste and political belief.

(d) Detainees should not be physically tortured or be forced to give out information.

(e) Women and children should not be discriminated against. Separate accommodation should be provided for them.

(f) Women should not be sexually harassed under any circumstances.

9. **Use of Weapon.** Weapons should not be used to control the detainees unless he/she attempts to escape and does not obey the challenge given by security personnel.

10. **Rations, clothing, medical treatment and other facilities**

(a) Detainees should be provided with clothes and rations in consideration with his/her health.

(b) Necessary medical treatment should be provided.

(c) Detainees should be allowed to follow his/her religious activities.

(d) If possible, items and equipment required for physical fitness, study and entertainment should be provided.

11. **Functions of ICRC**

(a) The ICRC is to be permitted to inspect detention camps.

(b) The ICRC can be allowed to inspect the evacuation of the detainees.

(c) The ICRC can be allowed to interview the detainees without the presence of security personnel.

12. **Behavior with Detainees**

(a) Behavior mentioned above must be strictly followed by all units.

(b) Human rights and humanitarian law must be followed strictly by all. Any military leader or men under his command must strictly follow the humanitarian law at all times.

(c) Since, Nepal has already signed the Geneva Conventions, the regulations mentioned in the conventions are regarded as equal as the national law described in article 9 of Nepal Treaty Act 2047. Therefore, violation of such provisions are considered as violation of Article 60 of our Military Law 2016.

13. **Summary** The RNA should ensure that all security agencies under unified command follow the humanitarian laws and uphold human rights.

14. Every effort must be made by commanders at all level to effectively implement this directive through training, interaction and other necessary measures so as to uphold and enhance the prestige of the RNA.