

**Royal Nepalese Army**



**EFFORT MADE BY THE ROYAL NEPALESE  
ARMY TO PROTECT AND PROMOTE HUMAN  
RIGHTS**

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## **Royal Nepalese Army and the Human Rights**

1. The very origins of the Royal Nepalese Army can be directly attributed to the vital need of protecting the rights of Nepalese Citizens to live free from the clutches of colonialism in the early 18th century. Even after the unification campaign, the institution of the RNA has consistently remained an organization dedicated to those ideals, firmly apolitical and always supportive of legitimate civilian authority. This is a rare distinction in the history of nations.

2. Indeed, since the mid-twentieth century, the RNA has supported and spearheaded the government policy and national interests and served for the cause of peace and humanity in every corner of the globe. Contrary to stereotypical assumptions in certain quarters that the military is synonymous to 'systemic Human Rights violations'; in the case of the RNA, this rich exposure to International Peacekeeping ensured that it remains one of the few organizations in Nepal where the teaching and practice of Human Rights has been long institutionalized.

3. The RNA was deployed for Counter Insurgency Operations as a last resort in order to protect the fundamental rights of Nepalese citizens as guaranteed by the Constitution rights that the so called 'Maoists' have consistently attacked and blatantly disregarded and as per their declared ideology - would completely deny to all citizens if they were ever to be allowed to come into power. Those very rights of Nepalese citizens that the RNA has already sacrificed over 1200 dead and injured - to protect and preserve.

4. Today, awareness of the concept of Human Rights has begun to take hold in Nepalese society as well. While the RNA leaves no stone unturned in the quest to uphold the rights, not just of citizens, but of the terrorists themselves. as everywhere else in the world, a few individuals can and sometimes do violate the law.

5. It is essential, however, to clearly distinguish between highly regrettable but nevertheless still genuine security forces' mistakes

resulting in unnecessary suffering or loss of life as well as any unlawful violations of individuals (which are consequently promptly investigated and punished as necessary) and the policy-driven Human Rights atrocities committed by the so called Maoists.

6. As such, the need to build deeper understanding, to coordinate with government and various other agencies and the requirement to further facilitate the institutional development of Human Rights has led to the establishment of a dedicated HR Cell within the RNA HQ. **It was established on 8 July 2002.** The organizational structure and tasks of the cell are shown in appendix 'A'.

7. The very fact that Nepal is a party to 16 international Human Rights conventions that include six core Human Rights treaties and a signatory to three others is testimony of its commitment to the Human Rights. The protection of Human Rights is enshrined in the constitution of Nepal 1990 and many other laws to include the Military Act 2016(BS). The government of Nepal has declared its 25 points commitment in this regard (The existing provisions and the commitment are shown in Appendix B and C respectively). The RNA in consonance to the constitution of the Kingdom of Nepal and the governments policy has taken various steps in the direction of ensuring that the fundamental Human Rights of the citizens is protected at all times. It is also aware of the national and international obligations towards protection of Human Rights and is fully committed to it.

8. Realizing the limitations placed on the ability of our soldiers by the unique socio-economic and cultural environment of the country and the level of education, the primary emphasis has been given to awareness, education and training aspect for all ranks of the RNA. We are confident that this awareness and education campaign will go a long way in developing better understanding and adherence to the fundamental Human Rights. Similarly seminars and interactions are held between various Human Rights organizations and military leaders at all levels to develop understanding and a working relationship.

9. The RNA admitting that under the prevailing conditions of mental stress for soldiers and Maoist tactics of merging with the civilian population violations of Human Rights can occur at times. To deter and prevent such situations the RNA is disseminating clear cut operating directives and instructions to the lowest level possible. These instructions include major guidelines, HR directives, policy and procedures to be followed, Rules of engagements, and the soldiers' code of conduct. The details of the directives are as per appendix 'D'. In Addition to this, universal Declaration of Human Rights, Human Rights and Humanitarian Law is also a part of military law, the modalities of visits by ICRC and NHRC are as per appendix 'E' 'F' 'G' also being attached.

10. The RNA HQ has a clear policy of abiding by the national and international obligations and is determined to deliver due justice if violations of such rights occurs. It is however noteworthy that given the active propaganda of the Maoists, the alleged soldier also deserves a complete investigation and court of enquiry, which is one of his fundamental Human Rights. This process may take up some time but the RNA is determined to take all the effort necessary to ensure a free and fair investigation and punish the individual found guilty. So far in 40 cases of such violations 44 individuals have been jailed for their offenses ranging from 6 months to 7 years imprisonment, similarly 31 individuals have been discharged from the service (As of 11 Feb,2005). Similarly in many cases compensation has also been provided to the victim's family. These informations are provided to the general public and media through various press briefings.

11. The RNA has been extending full cooperation to the national and international Human Rights organization. Despite the inherent distraction and difficulties in cooperating with such organizations, the RNA has been providing the ICRC full and unhindered access to the detainees and detention camps. It has also been very prompt in responding to the queries made by organizations such as the National Human Rights Commission, ICRC, Human Rights Watch group, Amnesty International and United Nations Working Group on Enforced or Involuntary Disappearances on the status of various persons.

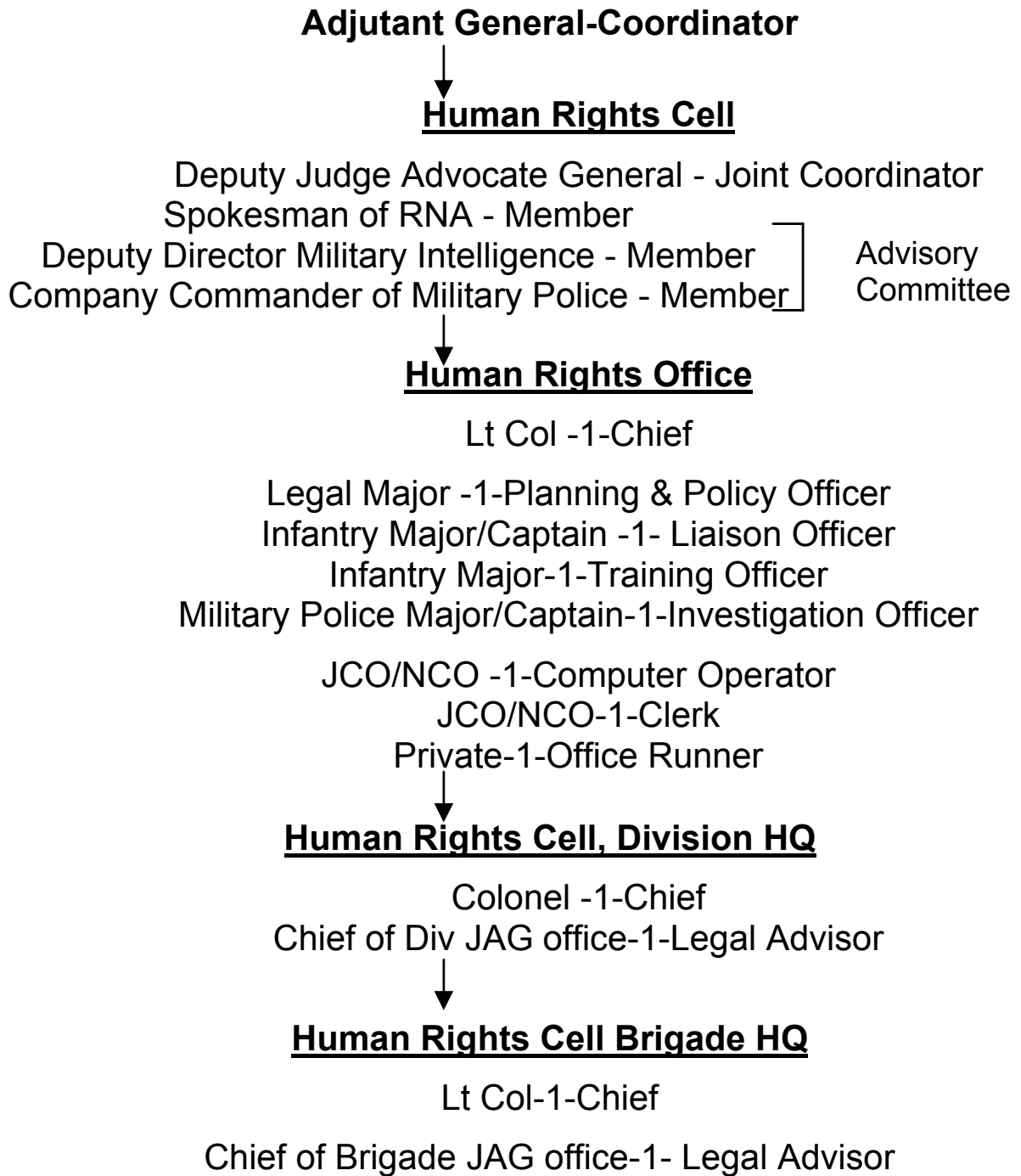
12. The RNA makes these detentions in complete adherence with the laws of the land. The Terrorism and Disruptive Ordinance 2004 provides the legal basis for protective custody on order from the Chief District Officer who is the competent civilian authority. The government has already opened up a detention center in Sundarimal, Kathmandu and is in the process of opening up more. These are expected to assist tremendously in addressing, the problem of alleged disappearance and at the same time reduce the administrative burden on the various military camps across the country. The RNA is not only committed to improving the condition of the detainees but is also helping out in the rehabilitation of those who have chosen to lead a free life by denouncing violence. A rehabilitation center has been in operation since last year where vocational and other skill oriented training is being provided.

13. The RNA earnestly respects the Judiciary and the National Human Rights Commission and cooperates fully with these bodies. The Royal Nepalese Army has responded to 328 writs of Habeas Corpus sent by the Supreme Court (As of 11 Feb, 2005). Currently there is not a single case that is pending in the RNA. Similarly, serious dialogue and interactions have been initiated with the members of the commission and the judiciary and it is expected to contribute in resolving any issues between the RNA and these institutions.

14. We are fully aware of the need to address the Human Rights situation in the country and the role that we can play in doing so. However we also feel that due consideration is given to the limitations placed on the RNA by socio-cultural factors and level of education of our all ranks. We are nonetheless committed to improve our record, to institutionalize Human Rights at all levels of training and education and to ensure that the RNA maintains its traditionally acclaimed status of being a professional and competent Army. We seek cooperation from all the organizations, national and international in helping us achieve the objective.

**Appendix 'A'**

**Organizational Structure of Human Rights Cell, RNA**



## **Major Tasks of the RNA Human Rights Cell**

1. The RNA has established a Human Rights Cell in the Army HQ to address Human Rights issues. It oversees all the activities related to the protection, promotion and institutionalization of Human Rights and also coordinates with other national and international agencies. Today, the Royal Nepalese Army has established Human Rights Branches down to every Division and Brigade Headquarters since 12 March 2004. The HR cell itself is in the process of expanding as per the requirement and various sub cells exclusively working in particular areas of Human Rights are planned for the future. The major tasks of the RNA Human Rights Cell are as follows:

- (a) To work towards the preservation of Human Rights.
- (b) To ensure that the RNA fulfills its role in the Nation's obligation to respect International Humanitarian Law (Law of Armed Conflict).
- (c) To interact with various national and international humanitarian agencies and foreign diplomatic missions working for Human Rights.
- (d) To conduct training on Human Rights and International Humanitarian Law (Law of Armed Conflict).
- (e) To issue directives and instructions on Human Rights and International Humanitarian Law aspects.
- (f) To monitor, record and investigate any Human Rights violations



**Appendix 'B'****Existing Provision for the Protection of Human Rights**

1. **Provisions of Constitution** The 1990 constitution contain several provisions for the protection and promotion of Human Rights. Article 25, Para 4 affirms that one of the main responsibilities of the State is to promote general welfare by making provisions for the protection and promotion of Human Rights by maintaining tranquility and order in the society. Part 3 (articles 11-23) guarantees a range of fundamental rights including press and publication rights, rights regarding criminal justice and the right not to be held under preventive detention, and right to a constitutional remedy. Article 14, Para 6 states that a person arrested or detained in custody shall be produced before a judicial authority within 24 hours after such arrest.

2. **Provision of Army Act 2016** Army Act was promulgated on 2016 BS and it contains the following provisions for the protection of Human Rights:

(a) **Irregularity in connection with arrest or confinement**

Any Army personnel subject to the army act who commits any of the following offences shall on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in the Act mentioned,

(i) Unnecessarily detains a person in arrest or confinement without bringing him to trial, or fail to bring his case before the proper authority for investigation

(ii) Having committed a person to military custody fails without reasonable cause to deliver at the time of such

committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged. [Article 42].

(b) **Miscellaneous offences** Any person who commits any offence against the property or person of any inhabitant of, or resident in country in which he is serving if convicted by court-martial, shall be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in the Act mentioned. [Article 55(5)]

(c) **Offences under other Nepalese Act** Any person subject to this Act who at any place in or beyond Nepal commits civil offence shall be deemed to be guilty of any offence against the Act and if charged therewith under this section, shall be liable to be tried by the court-martial and, on conviction, be punishable as follows, that is to say,

(i) If the offence is one, which would be punishable under any law in force in Nepal with life imprisonment with forfeit of property, he shall be liable to suffer any punishment assigned for the offence, by the aforesaid law.

(ii) In any other case, he shall be liable to suffer any punishment, assigned for a term, which may extend to seven years, or such less punishment as is in the Act mentioned. [Article 60].

3. Any citizen may file a petition against army personnel on charges of torture at RNA Human Rights Cell or in other RNA branches. Any army personnel who act against army act on violation of Human Rights will be trial and punished by the Court Martial under the Army Act.

**Appendix 'C'****His Majesty's Government's Commitment on the Implementation of Human Rights and International Humanitarian Law**

March 26, 2004, Katmandu

***Recalling*** the provision of the Constitution of the Kingdom of Nepal 1990 on the desires and aspirations of the Nepalese people for the creation of a society that promotes fraternity and unity among the Nepalese people based on freedom, equality and safeguards the fundamental Human Rights of every Nepalese citizen,

***Reaffirming*** the priority of His Majesty's Government for the fulfillment of its obligations and responsibilities in accordance with the Constitution and international Human Rights and humanitarian law, His Majesty's Government affirms its commitments as follows:

1. His Majesty's Government will guarantee Human Rights protection without any prejudice on the basis of race, colour, gender, ethnicity, language, religion, political or other ideologies, social origin, disability, property, birth or on any other grounds.
2. Every person shall have the right to life, dignity and security. Right to life shall be respected under all circumstances. For this purpose, immediate instructions shall be issued to implement and respect the provisions of the Geneva Conventions in particular Common Article 3 which provides for the protection of people who have laid down their arms, who are sick, wounded or detained, or who have abandoned or are not actively engaged in the armed activities.
3. No one shall be subjected to arbitrary arrest or detention. Measures will be undertaken to prevent illegal or arbitrary detention and forced disappearances.

4. A detainee shall be informed of the reason for the arrest. No one shall be arrested during the night except in accordance with the prevailing laws. Information about the whereabouts of the detainee and his/her transfer shall be made available to the members of his/her family, legal practitioner and the person eligible to receive such information. Every place of detention will maintain a registry containing the name of every person detained and the dates of entry, discharge or transfer.
5. Right to unhindered legal defence shall be honoured and protected. The detainee shall be allowed to speak with the family, legal practitioner and any other person within prescribed legal provisions. The accused shall have the right to present him/her during the hearing of the case. He/she shall have the right to defend himself/herself, or by the legal practitioner of his or her own choosing. He/she shall have the right to seek counsel from such practitioner openly or in secret.
6. Any detained person shall be held in an officially recognized place of detention. Detained persons shall be kept in humane conditions and be provided with adequate food, drinking water, appropriate shelter, clothing, health and sanitation facilities and security.
7. The accused shall have the right to be tried in the court that has all the attributes for conducting free and fair proceedings within a reasonable period of time.
8. The accused held in detention shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Any person so treated shall be provided with the compensation stipulated by the law and any person responsible for such treatment shall be punished and prosecuted according to the law.
9. While releasing from detention, the dignity and rights of the person shall be guaranteed providing credible evidence of the release from detention.

10. For the effective judicial remedy, the injunction issued by the Court, including the writ of *habeas corpus* shall be honoured. The right to verify the status of the detainee, his/her health condition, and the right to identify the authorizing and arresting authorities shall be guaranteed. Any malicious exercise against such rights to remedy shall be punishable by law.

11. No person shall be prosecuted and punished more than once for the same offence. For the dispensation of justice, only the competent court complying with all judicial proceedings shall have the right to pronounce the verdict.

12. Every person shall have the right to freedom of movement and the choice of domicile. The right of the displaced persons to return to their homes shall be guaranteed. The right to return to their domicile or to the places of their choice shall be ensured.

13. The arrangement relating to the supply of human necessities of all types including food and medicines shall be ensured throughout the Kingdom.

14. Recognizing educational institutions as the “Zone of Peace”, no activities shall be allowed within such premises that disrupt education or peace.

15. Every person shall have the right to freedom of opinion, expression and religion. Such rights shall also include right to faith in the religion of one's choice or belief through worshipping, observance and preaching. Every person shall have the right to express opinion without hindrance in accordance with the prevailing laws. Every person shall have the freedom of expression and such rights shall include right to seek, receive and impart all kinds of information and dissemination.

16. Every person shall have the right to form associations with others in accordance with the law. Right to peaceful assembly without arms shall be unhindered. Every citizen shall have the right to participate in the

public activities by himself/herself or by the independently elected representative.

17. Women and children shall enjoy the rights of special protection. His Majesty's Government shall fully protect the rights of women and children and respect international laws such as the Convention on the Rights of the Child and the Convention Eliminating All Forms of Discrimination against Women. The mechanism to examine ways to end such discrimination shall be strengthened.

18. Human Rights groups, other non-Government organizations and Human Rights activists working for the implementation of the principles of Human Rights and international humanitarian laws shall be protected.

19. Additional training to the security agencies on Human Rights and International humanitarian laws will be continued.

20. Any anti-terrorist legislation will be in line with established international Human Rights norms in the context of the fight against terrorism.

21. HMG will establish an appropriate mechanism for dealing with past violations of Human Rights and international humanitarian laws and to review the necessary measures.

22. His Majesty's Government assures full cooperation to establish the fate and whereabouts of reported missing persons. HMG will continue to provide cooperation to the **International Committee of the Red Cross (ICRC)** in Nepal including the access to places of detention.

23. An independent Human Rights Protection Committee shall be constituted to facilitate Human Rights monitoring and investigations undertaken by the NHRC, to ensure cooperation with, and protection of Governmental and non-Governmental entities for their Human Rights related work, and to help implement the recommendations of the NHRC. This committee will oversee the functioning of relevant Government authorities in the following aspects:

- (a) Investigation into Human Rights violations and prosecution of those responsible;
- (b) Observance of laws applicable to detention;
- (c) Protection of Human Rights of all persons coming into contact with the security forces;
- (d) Immediate release of those subjected to arbitrary or illegal detention;
- (e) Immediate implementation of the orders and decisions of the judiciary;
- (f) Taking necessary legal action against those responsible for Human Rights violations;
- (g) Recommend compensation for the victims.

24. His Majesty's Government will provide necessary facilitation to the National Human Rights Commission in the discharge of the following activities:

- (a) Investigating on violations and discouragement of Human Rights on the basis of complaints and through its own or any other sources, and carrying out such investigations through its own mechanism or through any agency of HMG or any other official or persons
- (b) Investigating on neglect of any person or institution for preventing violations of Human Rights, and informing or warning any agency with regard to the legal provisions on Human Rights;
- (c) Visiting, observing and inspecting any agency under HMG/nor prison or any other institutions, and recommending to HMG other facilities at prisons for preservation of Human Rights;
- (d) Suggesting necessary measures for review and implementation of constitutional and legal provisions for effective implementation of Human Rights;

- (e) Suggesting measures to HMG for effective implementation of international instruments on Human Rights to which Nepal is a party, including suggestions for reports to be submitted in accordance with these instruments;
- (f) Conducting research on Human Rights related subjects, disseminating and conducting education on Human Rights promotion, and encouraging non-Governmental organizations working in the Human Rights related fields;
- (g) Reviewing the current Human Rights situation in the country;
- (h) Setting up its monitoring body to determine whether the Human Rights commitments are being respected and to verify any violations, in particular attention to the right to life, integrity and security of the person, to individual liberty, to due process, to freedom of expression, movement of association and to the situation of the most vulnerable groups of society, including children, internally displaced persons (IDPs) and any groups subject to discrimination;
- (i) Strengthening of its capacity at the central level and to increase its outreach at the regional and district levels;
- (j) Ensuring free movement of the staff and its representatives of the Commission throughout the country and to interview any person or group freely and privately, particularly in places of detention and establishments suspected of being used for detention purposes;
- (k) Ensuring the security of the staff of the NHRC, its representatives and any persons who provide information to it or furnish evidence of any kind;
- (l) Responding promptly to any requests for information or suggestions for measure to improve the protection of Human Rights;



(m) Passing, if appropriate, the cases considered by the NHRC to relevant national legal structures when there is basis of criminal investigation and prosecution;

(n) Facilitating necessary external assistance to the Commission including assistance from the United Nations among others, to develop its institutional capacity and human resource development to carry out its mandate including monitoring and investigations in an independent, impartial and credible fashion.

25. HMG/N will adopt the necessary measures for the prevention of violations of the rights and guarantees contained in this document and to hold accountable those responsible for any such violations.

**Appendix 'D'****Royal Nepalese Army Instructions and Directives on Human Rights****Directives of the Chief of the Army Staff Related to Human Rights**

1. Ref:-1107/3/Directive/060/1, Section (D) of Article (6) and Section (i) of Article 8, Directive no.01/060 of the COAS, on 1st of Bhadra 2060.
2. Security personnel of the RNA, mobilized to control the Maoists 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).
3. Security personnel must consider the fact that the people involved in the Maoists 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.
4. **Processes and the procedures to be followed while making an arrest**

- (a) The reasons of arrest should be given to the detainee his/her kin or relatives or a family member should be informed as soon as possible.
- (b) Minimum force should be used when arresting a person.
- (c) If armed, he/she should be disarmed and taken into control.
- (d) Suspected area should be cordoned off safely.
- (e) He/she should be taken into custody with the completion of all legal processes from authorized local administration.
- (f) The evidences or the materials found from the suspect should be recorded to ensure that the evidences do not get lost or changed.

5. **Procedures to be followed during a search**

- (a) The detailed receipts should be given to the concerned people about confiscated items.
- (b) At least two local people or member of VDC or municipality should be present with the security forces as witness during the search. If the people mentioned above can not be present in the incident, an official from government office must be used. As far as possible, the accused should also be present during the search.
- (c) Suspected bags and items should be searched carefully.
- (d) Female Police or women only should be employed to search the body of females. If this is not possible the search should be conducted by minimum two persons.
- (e) Policemen should be allocated to search the area or people and army Personnel should supervise the whole activities as far as possible.

6. **Procedures to be followed in check points**

- (a) Language used and the behaviour should be kind and acceptable. Be polite all the time.
- (b) Suspected bags and items should be searched carefully. He/she can be requested to take the items out from his/ her bag. The conduct of the search should be done in a decent manner.
- (c) Be Gentle and show humanely behaviour during the the body search.
- (d) Do not ask unnecessary questions and show unnecessary behaviour and movements.
- (e) Do not abuse the people. People not required to be detained should be thanked for their time and patience.
- (f) Women should not be sexually abused and harassed at any circumstances.
- (g) Female Police or women only should be employed to search the body of female. If this is not possible the search should be carried out by at least two persons.

7. **The status of detainees** if people involved in the terrorist activities surrender or are arrested by security personnel, they should be treated humanely and legal procedure should be initiated at the earliest.

8. **Procedures to be followed after arrest**

- (a) Search and disarm.
- (b) Provide necessary security, protection and care.
- (c) Evacuation to designated location.
- (d) Segregate him/her from weapon, ammunition or important military documents (map, planning, orders, directives, communication sets) during search. But certificates related to his/her identity and personal items should not be segregated.

9. **Security, Protection and Care** The following procedures should be taken into practice before evacuating detainees:-

(a) He/she should be transferred to a secure place 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.

10. **Evacuation**

(a) If tactical situation permits, the detainees should be evacuated immediately and adequate measures must be taken so that he/she is secured and can not escape.

(b) Treat humanely when the detainees are evacuated. Food, clothes, medicine and other essential items should be provided.

11. **Behaviour while dealing with detainees**

(a) Detainees must not be killed and no physical harm should be done.

(b) No experiments should be carried out on the detainees neither any medicines nor treatments should be used which will degrade his/her personnel dignity and physical integrity.

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

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

(e) Separate accommodation should be provided for Women and children.

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

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

13. **Ration, clothing, medical treatment and other facilities**

(a) Detainees should be provided with clothes & daily food 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 equipments required for physical fitness, study & entertainment should be provided.

14. **Function of ICRC**

(a) ICRC should be permitted to inspect detention camps.

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

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

15. **Behavior with Detainees**

(a) Behavior mentioned from paragraph 4 to 14 above must be strictly followed by all units.

(b) Human Rights and humanitarian law must be respected and followed strictly by all.

(c) All the military commanders, his subordinates and personnel under his command are to respect and uphold humanitarian law while carrying out security operations.

(d) Since Nepal is a signatory to Geneva Conventions; the provisions enshrined in the conventions per se, firm part of the law of the land. Thus violation of the Geneva conventions will be the violation of Article 60 of our Military Law 2016.

**Summary**

16. It is also the responsibility of the RNA to make sure that all security agencies under unified command follow the humanitarian laws and uphold Human Rights.

17. 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.

**The Chief of The Army Staff's Human Rights Directive**

**01/061**

**Salient Features**

**(10<sup>th</sup> Jan, 2005)**

1. **Ref:** (i) Directives No. 01/060 of the COAS on 1<sup>st</sup> Bhadra 2060 and (ii) Directives No. 02/060 of the COAS On 29th Falgun.
2. It is essential that RNA must believe that the local population will have to eventually bear the consequences of all military action that the RNA conducts. Therefore, commanders at all levels must conduct the Legitimate counter insurgency operations remaining within the "Rule Of Law", and upholding the basic norms of International Human Rights that every people is entitled to, and aim to win the "hearts and minds" of the people, along with refrain from committing any form of unlawful killing and unlawful detention.
3. Detainee should be produce before judicial authorities within 24hrs besides traveling duration.
4. No person will be detained inside the barrack unless an order or detention warrant is given by Security Officer (Chief District Officer).
5. Detainee held inside the barrack should be documented, treated humanly and will be given security.
6. If possible, no civilian will be detained inside the barrack; should be sent to Detention center or Police station through District Security Officer (Chief District Officer).



7. If possible, police personnel should also be taken during any search operation. It won't be conducted at night but if it has to, will be done without terrorizing the general people.
8. Inhumane, rude behavior portrayed by security personnel at checkpoints may put negative image of Royal Nepalese Army. Therefore, local commanders are to brief their troops periodically and make sure their troops abide by the code of conduct of security personnel during such operations.
9. Any civilian people (including terrorist) who dies during military operation will be handed over to police, public representative and local authority for necessary legal process.
10. If possible, necessary arrangement will be made for his last rituals.
11. Reply of the writ issued by courts must be send immediately and in prescribed time.
12. Any incident of human rights abuse, which can be investigated within the capacity of the local unit, should be done within the unit level immediately and the Judge Advocate General, RNA and the Human Rights Cell, RNA have to be duly notified about the results and findings of the investigation. Judge Advocate General will constitute Court Martial if necessary.
13. If instructed by Judge Advocate General Office and Human Rights Cell for investigation, immediate action should be taken.
14. Cooperation and good behavior should be shown towards National Human Rights Commission, ICRC and their representatives.
15. If any collateral damage is incurred by security forces during security operations, then security forces should endeavor to support the expedition process of compensation through the Chief District Officer's Office and then on to His Majesty's Government. The Human Rights Cell

of RNA should be notified of such proceeding that the Security Forces are supporting.

## **Additional Directives on the Human Rights Protection and Humanitarian Law**

In order to ably implement and execute the directives issued by the Adjutant General on 1<sup>st</sup> Jan. 2004 regarding the protection of Human Rights and respect of Humanitarian law, following additional directives has been issued:-

- (a) Every unit should ensure that all ranks of the unit know of the directives by putting it out during roll calls, on weekly basis.
- (b) Human Rights cell, RNA should provide the commanders of all units the directives regarding the protection of Human Rights, printed in the form of a small booklet or a card.
- (c) Every commander must keep the directives booklet or card in their possession at all times.
- (d) Before going for any military operation, and after returning, every commander should brief the troops about the directives.
- (e) The decision of the court martial related to the abuse of Human Rights and Humanitarian Law should be forwarded by the JAG department to all the units with short description of the court decision.
- (f) After receiving the case detail from the JAG department, unit commanders should inform all personnel about the court's decision as an example and is desire lessons learned.
- (g) Every Div JAG and Brig. JAG officer should interact and disseminate the directives to all personnel within his units with the co-ordination of Div and Brigade. H.Q.

## **Soldiers Code of Conduct**

1. I am a Nepalese soldier who voluntarily entered Military service to serve my country, King and people.
2. I am a warrior and a Nepalese citizen and I shall always remain loyal to the constitution of Nepal.
3. I have sworn an oath of trust and loyalty to my country, King, the Royal Nepalese Army, and fellow soldiers and I shall always uphold that oath.
4. I shall always remain ready to enter the field of the battle and destroy my country's enemies.
5. I am a protector of my country, King and people and It is my divine duty to fight till my last breath and to never how down to the enemy no matter how difficult the situation.
6. I will never indulge in anything that desecrates the honour of my country, Unit, Fellow soldiers or Uniform for any personal interest, benefit or gain.
7. I shall put the comfort and well being of my country, King, the Royal Nepalese Army and Fellow soldiers above my own.
- 8. I shall treat even my enemy humanely and with respect and expect the same conduct from others.**
9. I shall always speak the Truth and honestly follow the Rules and Regulations of the Royal Nepalese Army.
- 10. I shall always comply with the laws of Armed Conflict and protect Human Rights.**

## **Rules of Engagement (ROE) for Use of Firearms by Army Personnel Authorized to Carry Weapons**

1. This ROE is not intended to limit any tactical operations, general authority and the right to self-defense. Under no circumstances more force than necessary will be used. Weapons will be used as the last resort only.
2. Weapons will always be carried with safety lever in the "Safe Position". Unless otherwise ordered rounds will not be chambered in the weapon, unless ordered to ready or fire, weapons will not be cocked.

### **Warning**

3. Warning will be given prior to discharging your weapon. However, under these circumstances, warning may not be given:
  - (a) If fire is not opened immediately, there is a likelihood that person/persons may cause death or serious bodily harm to you or others you are protecting or may result in severe damage of property.
  - (b) If there is a likelihood of armed attack against you or others you are protecting or while carrying out tactical operations.
4. Warning should be given in the following manner. "Halt otherwise I will shoot".

### **Use of Deadly Force**

5. Effective fire can be opened if a person's life is endangered, and if that threat cannot be eliminated by use of other types of force.

**Measures to Adopt while Opening Fire**

6. If fire has to be opened, use the following procedures:

- (a) Use of aimed fire.
- (b) Use only the minimum rounds required.
- (c) Always try to avoid collateral damage.

## Appendix "E"

### Universal Declaration of Human Rights

1. The Universal Declaration of Human Rights was proclaimed by the General Assembly of UN on 10 Dec 1948. The Universal Declaration consisting of preamble and 30 articles (Art) cover both civil as well as political rights. Economic, social and cultural rights are also covered. It emphasizes faith in fundamental rights in the dignity of a human person and in equal rights of men and women which the people of UN have re-affirmed in the charter of the UN. The member states which include Nepal, also have taken a pledge to achieve, in cooperation with the UN, the promotion of universal respect and observance of human rights and fundamental freedom.

2. Article 2 of the Declaration provides for everyone the various rights and freedom without distinction of any kind such as race, color, sex. Language, religion, political or other opinion, national or social origin, property, birth or other.

3. Nepal is a party to the universal declaration of human rights, proclaimed by the UN General Assembly. As such, Nepal is honour bound to comply with it and the concept of the protection of human rights can be found in our constitution

**4. International Humanitarian Law comprises the 4 Geneva conventions drawn up in 1949. They deal with:**

**(i) The protection of wounded and sick on land.**

**(ii) The protection of wounded and shipwrecked at sea.**

**(iii) The treatment of prisoners of war.**

**(iv) The protection of civilians in times of war.**

5. Only a few provisions of the Law relate directly to Non International Armed Conflict. The most important to us is **ARTICLE 3** common to all of the Geneva conventions. It states:

(a) That persons taking no active part in hostilities, including members of the armed forces who have laid down their arms and those out of action because of sickness, wounds, detention or any other cause shall in all circumstances be treated humanely, without any adverse distinction founded on Race, Colour, Religion or Faith, Sex Birth or Wealth, or any similar criteria.

(b) In the case of armed conflict not of an international character occurring in ones territory the following provisions are to be applied :

(i) Violence to life and person. In particular murder, mutilation, cruel treatment and torture.

(ii) The taking of hostages.

(iii) Outrages upon personal dignity. In particular, humiliating and degrading treatment.

(iv) Sentences and execution without proper trial.

### 5. In Addition

(a) The wounded and sick shall be collected and cared for.

(b) An impartial humanitarian body such as the International Committee of the Red Cross (ICRC), may offer its services to the parties involved in a conflict. So this is a short but very important convention within the conventions which sets out the MINIMUM rules that must be applied by all parties to Non International Armed Conflict.



**Appendix "F"****Human Rights and Humanitarian Law is also a part of Military Law**

1. Nepal has ratified the Geneva Convention 1949.
2. As per article 9 of Treaty Act 1992, Geneva Convention will be considered as part Nepalese Law. (Any Provision which contradict with the provision of Treaty which is approved, permitted, or confirmed by parliament, in which Nepal or HMG is member, that part will be ultra vias).
3. It is the duty of the respective commanders to distribute or inform this directives to their under command units.

## Appendix "G"

### Visiting Modalities of ICRC and National Human Rights Commission

#### 1. The ICRC's visiting modalities are as follows:

- (a) The delegates must be given access to all places of detention and to all persons held in connection with the prevailing situation.
- (b) The ICRC must receive from the authorities details concerning the persons held and be informed of the whereabouts of detainees registered previously. They must also be given access to the register of detainees.
- (c) The ICRC must be able to converse freely and in private with the persons of its choice and register their identities.
- (d) The ICRC must be authorised to establish and preserve links between detainees and their families.
- (e) The ICRC must be allowed to repeat its visits.

#### 2. Visit of the National Human Rights Commission

- (a) National Human Rights Commission was established on May 26, 2000.
- (b) National Human Rights Commission is an independent and autonomous commission.
- (c) Its main objective is to promote and protect human rights.

(d) In order to prevent Human Rights violations, the NHRC sets up independent enquiry and investigates the cases related to Human Rights Violations.

(e) NHRC may visit and inspect concerning HMG establishments and institutions in connection with Human Rights Violations.

(f) To this end, the NHRC may also give out necessary suggestions and make recommendations.