

TABLE OF CONTENTS

| | |
|--|----|
| Introduction | 1 |
| Background | 2 |
| Village Defence Forces..... | 3 |
| Background to the Village Defence Forces | 4 |
| Training and weaponry of the Village Defence Forces | 5 |
| Human rights violations committed by the Village Defence Forces..... | 6 |
| Maoist Attacks on Village Defence Forces..... | 7 |
| Divisions within rural Nepali society | 8 |
| Freedom of Movement | 10 |
| Detention..... | 11 |
| Maoist suspects..... | 11 |
| Torture and ill-treatment | 12 |
| Prisons..... | 14 |
| Non-Maoist political prisoners..... | 15 |
| Legal and institutional protections | 16 |
| Revolving door detention and the Kanchanpur 14 | 16 |
| TADO | 17 |
| The International legal framework | 18 |
| Human rights defenders, including lawyers and journalists | 19 |
| Displacement..... | 20 |
| Killings, disappearances and excessive use of force | 21 |
| Maoist abuses | 22 |
| Royal Nepal Army violations..... | 26 |
| Janajyoti campus shootings..... | 27 |
| Conclusions and recommendations | 28 |

Nepal

Fractured country, shattered lives

“We know the grave can cry out after 50 years”¹

Introduction

Amnesty International is alarmed at the emergence of armed civilian groups or village defence forces in many districts of Nepal. These groups, which clearly enjoy considerable support from the government of Nepal, are responsible for a growing number of human rights abuses as well as being targets for attack by the Communist Party of Nepal (CPN) (Maoist). This worrying development is taking place in the context of the “people’s war” being fought by the CPN (Maoist) since 1996 in which more than 12,000 people have died. The emergence of these village defence forces is aggravating existing fault lines in Nepali society and contributing to an increasing number of civilians being displaced by the conflict.

As well as documenting the effects of these developments, this report also outlines Amnesty International’s ongoing concerns in a number of other human rights areas. The organisation continues to be concerned by the illegal detention of Maoist suspects in army barracks and police stations and has evidence of their systematic torture in order to extract confessions. Restrictions on freedom of movement, extrajudicial killings and disappearances, as well as illegal detention and torture perpetrated by the government and unlawful killings and abductions by CPN (Maoist) forces, are a day to day reality for the Nepali civilian population living in districts outside the capital, Kathmandu. After the state of emergency was declared on 1 February 2005, hundreds of politicians, political activists, journalists and other human rights defenders were arrested after holding demonstrations in most districts of the country. While most of these people were released following the lifting of the state of emergency on 29 April 2005, and some draconian restrictions on freedom of expression relaxed, those challenging in any way the authority of the government and military remain at risk of harassment and intimidation by the authorities.

This report should be regarded as a snapshot of concerns and is arranged thematically, rather than being a comprehensive and analytical overview of the current human

¹ A reference made by a Colonel in the RNA who has served in UN peacekeeping operations to the possibility of bringing those responsible for grave human rights abuses to justice, in some cases many years after the violations took place.

rights situation in the entire country. The report includes cases based on interviews with victims and families of victims wherever possible and details human rights abuses on all sides of the conflict. The report provides a picture of how the ongoing conflict is shattering the lives of an increasing number of Nepali civilians.

Background

Amnesty International undertook a research mission to six districts in Nepal in May 2005. The districts were: Kailali, Dadeldhura and Kanchanpur in the Far Western Region of the country and Nawalparasi, Kapilvastu and Rupandehi districts in the Western Region. Most of these districts are in the Terai - a strip of semi-tropical, heavily-forested flat land, which runs the length of Nepal's southern border with India. The districts were selected due to ongoing reports of serious and repeated violations of human rights recorded by Nepali human rights organisations and the media.

The aim of the visit was to give Amnesty International an opportunity to assess the evolving human rights situation as the nine-year old armed conflict between the CPN (Maoist) and the security forces continues outside Kathmandu after the lifting of the state of emergency. This is of particular importance given the difficulties in getting accurate information from much of the country outside the Kathmandu valley. Heightened controls on the media and an ongoing crackdown on freedom of expression and access to information is hindering human rights organizations in Kathmandu and the international community from receiving an objective picture of the human rights situation in much of the country. These controls also impede those in the districts from receiving objective information on what is happening in Kathmandu and the rest of the country.² Human rights organizations and journalists in the districts are themselves increasingly threatened by both sides to the conflict. A sense of isolation in the districts outside Kathmandu is strengthened by the government prevention of private FM radio stations to broadcast domestic news, restrictions on the rebroadcast of news programmes from international media outlets, as well as continuing restriction on the use of mobile phones. It is clear that news from the districts is tightly controlled and filtered before being issued by the Kathmandu authorities.

² This report does not directly address Amnesty International's concerns about recent government restrictions on freedom of expression and access to information. See *Nepal: Human rights abuses escalate under the state of emergency*, Index: ASA 31/036/2005 dated 1 April 2005.

Amnesty International is grateful to the Nepali authorities for assistance given in facilitating this visit. All requests for access, including to Maoist suspects held in barracks detention were met, and the Amnesty International delegation was able to meet with local authorities in almost all the districts visited.

Village Defence Forces

In November 2003 the Nepal Government proposed to launch a “Civil Military National Campaign” to counter Maoist violence which included plans to institute “Rural Volunteer Security Groups”. This proposal was met with considerable criticism both domestically and internationally and the proposal was not acted upon at that time³.

However, in the past year various civilian village defence forces have emerged in parts of the Terai region, sometimes in apparently spontaneous response to attacks, intimidation and threats from Maoists.⁴ Typically, Maoists are accused of terrorizing communities by abducting and killing police, military and government officials as well as demanding financial contributions and/or food from every household; even from some of the poorest sections of society. It is claimed that, in some parts of the Terai region, petty criminals joined Maoist ranks, using their position as an opportunity for extortion. The border region with India has traditionally harboured criminals involved in smuggling activities or fugitives from justice in India. The long border is open and neither Indians nor Nepalis require visas to visit each other’s countries. Migrant workers and their families have also traditionally crossed the border in both directions, and there are strong family links that straddle the border. Extreme poverty and unrest in the neighbouring Indian states of Bihar and Uttar Pradesh contribute to what is a complex and dangerous situation.

There is mounting evidence that, rather than resulting in an improved human rights situation, the creation of the village defence forces has led to a sharp deterioration. Numerous incidents, particularly in Kapilvastu and Nawalparasi districts from February to April 2005, testify to the intensification of the conflict. It is now abundantly clear that the Maoists regard the village defence forces and even those working more loosely as village guards (often under duress), as legitimate targets. For example, in Kapilvastu it was reported that Maoists had circulated pamphlets

³ Amnesty International wrote to the Nepal Government on 10 November 2003 outlining the organisation’s concerns at the planned civilian militias.

⁴ In addition to the districts visited in the Western Region, village defence forces, including the Terai Tigers organization are reported in many districts in the Central and Eastern regions of Nepal. No village defence forces were reported to exist in the Far West Region however.

earlier this year, informing the local population that they would not be harmed if they gave up all village defence force activity.

Background to the Village Defence Forces

Village defence forces are known in Nepali as *Pratihar Samuha* – literally ‘defence groups’. In Nawalparasi district they are led by a handful of well-known local figures with criminal backgrounds. Some of these men are also former Maoists. Some are reportedly fugitives from justice in India. There is widespread fear of these men in the local community with some describing them as hoodlums and others as freedom fighters. The village defence forces in Nawalparasi are organized at district level and have even drafted a ‘Constitution’ although this document has reportedly not been approved by the district authorities.

In Kapilvastu the village defence forces came to national prominence following violence in the district from February 2005 onwards.

In Ganeshpur village development committee (VDC)⁵, Kapilvastu district, the abduction of two people on 5 February 2005 and the subsequent murder of one of them, apparently because of family links to the army, led to popular anger at both the killings and at ongoing extortion by Maoists. On 17 February large-scale local protests in Ganeshpur became violent with nine people killed in the village and three taken to the army barracks. According to several sources these three suspected Maoists were released to an angry crowd by the military and were lynched in front of watching soldiers⁶. Six more suspected Maoists were killed the following day in the continuing violence. Official support for the angry popular reaction was made clear on 21 February with the visit to the VDC of three government Ministers⁷. Their speeches (shown on national television), which encouraged and congratulated the community response to the Maoist threat had an inflammatory effect and led to a serious escalation in the violence over the following weeks. The killings were accompanied by the wide-scale burning of houses of those suspected of having Maoist links. According to local human rights organisations, between 17 and 23 February in Kapilvastu, 31 people were killed and 708 houses were burnt down. These figures were not disputed by the authorities.

⁵ VDC is the term used to describe the ‘village’ administrative unit in Nepal.

⁶ Amnesty International only has one name – Aktar Ali, 28 years old, who was reportedly one of the three men lynched after being released from the barracks.

⁷ The Ministers included the Home Minister, Dan Bahadur Shahi and the Minister for Education, Radha Krishna Mainali. See also *Minister encourages villagers to retaliate against Maoists*, Kantipur online report, dated 18 March.

On 20 February 2005 in Kapilvastu district, Baraipur VDC, members of a village defence force from the neighbouring Ganeshpur VDC came to Baraipur and apprehended three men accused of being Maoists. They were locked in a house which was set alight. The three men: Ram Bail Pasi, aged 30, Amgad Yadav, aged 35, and Sakur Parsi, aged 45, were burned to death. Fearing Maoist reprisals, almost all of the 400 residents of the VDC fled to India the following day where they stayed for approximately one month. Most returned after one or two months although some children have remained in India. The VDC had previously had a small police station but, since the escalation of the conflict, local police stations have all but disappeared with police officers moving into the district headquarters. Leading figures in the VDC reported to Amnesty International that the population continued to live in fear. They are reluctant to set up their own village defence force, seeing it as inviting Maoist retaliation. They are prepared to flee again to India if the security situation deteriorates.

Training and weaponry of the Village Defence Forces

There is ample evidence of government support for the defence committees. One military commander informed Amnesty International that funds given to VDCs for development activities which could not be spent as a result of the conflict, were being channelled into *Shanti ra Bikash Samiti* (“peace and development committees”), a sanitized name for the village defence forces. There was also compelling evidence that military training of the village defence forces was taking place and a lack of explicit denials from the authorities seemed to confirm this. Amnesty International was told, by numerous witnesses, that training was taking place at the Triveni barracks in Nawalparasi district. Local people reported that they were told that if they participated in the training they would be recruited into the police or army or given other government jobs. It was therefore easy to motivate unemployed youth to join the village defence forces. Amnesty International received several reports of joint military/village defence force patrols. In particular, it was alleged to Amnesty International by a well-placed source that, approximately 25 days prior to the 15 April attack on Somani VDC in Nawalparasi district (see below), mixed patrols of military and village defence force members had taken place. Reports were also received in more than one district that some leaders of the defence forces shelter in military barracks at night fearing that they are targets for Maoist attack.

Evidence of support in the supplying of weapons to the village defence forces is less clear. Amnesty International was told that all weapons being used by the defence forces were licensed by the government. However, the authorities refused to indicate how many licences had been issued in recent months. In return for a donation to the village defence force for reportedly as much as ten thousand Nepali Rupees (approximately 140 US dollars), the family concerned is given a pistol by leaders of the village defence force to use in defence activities. There were numerous complaints that the pistols were cheap models, costing up to about 30 US dollars, manufactured in the Indian state of Bihar, and only good for a short period of time before needing to be replaced.

In addition to handguns, according to a recent report from Nawalparasi district, Ratangunj village in Paklihawa VDC, the village defence force apparently surrounded the village with 1,500 booby-trap, landmine like, devices targeted against Maoist attacks. The weapons, reportedly purchased in India and including detonators, mark yet another dangerous escalation in the conflict.⁸

Human rights violations committed by the Village Defence Forces

Many of those spoken to in both Kapilvastu and Nawalparasi districts informed Amnesty International that villagers are pressured into joining the village defence forces. There were many accounts of being beaten or accused of being Maoist sympathizers if they refused. Villagers also complained that they were forced to make a donation to the defence forces. There were numerous complaints that the money collecting practices of the leaders of the village defence forces were no different from those of the Maoists. There were even reports in Nawalparasi that families were required to give one person per family to work with the village defence forces – in exactly the same way that families are often reportedly required to give up one member for recruitment by the Maoists.

Many people complained to Amnesty International that village defence forces conducted searches of peoples' homes very late at night terrifying villagers. They were also accused of frequently harassing women during these searches and also while they conducted their guard duties. Abuses perpetrated by village defence forces were admitted by some district authorities who claimed to have punished some of those responsible. However, the terror instilled in local populations by some of these groups inhibits them from making official complaints to the authorities.

⁸ *Vigilante landmines terrify villagers*, Kathmandu Post, 31 May 2005

On 20 February, in Kapilvastu district, an eleven year old girl was raped by three men, allegedly village defence force members. Her house was on the road taken by the men to an anti-Maoist protest. Of the three alleged perpetrators, one name has emerged – Fajul Khan. All the perpetrators were allegedly from Birpur VDC, ward five. Fajul Khan has subsequently been killed by Maoists in an unrelated incident. The girl was treated at the Prakash clinic in Chanauta and, after one day, was taken to an army base – Sasastra Prahari training centre, Chanauta, allegedly for her own protection. Her father accompanied her. She later received treatment at the Prithvi Bir hospital in Taulihawa before returning to the district police office, again, for her own protection. The police took the clothes the girl was wearing when attacked, together with medical reports of the case. However, no investigation of the incident has occurred and the police have urged the girl's family to enter into some form of mediation with the alleged perpetrators. The family and others connected to the case are reportedly frightened to pursue the case, not least because the doctor who treated the girl and provided the medical report was targeted in an apparent revenge attack. His brother was killed in a case of mistaken identity.

Maoist Attacks on Village Defence Forces

Amnesty International has received numerous reports of Maoist killings of village defence force members and their families with implications for entire communities. For example, Loudan Musulman, a 60-year-old grandfather from Baskhor ward 2, Varaha, Kapilvastu, was shot and killed by Maoists on 22 May 2005. He was reportedly a member of the local village defence force and also had close family connections to the army. On the day of his death, Loudan Musulman had been working on the roof of a hut that he was building. Five Maoists arrived on motorbikes and ordered him down from the roof. He refused and was dragged off the roof, taken behind a nearby school and shot in the head with two bullets at close range. Amnesty International saw his body the following day when it was taken to Taulihawa district hospital for a *post mortem* examination. He leaves a wife, five children and one granddaughter. After his killing, the inhabitants of his village fled. It is not known if they have returned to the village.

Nawalparasi Somani Case

On 15 April 2005, a huge Maoist-led crowd⁹ comprising over 100 people attacked a village in Somani Ward 7, Bargadawa area, Nawalparasi district killing eleven people, including a 14 year old boy.¹⁰ Explosive devices were placed in four houses and another ten to twelve houses were also burnt down. Most of those killed were shot with pistols in the head, and three were reportedly shot in the stomach. The Maoists targeted men who had reportedly been pressurized into participating in village defence force activities. When Amnesty International visited the village it was almost deserted – much of the 700 population had reportedly fled to India and stayed there. A few old people who remained expressed anger towards the village defence forces. A senior community leader said that there had been a long history of personal disputes which led up to the attack.

Divisions within rural Nepali society

The conflict in Nepal is widening existing divisions in Nepali society. These divisions – of caste, class, ethnicity, religion and the advantaged against the disadvantaged are in some cases being used by the protagonists. Frequently, pre-existing disputes or grievances at village level are exploited with one party accusing the other of being ‘Maoist’ and denouncing the person to the authorities. Amnesty International was repeatedly told that deaths of those labelled as ‘Maoists’ are not investigated by the authorities, in other words effective impunity for those committing crimes against ‘Maoists’. Likewise, accusations made to Maoists that someone was a spy for the government frequently results in their abduction and killing.

In the three districts visited in the Far West of the country there is a large population of *dalits*¹¹, as well as other lower caste groups, especially ethnic Tharus. Amnesty International was informed that these groups are targeted by both sides in the conflict

⁹ In incidents where large numbers of people have been involved in Maoist attacks, it has been reported to Amnesty International that Maoist cadres will pressurize civilians in villages regarded as sympathetic to the Maoists to accompany them to carry out attacks. In one instance, at least, vehicles were requisitioned for the transportation of people to carry out an attack.

¹⁰ Those killed during the Maoist attack (all male) were: Bijay Bahadur Chaudhari 38, Avimanyu Chaudhari 17, Chandra Bhan Dhobi 28, Kamal Dhobi 42, Rajandra Chauhari 18, Jitendra Yadaw 22, Kamalish Yadaw 17, Hridyesh Yadaw 14, Dinesh Kohar 21, Dinsesh CHaudhari 26, Dipak Chaudhari 19. The first two are father and son, both teachers.

¹¹ *Dalit*, or the oppressed, formerly known as ‘untouchables’, are one of the groups in Nepal which are isolated and disadvantaged by their low status in the traditional Hindu caste hierarchy and therefore exposed to discrimination, social, economic and cultural injustice.

for different reasons. The Maoists regard underprivileged groups who have often been the subject of institutional discrimination as a fertile recruiting ground¹². Indeed, there were reports of instances where such groups were forcibly recruited as Maoists. At the same time, the police and military regard young men from these groups with suspicion, allegedly subjecting them to greater surveillance and attention at check points. Individuals from these groups also suffer disproportionately from extrajudicial execution, rape and other violations perpetrated by government security forces. In areas where village defence forces are in operation, it was also clear that communities made up largely of such groups, including *Kamaiya* - former bonded labourers and *Sukumbassi*- landless people from the hill region, are regarded with suspicion and have been the object of revenge attacks. For example, in Kapilvastu district, three days after protests broke out in Ganeshpur VDC in response to Maoist abductions and extortion, there was a revenge attack against a near-by community largely comprising displaced persons from hilly areas and landless poor. It was alleged that those responsible for Maoist activities in Ganeshpur came from this community. On 20 February 2005, 305 houses in Hallanagar were burnt down and one person beaten to death.

The activities of the village defence forces are also exposing many of the existing fault lines in Terai society and risk exacerbating these tensions. In parts of the Terai region, the local population, known as the *Madhesi*, are closely linked with ethnic groups in India and in many cases do not speak Nepali. Their local language, Bojpuri, is also spoken in the neighbouring Indian states. The *Madhesi* community has suffered from discrimination within Nepali society for many decades; prevented, for example, from access to many civil service and military positions¹³. In Kabilvastu, it is very clear that suspicion towards much of the Maoist activity in the district is directed at *Sukumbassi* and *Kamaiya* who are also often landless and very poor, and other poor people and those displaced by Maoist activity from hill areas to the Terai. There have been attacks on villages comprising the above groups and many parts of the Terai were described to Amnesty International by one NGO as being ‘no-go’ areas for *Pahadis*, as Nepalis from the hill parts of the country are known.

¹² Serious concerns about the persistence of caste-based discrimination were outlined by the UN Committee on the Elimination of Racial Discrimination (CERD) in their “concluding observations” following periodic reports submitted by the government of Nepal, (CERD/C/64/CO/5 dated 12 March 2004).

¹³ This discrimination is not written into domestic laws or rules governing recruitment but applies in practice.

Freedom of Movement

There is increasing evidence that as a result of the ongoing conflict the freedom of movement for Nepalis is being severely curtailed. The restrictions on freedom of movement from all sides to the conflict are having a severe impact on civilians and their livelihoods.

On the government side, certain high profile individuals, usually with strong party political allegiances who are considered in opposition to the present government, are now not permitted to leave Kathmandu. For some who are also involved with civil society, this may be a deliberate effort to keep a high level human rights presence out of rural areas. Some of these individuals are also the heads of local NGOs and their inability to visit staff at district level is having an impact on communications between Kathmandu and the districts and on staff morale at district level.

It was widely reported that, in Maoist controlled areas of Dadeldhura district in the Far Western Region, villagers need permission from the Maoist authorities to travel between one village and another and also require written permission to visit the district town which is under government control. It was added that, should the government military find such written permission from the Maoists, whoever carrying it risked arrest or even summary execution from soldiers at checkpoints. Such restrictions are reportedly commonplace in many districts.

It is clear that frequent *bandhs* (strikes) which entail the stopping of all motorized traffic are having a severe effect on people's livelihoods and ability to travel. Amnesty International was informed at a Maoist checkpoint on the road between Kailali and Dadeldhura districts that that particular road was to be closed the following day and bombs placed on it. The road was indeed closed, and remained closed for several weeks. Typically, closures involve the placing of large trees across roads which are sometimes booby-trapped¹⁴. Despite assurances given to the Red Cross that ambulances would be permitted to travel on *bandh* days, no one is prepared to risk moving a booby-trapped obstacle and so, in practice, sick people are prevented from access to medical care – a clear contravention of international humanitarian law.

Frequent checkpoints manned by combatants on both sides of the conflict are also an impediment to freedom of movement. People on buses are obliged to get off and

¹⁴ Maoists have admitted responsibility and apologised for a landmine placed on a road in Chitwan district on 6 June 2005 which was hit by a passenger bus killing at least 38 people. (see BBC report at http://news.bbc.co.uk/1/hi/world/south_asia/4617541.stm)

queue, sometimes for long periods, to pass through search and questioning stations. At Maoist controlled checkpoints civilians are frequently subjected to lengthy propaganda speeches.

There were night curfews in operation in all the district towns visited by Amnesty International.

As a result of the conflict, certain areas of the country are effectively becoming 'no go' for specific groups. Police, military and government civil servants and their families have largely been chased out of rural areas and are often obliged to live in the district headquarters. Some soldiers and police whose homes are outside the Kathmandu valley dare not return to them for fear of summary execution by Maoists. People from hill areas of the country are fearful of visiting parts of the Terai where village defence forces are active, in case they are identified as Maoists and subject to punishment as a result.

Detention

Maoist suspects

Maoist suspects are routinely held in both army barracks and police stations, particularly after their initial arrest. In Kailali district, Amnesty International was informed of at least eight army barracks or police stations used as detention facilities. Very often the barracks are rudimentary encampments without proper facilities and are staffed by military who have not had specific training in managing detention centres. Families are rarely informed of the arrest of a suspect, and even if a family does know, visits are not allowed. Lawyers are only made aware of a detention through families who either witnessed the arrest themselves or received information from others who did. Local lawyers and human rights NGOs do not have access to army barracks. The number of such facilities and the constant moving of prisoners between barracks, police stations and prisons, make effective monitoring impossible. The recent withdrawal of the International Committee of the Red Cross (ICRC) from monitoring army barracks is also a testimony to these problems¹⁵. For example, when

¹⁵ ICRC announced on its web page in May a suspension of visits to military detention facilities. The suspension came after the RNA allegedly failed to comply fully with the terms of an agreement with the ICRC regarding what are called 'worldwide working modalities'. Problems encountered by ICRC are believed to include denial of access to all prisoners and RNA inaction on recommendations to improve conditions and treatment.

Amnesty International was permitted to interview Maoist suspects in the barracks in Parasi town, Nawalparasi district, the barracks commander initially declared that there were only four suspected Maoist prisoners held there. However, six were eventually presented to Amnesty International to interview and it is possible that there were yet further detainees being held at the facility to whom Amnesty International was not given access.

Torture and ill-treatment

From interviews with former and present detainees and military officers, it is clear that torture and ill-treatment are routinely used in the first days after arrest to extract confessions and information. One military commander informed Amnesty International that those interrogating prisoners are permitted to use three slaps against them: “after one slap they say nothing, after two slaps they don’t speak, but after the third slap they start to talk.”

Two suspected Maoist prisoners, Karem Husen and Tofal Haji, have been held in Gorusinghe military barracks, in Kapilvastu district, since 14 and 21 April respectively; the former, allegedly a Maoist area commander, the latter a “very dangerous symbol of terror” according to the barracks commander. Both men had already spent 6 months in prison and had, according to the commander, re-offended by joining the Maoists again.

The two were held in the middle of the barracks in a barbed wire ring about 3 metres across. The men sat in the intense heat and sun under a piece of plastic propped up like a tent. They had to be asked to be escorted to the toilet – an open hole in the ground nearby. They were provided with two meals a day and looked visibly undernourished. They were given sufficient water to drink. After initially only being able to wash once per month, the men are now allowed to bathe more regularly. Karem Husen complained that his wife is not allowed to visit him, while Tofal Haji said that, to his knowledge, his family had not been informed that he was there (this omission to inform the family was later confirmed and reportedly rectified by the commander). Both men said that they were frequently beaten during the first three days of their detention and are still kept blindfolded (they were not blindfolded when being interviewed by Amnesty International). They were also kept permanently handcuffed. Karem Husen’s back was covered with bruises and scars consistent with frequent beatings from a stick. Both said that, on arrest, they were beaten for at least 30 minutes until they fell unconscious. Both men are Muslims and were forced to have their hair and beards cut. Before the present commander took over at the barracks the two men were prevented from praying. They are now allowed to pray. Both men were in tears as they spoke with Amnesty International. They were initially extremely fearful of speaking out and were continuously looking round themselves, to make sure they were not overheard.

One 18-year-old prisoner in Kanchanpur district prison admitted working for the Maoists in a ‘student awareness program’. She had been arrested eight months previously – one of a large group of 45 suspected Maoist detainees which included three women. They were detained for six months in Bhagatpur barracks in Kanchanpur district, three months of which were spent hooded¹⁶ with hands handcuffed behind their backs. There were no women soldiers working in the

¹⁶All prisoners who had spent periods of detention in barracks spoke of being blindfolded or hooded for prolonged periods. Some admitted that at night and when guards were not present they could partially lift their blindfolds. One prisoner complained of double vision which he thought was a result of being blindfolded.

barracks and she was guided by male soldiers to the toilet and was permitted to lift the hood partially. She was not allowed to bathe for the first month and from then on was permitted to bathe on the fourth day of her menstrual cycle.

Members of a group of 14 people (including one woman) visited by Amnesty International in Kanchanpur district prison complained to Amnesty International that, after their arrest in August 2004, they were beaten over a period of several days in Bhagatpur barracks where they were held from their arrest until November 2004. One of the group, Birman Sarki, was beaten so severely that he is now seriously mentally disabled and was hardly able to speak when interviewed by Amnesty International. According to others in the group he had been particularly worried about his family (he has a wife and young children) and was savagely beaten after voicing his concerns about them to the soldiers at the barracks. The scar of a serious head wound was clearly visible. The prison authorities informed Amnesty International that they were trying to facilitate his release. Amnesty International, on 3 June, wrote to the Home Ministry calling for the immediate release of Birman Sarki on humanitarian grounds. In July, Amnesty International received information from a local NGO that Birman Sarki had been released.

Prisons

Instances of Maoists attacking prisons to release inmates, most notably in Kailali district in February 2005, have led the government to entrust security management of the prisons to the Armed Police Force (APF), rather than the prison department who previously managed the prisons¹⁷. This transfer of responsibility to armed police without experience in prison management is of growing concern to Amnesty International. Reports have been received that a member of the APF was responsible for the killing of Hari Singh Mal, a prisoner in Kanchanpur district prison, while disturbing accounts of ill-treatment at the same prison have also emerged. Kanchanpur prison is also undergoing a building programme to establish a regional detention facility and address problems of overcrowding.¹⁸

¹⁷ *Jail responsibility for APF*, Nepal Samacharpata, 23 May 2005.

¹⁸ The prison was reportedly holding approximately 135 people, well in excess of its 'capacity' of 75.

Hari Singh Mal was arrested in Dadeldhura in 2001. He ran a hotel and was accused of allowing Maoist meetings to take place at the establishment. His brother, Chatra Singh Mal, and others were also arrested. The group were held in police custody for some time before being transferred to Kanchanpur prison. On 8 December 2004, a dispute broke out between two groups of inmates over corruption and the operating of the prison canteen. Hari Singh Mal, a leading figure in one of the rival groups, reportedly went to the prison gate to ask for the intervention of prison staff to restore order. Many witnesses reported to Amnesty International that he walked to the gate and was shot at close range by an armed police officer, Suresh Thapa. There were no warnings given. Suresh Thapa was suspended from duty, but later reinstated and transferred. To Amnesty International's knowledge, he was not prosecuted. No compensation has been paid to Hari Singh Mal's family – his widow and five year old daughter.

Kumar Lal (not his real name) wanted to write a letter to a friend and fellow prisoner who had been sent to Jarjakot district prison. He asked an armed police officer how he could send a letter. The officer became very angry and forced Kumar Lal to strip naked and then lie in a metal water container in full sun for an hour before being allowed to get dressed and return to his cell.

Non-Maoist political prisoners

During the first few days of the state of emergency, declared on 1 February 2005, hundreds of national and district level political leaders and activists, journalists and human rights defenders, were arrested and placed in preventive detention under the Public Security Act. Despite the lifting of the state of emergency on 29 April 2005, at the time of Amnesty International's visit, many of these individuals remained in detention. Amnesty International visited over 30 non-Maoist political prisoners (all men) in Kailali and Kanchanpur prisons in May 2005, including a former Minister of Justice. Many of the prisoners were in their 60s and 70s. They complained of being roughly handled when arrested and suffering in the poor conditions and intense heat of the overcrowded prisons. While these reports may indeed be accurate it was evident, however, that they were receiving better treatment than the remaining prison population.

Legal and institutional protections

Amnesty International has frequently raised concerns about the collapse of legal safeguards since the conflict began in Nepal¹⁹ and especially since the imposition of the state of emergency on 1 February.²⁰ The May 2005 visit to districts outside the Kathmandu valley added further weight to these concerns. Judicial processes were marked by delay and obstruction by the authorities. Semi-judicial bodies including Chief District Officers (CDOs) were accused of disregarding entirely the decisions of the court and ensuring that cases remain pending for extended periods. Military commanders at district level were also accused of subverting the judicial system. This is exemplified by *habeas corpus* cases in Kanchanpur district where decisions to free prisoners by judges have led to immediate re-arrest. Similar cases have been documented in Kathmandu and across the country. Kathmandu is characterised by the relative safety provided by a significant international presence and headquarters of domestic media organizations and NGOs. Beyond the capital, judges and lawyers are at greater risk of intimidation, threats and harassment by the military.

Revolving door detention and the Kanchanpur 14²¹

On 12 May 2005, the Kanchanpur appeal court, in a *habeas corpus* ruling, decided that 14 suspected Maoist prisoners who had been detained since 17 August 2004 should be released immediately.

The 14 suspected Maoists (13 men and one woman) claimed to have been compelled to attend a Maoist mass meeting in Kanchanpur district on 17 August 2004. The meeting was broken up by the army and those who did not flee were arrested. The 14 claim that the Maoist organizers fled and were not captured and that, as local people who were not guilty of any crime, they had no reason to flee. The judgement of the appeal court found in their favour and indicated that the government has not provided any evidence that would justify the continuing detention of the group under the provisions of anti-terrorist legislation, the Terrorist and Disruptive Activities Ordinance (TADO). Their detention was deemed illegal.

¹⁹ See numerous Amnesty International reports including: *Nepal: Killing with impunity*, Index: ASA 31/001/2005 dated 20 January 2005; and *Nepal, Escalating "disappearances" amid a culture of impunity*, Index: ASA 31/155/2004 dated 30 August 2004.

²⁰ Amnesty International report: *Nepal: Human rights abuses escalate under the state of emergency*, Index: ASA 31/036/2005 dated 1 April 2005.

²¹ The 14 are: Bala Bahadur Dangi 52, Prem Bahadur Oli 43, Tek Bahadur Khatri 34, Man Bahadur Bista 34, Padam Sarki 30, Birman Sarki 32, Tapta Bahadur Giri 34, Bir Bahadur Karki 18, Padam Bahadur Budha 23, Gagan Singh Kunwar 19, Karna Bahadur Dharmi 35, Dhawal Singh Bohara 32, Sita Negi (f) 31, Ujal Singh Dharmi 28.

On their release, the group were led out hand-cuffed of the prison, into a police van, and then, according to members of the group interviewed by AI, taken to the district police headquarters only to be returned to the prison the next day, with their detention orders renewed for a further six months by the Chief District Officer. The reasons given for the renewal are the very grounds dismissed in the earlier court of appeal judgement.

Relatives of the group were apparently hesitant about lodging a legal challenge against the renewed detention order on contempt of court grounds, for fear of reprisals against the detainees.

The group of 14 had initially been held incommunicado at the Bhagatpur army barracks in Kanchanpur district from the date of their arrest in August 2004 until 8 November 2004. Two of the group of 14 were subsequently transferred to Jarjakot district prison. It is believed that they were transferred due to their political activities while in prison.²²

TADO

The Terrorist and Disruptive Activities Ordinance was promulgated as one of the emergency measures in November 2001, giving the security forces the powers to arrest and detain suspects under a preventive detention order. On 10 April 2002 this Ordinance was replaced by the Terrorist and Disruptive Activities (Punishment and Control) Act 2002 (TADA). The TADA gave security forces the power to arrest without warrant and to detain suspects for up to 60 days in police custody for the purpose of investigation, and for up to 90 days in a place “suitable for human beings” in preventive detention, without being presented before a court. This contravenes constitutional provisions requiring that detainees be produced before a judicial authority within 24 hours of arrest. In October 2004, the government re-promulgated the Terrorist and Disruptive Activities Ordinance (TADO), extending from six months to one year the time detainees can be held in preventive detention without being presented before a court.

²² Amnesty International is aware of the emergence of a sophisticated penitentiary system in Nepal. There is a ‘rehabilitation camp’ for ‘ex-Maoists’ and a camp for Maoists who have ‘surrendered’ (Dhakaltar in Tanahu district) and there are believed to be several prisons reserved for those identified as high-level Maoist cadres including an ‘Investigation Centre’ in Sundarijal, Kathmandu. These facilities are in addition to barracks and police stations that are also routinely used for the detention of suspected Maoists.

A typical example of TADO detention illustrating absence of legal safeguards is that of Agnu Prasad Chaudari, a 40-year-old man working in a resin factory in Sripur VDC, Kailali district. He considers himself to be a victim of both sides to the conflict. "If the Maoists ask us for money and we don't obey, they beat us and forcibly take us away. And when we return, the army suspects us and jails us". On 21 February 2005, Agnu was told by Maoists to deliver a letter to a house in Boradasi, near Dangadhi. He was caught and arrested by the army while carrying out this task.

The army took him to the Boradasi barracks. He was held there for approximately 20 days. He was beaten with sticks all over his body each evening for up to one hour, over a three-day period. The army wanted Agnu to confess to being a Maoist. Finally he did. He signed a document, although he didn't know what was written on it - Agnu is unable to read. The document was not read out to him.

His hands were handcuffed behind his back throughout his detention in the army barracks. Only when he went to the toilet were they untied. After a detention order was received from the Chief District Officer he was sent to jail. He was never taken before a court and doesn't know the meaning of the word lawyer. His family (wife and two sons) were not initially informed of his arrest and detention in the barracks.

The detention order was for three months but Agnu knows that he could stay for an indefinite period in jail in 'preventive detention' with the police office repeatedly extending the detention order.

The International legal framework

Nepal is a state party to six of the main human rights instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights (ICCPR) that guarantee, among others, fundamental rights for persons deprived of their liberty. Nepal has also ratified the four Geneva Conventions of 1949 (also known as International Humanitarian Law).

Maoist leaders have also given numerous public assurances that they respect International Humanitarian Law²³.

²³ The CPN (Maoist) leadership made commitments in April 2003 and March 2004 to abide by fundamental human rights standards and the Geneva Conventions.

Human rights defenders, including lawyers and journalists

In the districts visited by Amnesty International, many people working on issues related to the conflict reported being harassed, threatened and intimidated by one or both sides. In mid-July, the government reportedly passed an ordinance to regulate NGOs - including through imposing restrictions on political activities and limiting foreign funding. Relations between NGOs, lawyers and journalists and the Nepali authorities are clearly strained. The authorities (including police and military) complained to Amnesty International that NGOs lacked neutrality and objectivity in their work. Indeed, it is clear that many human rights defenders are active members of political parties and at the same time working as human rights defenders. Since the arrest of many political activists following the imposition of the state of emergency, views are more polarized and authorities equate any political affiliation with an anti-government stance.

This dangerous atmosphere was exemplified by the situation in Nawalparasi. In December 2004, members of one of the most notorious village defence forces killed five people, allegedly Maoists. A large delegation comprising local human rights NGO representatives visited the village where the killings had taken place. A few hours after this visit on 24 December 2004, the village was attacked by a group of Maoists who killed two members of the village defence force.²⁴ Leaders of the village defence force, themselves reportedly former Maoists, claim that some of the attackers had been part of the NGO delegation earlier in the day. The village defence force leaders claimed that one of the NGO vehicles had also returned with the Maoists for the attack. The day after the attack when seven members of the human rights NGO delegation returned to the village, three of them were threatened by the crowd and were arrested by military who were present. They claim to have been ill-treated and subjected to death threats before being released several hours later when the Chairperson of the district NGO coordination committee intervened on their behalf, writing a letter to the authorities guaranteeing that they would go regularly to the police station after their release.

Relations between lawyers and the authorities and village defence forces have remained strained ever since. The lawyers do not visit parts of the districts under the control of the village defence forces and claim still to receive threats when they work

²⁴ Mainuddin Khan and Munna Koiri

on cases brought to them by people claiming abuse by either the authorities or the village defence forces.

Lawyers in several of the districts visited, complained to Amnesty International that they were regularly warned off working on “sensitive” cases, particularly those involving suspected Maoists. For example, the lawyers involved in the case of the Kanchanpur 14 alleged harassment and threats by police. One lawyer involved in the case was called into the office of the district Superintendent of Police and told not to support the men in any way. Another lawyer had been asked to provide details, including the home address of the leading lawyer in the case. According to those involved, this sort of indirect threat is commonplace for anyone involved in TADO cases. They also spoke of incidents, in other cases, of lawyers being followed by members of the security forces.

One journalist who was investigating the activities of the village defence forces in Kapilvastu was abducted in February 2005 and was taken across the border to India for two days. He was blindfolded throughout and locked in a room. He was questioned by people who he assumes were either members of the RNA or close to the RNA and asked why he was writing articles critical of the village defence forces. He was threatened that the next article he wrote would be his last. He was surprised that those who abducted him clearly knew details about both his professional background and family history. He remained blindfolded for the two hours walk back into Nepal where he was released.

On another occasion the same journalist was told by villagers in a different district that Maoists were looking for him and were angry at his exposure of the recruitment and use of child soldiers by Maoists.

Displacement

The conflict in Nepal has displaced large numbers of people, estimated at between one and two hundred thousand people.²⁵ In the districts visited, it is clear that many people have fled to India, far beyond the normal work migration patterns. The border is open and Nepalis do not need visas to live and work in India. Local RNA officials estimated that, after the killings and house burnings in Kapilvastu in February, 40,000

²⁵ This figure was a “guesstimate” given by Walter Kalin, the UN Secretary-General's Special Representative for Human Rights of Internally Displaced Persons, and Dennis MaNamara, Director of the UN's Internal Displacement Division, following a visit to Nepal in April 2005.

Nepalis from that district alone crossed the border within a few days. Some of these people subsequently returned to Nepal but remain vulnerable. The impression given from travelling around the district was that people are ready to flee again at a moment's notice. The displacement within Nepal can be difficult to see, with many of those displaced living with friends and relatives. The government-held district administrative centres have seen a significant increase in their populations as has the Kathmandu valley.

Countless thousands have left the hill areas of Nepal to escape the ongoing conflict. These people include those targeted by the Maoists – police, military and their families - as well as many civil servants, teachers, public administrators, and ordinary people escaping harassment, recruitment and extortion. There is also evidence that families in some Maoist-held hill areas are sending their children to Kathmandu, the Terai region or India to escape conscription by the Maoists.

An 11 year old boy, Dhana Bahadur Bista, from Rolpa district, was taken to Butwal town in Rupandehi district in April 2005 by his grandfather. Maoists visited the family home and demanded that one person in each family should join them. Dhana's father is working in India, so the young boy was the only male at home who could join the Maoists. The family decided that Dhana should leave. His grandfather has found a small guest house where, for a monthly salary of 1,000 Nrs. (approximately 14 US dollars), Dhana clears, washes dishes, and cleans. His grandfather has now returned to their home village. Dhana is given room and board and says he is happy, although he would like to go to school but can't. Dhana says that lots of children have had to flee Rolpa district and most have gone to India. There are estimated to be about 40 children in a similar situation in Butwal alone.

Killings, disappearances and excessive use of force

There is already a substantial body of evidence of killings and the excessive use of force by all sides to the conflict in Nepal. Not only are armed combatants subject to serious violations of human rights, including extrajudicial. executions, but non-combatants are also targeted.

During the last six years the conflict in Nepal has been characterised by widespread arbitrary arrests, unacknowledged detentions and “disappearances” at the hands of security forces. In the past two years alone more than 400 cases of “disappearance”

have been reported to Amnesty International. Hundreds of people have also been abducted by the CPN (Maoist). In a report dated 28 January 2005 the UN Working Group on Enforced or Involuntary Disappearances criticised both CPN (Maoist) and government authorities for the “dramatic” rise in such cases.²⁶

Continuing violations of both the Geneva Conventions and the International Covenant on Civil and Political Rights, not to mention Nepal’s own domestic laws, have been documented by Amnesty International since the outset of the conflict.²⁷

The Geneva Conventions specify the need for forces to be clearly identified through the wearing of uniforms; the failure to do so by the RNA and the police is confusing and alarming to the civilian population. Arrests are carried out routinely by security forces dressed in plainclothes. Amnesty International passed through several checkpoints where it was impossible to know if the armed people manning the checkpoints were Maoists or members of the government security forces. Maoists undertaking military operations also rarely wear any distinguishing clothes.

Maoist abuses

From the outset of the conflict, Maoists have targeted the defence forces; initially police, and then, when the army entered into the conflict, the military. In contravention of the Geneva Conventions, these attacks frequently target non-combatants, including military and police when off-duty, not in uniform and unarmed. Families of soldiers and police are also targets of abuses.

On 14 June 2005, it was reported that six family members of soldiers, including three women and a one-year-old child, were found dead two days after they were abducted by Maoists in Kailali district. The bodies are reported as having been badly mutilated.²⁸

²⁶ C/CN.4/2005/65/Add.1 dated 28 January 2005.

²⁷ See various Amnesty International reports including *Nepal: Killing with impunity*, Index: ASA/31/001/2005 dated 20 January 2005; and *Nepal, Escalating “disappearances” amid a culture of impunity*, Index: ASA 31/155/2004 dated 30 August 2004.

²⁸ *Family members of security personnel murdered after abduction*, nepalnews.com, 14 June 2005

Dil Bahadur Kumal came from a poor ethnic Tharu family in Nawalparasi district. He was one of 24 children by his father who has two wives, though only 13 of the children survived. Dil Bahadur Kumal grew up collecting firewood for the family from the local forest. Joining the army was a special opportunity for him and, even when his family pleaded with him to leave the military, he refused. He was unmarried and in his early 20s when, on 9 April, a telephone message was received at the Thakurdhagar barracks where Dil Bahadur Kumal was stationed, from a woman professing to be his sister, saying that his mother had died and that he should return home immediately. His home leave was granted and he set out straight away. A few miles from his home, on the night of 9 April, Dil Bahadur Kumal was ambushed by suspected Maoists. His body was found shortly afterwards. He had been blindfolded and his teeth were missing, as were one eye and an ear. He had been shot in the chest. He was not armed and was wearing civilian clothes. His mother had not, in fact, died and no one from the family had telephoned him.

In order to collect the compensation that is due to the family, they must go to Kathmandu. They are not sure who to speak to in Kathmandu and have not received any advice or help from the army.

Shanker Sarki, a 29 year old soldier spent six months in Congo with the UN peacekeeping operation as a military policeman. He returned to Nepal ten days before being killed on 15 May 2005. He had just been transferred to Nepalgunj and was about to leave his home where he had been for one week's leave. He and two friends were walking near his home when they were abducted by Maoists. Twelve armed men in civilian dress, some wearing masks and caps, intercepted the men. The victim's mother, who witnessed what happened, followed the group. She was told to go away and was asked, "why did you send your son to join the army". Out of fear, neighbours did not contact the military or police to help. Shanker Sarki's friends were released, but Shanker Sarki's body was found a few hours later on a nearby road. His gold ring and watch were missing, and it is possible that robbery was a factor in this case. He may have appeared wealthy, having just returned from overseas. He left a 22 year old widow, Shanti Sarki, and two daughters aged two and five.

The most vicious punishment seems to be reserved for former Maoists accused of 'betrayal' for working with the government authorities - or those deemed to have used their Maoist position for personal gain.

Raghu Bir Joshi, aged 29, was killed by Maoists on 16 April 2005. He sold peanuts on a cart in Mahendranagar, Kanchanpur district.

On the day he died Raghu Bir Joshi went to collect firewood close to his house to cook a cereal dish to celebrate his baby being six months old. About five minutes from his home he was stopped by five or six armed people. He was heard to shout “let me go home” by some women looking after cattle nearby. He shouted to the women that they should tell his family that he had been taken by Maoists. However, the women were so frightened that they only informed the family two hours later. The family subsequently found out (two days later) that he was held that night in the nearby house of a Maoist supporter. The family received a phone call from a teacher informing them that a dismembered and decapitated body had been found. The family did, however, receive two letters from Raghu Bir Joshi written to his wife and brother before he was killed. The letter to his brother asked him to take care of his wife and daughter. Realising he was going to be killed, he asked his wife “not to wear white clothes” – not to remain in mourning.

Raghu Bir Joshi’s killing was witnessed by approximately 20 people and was accompanied by Maoists shouting slogans in what appears to have been some form of ‘trial’. His brother has also received threats and no longer dares go back to his home village. Raghu Bir Joshi had been involved in Maoist activities when he was aged 17 and had left home for a two year period. Amnesty International spoke with local lawyers who confirmed Raghu Bir Joshi’s former links to Maoists saying that he had been a Regional Bureau Member and was blamed by the Maoists for corruption and extortion.

After the second ceasefire between the government and the Maoists, Raghu Bir Joshi returned to his village. At that time the family were harassed by the police for suspected Maoist links, including the beating of his parents. At the family’s request he left the Maoists and returned home to help his family. He even made a newspaper declaration that he had left the Maoists three years previously. However, he reportedly continued to threaten and extort money from people.

Raghu Bir Joshi was arrested as a suspected Maoist and the family engaged a lawyer to secure his release. A member of the district bar association was involved in the case. According to his brother, Raghu Bir Joshi did not receive threats from the Maoists during this three year period.

When a BBC journalist asked senior local Maoist leaders about the case, the leader replied that “we don’t kill people in this way – but respect the Geneva Conventions”.

There is a popular belief, arising from contextual information, that Raghu Bir Joshi was killed by Maoists in a brutal way for having left the Maoists and also for his alleged corrupt activities.

Royal Nepal Army violations²⁹

Despite assurances from the government and the military that international humanitarian law obligations will be respected, Amnesty International continues to receive numerous reports of human rights violations allegedly perpetrated by the RNA.

However, Amnesty International has received reports that the military is cooperating with some human rights NGOs in trying to account for those who have been reported as “disappeared” during the last few years.

It was apparent during the visit to the six districts, given the losses inflicted on both army and police, that the police and military feel under siege and extremely vulnerable outside their barracks. This often leads to deeply suspicious and aggressive behaviour towards the civilian population.

Gangaram Yadab, a 48-year-old teacher, democracy activist and outspoken government critic was arrested by security personnel near his home on 26 April 2005. His arrest followed the killing by Maoists of three civilians apparently suspected of being involved in a village defence force. The three people were killed in the second week of March 2005. Gangaram Yadab is from Masina VDC, Rupandehi district. A local human rights NGO that had investigated the case suggested that the police tried to blame Gangaram Yadab for the killings. The day he was arrested, Gangaram Yadab was drinking in a teashop. He was beaten in front of many witnesses with the butt of a gun, and his clothes were torn. According to villagers he did not resist the arrest. His wife feared that he might be killed. He was initially taken to Lumbini area police office and then to the Butwal barracks. He was then transferred to Baidawa District Police Office where he is still believed to be held. Police subsequently went to his village and visited his family asking them to provide information in support of the police case. They refused and other villagers were approached and were forced to sign blank witness statements.

²⁹ Amnesty International collated over 150 cases of extrajudicial executions allegedly perpetrated by the RNA between August 2003 and December 2004. Please see Amnesty International: *Nepal, Killing with Impunity*, Index: ASA 31/001/2005 dated 20 January 2005.

Janajyoti campus shootings

The Janajyoti campus, in Mahendranagar, Kanchanpur district, is a private college affiliated to Tribhuvan University (TU) in Kathmandu. The student wing of the mainstream Communist Party of Nepal, United Marxist Leninist Party (CPN-UML) asked permission to create a student union and wanted to hold a meeting on the campus to discuss this with both students from Janajyoti and other schools in the district. The campus staff gave verbal permission for the meeting to be held on 29 April 2005 but omitted to pass on this request to the district authorities as was necessary under provisions of the state of emergency. Several staff members were present in the school when the meeting occurred.

According to several eye-witnesses, at around 6:30 pm on 29 April 2005, a bus full of armed soldiers, in addition to one jeep and around 50 armed soldiers approached the building and opened fire. When the students realized that the soldiers were firing on them they fled, holding up their hands in surrender. The military gave no warning before they opened fire, though the students were unarmed. Three of the students - Nara Bahadur Dhama, Mahesh Panta, and Kiran Chettri – were pursued into a small building behind the school. Nara Bahadur Dhama was shot. The three were then forced to lie on their stomachs next to each other and the two others were then shot at point blank range by a group of soldiers who debated, in front of many witnesses, whether to shoot the young men in the head or the legs. The men were shot, kicked and then beaten. The three men believe that they were not killed because so many witnesses were present.

They had shown their identity cards to the soldiers to prove that they were not Maoists. Several of the group, including Nara Bahadur Dhama, were on a government list of student activists. Nara Bahadur Dhama had reportedly already spent one and a half months in prison for participating in protests against the state of emergency. Despite their families and other witnesses attempting to arrange their transfer by ambulance to hospital, this was delayed by the military for over one hour. The military denied them water to drink. They were eventually taken by ambulance to a hospital across the border in India – as is the custom for serious cases. The injured men wished to remain in India for further treatment and offered to pay for this. However, the RNA insisted on their transfer to the military hospital in Kathmandu. The National Human Rights Commission (NHRC) investigated the case, which was given considerable publicity and also led to protest demonstrations by CPN-UML students in other towns of the country. The NHRC called for the men to be given compensation. This recommendation is now under consideration by the Home Ministry. The RNA have informed Amnesty International that one soldier, whose name has been withheld “for

security reasons”, was found guilty of using “excess force” and sentenced to three months in prison and “forfeiting of Grade” for two years.

The RNA have defended their actions by stating that the soldiers had thought that the students were Maoists and that the meeting was not sanctioned by the authorities, an argument which holds little merit given the excessive use of force in the event. However, there seems little doubt that the students were indeed targeted and were well known in the district for their anti-government views.

Conclusions and recommendations

Widespread human rights abuses by all sides continue to characterise the ongoing conflict in Nepal. Extrajudicial executions, disappearances and systematic torture and ill-treatment in illegal detention are daily occurrences. Maoists exact violent revenge on government authorities – particularly the police and military – which is also extended to their families. The government flagrantly disregards decisions of the courts and harassment and intimidation of human rights defenders is commonplace. All these findings have been raised in previous reports of Amnesty International, as has the almost total impunity with which these violations are carried out.

The emergence of village defence forces in numerous districts, with the clear approval and support of the central government, as well as with training and other support from the military and civilian authorities at district level, is an extremely dangerous escalation of the conflict. There is unambiguous evidence that it is leading to increased civilian casualties. **Amnesty International believes that law enforcement activities must remain the responsibility of the state and should be carried out in accordance with international human rights standards such as the United Nations (UN) Code of Conduct for Law Enforcement Officials.** These principles establish that force should be used only when strictly necessary, and should not be disproportionate to the legitimate objective to be achieved; firearms should not be used except as an extreme measure in a restricted range of situations.

Amnesty International urges the government of Nepal to either disband the existing village defence forces or fully integrate them into the security forces. Full integration requires provision of uniforms and training in human rights and international humanitarian law, as well as the establishment of a clear chain of command.

The overarching conclusion to this ‘snapshot’ view of the human rights situation in six districts of rural Nepal is that civilians are caught in the middle of a brutal conflict. They are coerced by all sides - including by newly emerged village defence forces - to become participants in the conflict.

This brutalization now touches every family in the country if not directly then indirectly. It has significant consequences including vulnerability, insecurity, and disrupted education for children. There is an urgent need for measures to be taken that begin to reverse this and actively seek to realise the human rights and the immediate safety of children, women and men in Nepal.

Increasingly, the civilian population is resorting to the only remaining option – to flee.