

CLEAR CULPABILITY

“Disappearances” by Security Forces in Nepal

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I. Summary

Policeman: "We kill them."

RNA Soldier: "No, we take them to jail."

Policeman: "Yes, we take them to jail and then we kill their asses."

Conversation between Human Rights Watch researchers, a Royal Nepalese Army soldier, and a police officer about the treatment of detained Maoists, September 2004.

In the Nepali government's war with Maoist insurgents, the number of enforced disappearances—cases in which people are taken into custody and authorities then deny all responsibility or knowledge of their fate or whereabouts—has reached crisis proportions. Over the last two years, the Nepali security forces have made Nepal one of the world's prime locations for enforced disappearances.

According to the United Nations Working Group on Enforced and Involuntary Disappearances (WGEID), in 2003 and 2004 Nepal recorded the highest number of new cases of disappearances in the world.¹ Nepal's National Human Rights Commission (NHRC) has received reports of 1,234 cases of "disappearance" perpetrated by security forces since May 2000.

Government security forces commit the overwhelming majority of the "disappearances," and instead of taking action to prevent such severe abuses, civilian authorities have focused on issuing denials and covering up the abuses. No senior officer has ever been held accountable for "disappearances" in Nepal. Even if the government has not directly asked its security forces to commit "disappearances" as part of its campaign against the Maoists, its failure to take reasonable steps to end the practice or to hold perpetrators accountable makes civilian authorities deeply complicit. In the face of such government inaction, "disappearances" can fairly be characterized as government policy.

This report, based on Human Rights Watch research in Nepal in September and October 2004, documents the pattern of "disappearances" by Nepali security forces and analyzes the factors responsible for the crisis. The Appendix to the report contains summaries of 203 cases of "disappearance" documented by Human Rights Watch.

¹ This figure is based on the number of cases the Working Group receives information about, and is not based on statistically valid surveying methods.

Human Rights Watch's research indicates that the actual number of "disappearances" in Nepal may be significantly underreported, since a number of persons we spoke with had not reported the "disappearances" of their relatives to any governmental institution or non-governmental group. In a number of cases, Human Rights Watch was the first organization the witnesses had talked to about the "disappearances." In particular, "disappearances" that occurred during the earliest stages of the conflict and during the state of emergency (November 2001- August 2002) appear to be underreported, because the human rights community had limited capacity and experience in dealing with such cases, and because many families were unable to report cases due to security concerns and logistical hurdles, including those posed by Nepal's challenging terrain.

While the cases documented by Human Rights Watch represent only a fraction of the total number of "disappearances" occurring in Nepal, they clearly demonstrate the responsibility of the security forces for a geographically broad pattern of "disappearances." The prevalence of the problem makes it clear that this is not just the result of the actions of some "bad apples" or rogue elements in the security forces. The use of army camps and barracks and police stations as places to hold "disappeared" persons demonstrates that these crimes cannot be happening without the knowledge of at least some senior officers in the security forces and likely some members of Nepal's civilian leadership as well. "Disappearances" are systemic and an integral part of Nepal's counterinsurgency campaign, not the aberrant actions of rogue elements.

The failure of the Nepali authorities to prevent "disappearances," to bring perpetrators to justice, and to provide victims with proper redress violates the country's obligations under international law, including the International Covenant on Civil and Political Rights, the Convention against Torture, and the Geneva Conventions, to all of which Nepal is a party. Human Rights Watch does not challenge the right of Nepali security forces to search for, arrest, or interrogate individuals, including Maoist insurgents, suspected of involvement in illegal activities. However, any such operations must conform to Nepali and international law. Specifically, neither suspected nor proved involvement with the Maoists can justify an enforced disappearance or the summary execution of a detainee. International law unequivocally grants captured combatants the right not to be "disappeared" or summarily executed.

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The armed conflict in Nepal dates back to 1996, when the Communist Party of Nepal (Maoist) (CPN-M) launched an armed insurgency after announcing its "people's war"

against the monarchy and the existing system of governance. The regular police forces, initially charged with suppressing the insurgency, proved unable to control the situation, and in 2001 the government declared a nationwide state of emergency and deployed the Royal Nepalese Army (RNA) to combat the Maoists. The state of emergency was repealed in August 2002, but the army remains at the center of the counterinsurgency operation.

Even with the RNA deployed, however, government forces have not managed to end the insurgency. Current estimates suggest that the Maoists control over 40 percent of Nepal's countryside. Several attempts at peace talks have failed. Since the collapse of the most recent ceasefire in August 2003, the fighting has resumed with increased intensity. With both sides blatantly violating humanitarian law and committing massive abuses, previously documented by Human Rights Watch and others, the conflict has caused a major human rights crisis in Nepal, which is exacerbated by the country's political instability and dire economic circumstances.

The Maoists have a dismal human rights record. Maoist forces have abducted, tortured, and killed civilians suspected of being "informers" or "enemies of the revolution." They have extorted "donations" from villagers, recruited children as soldiers and in other conflict-related capacities, and abducted students for political indoctrination.

If abuses by Maoist forces do not loom large in a report on "disappearances," it is because Maoists often openly execute those they abduct, accusing victims of being spies, class enemies, or guilty of defying Maoist rule. In order to achieve the maximum deterrent effect on the population, the Maoists often execute their victims in public, forcing the victim's relatives and other villagers to observe the killing. The executions are often preceded by horrendous torture and may involve excruciating methods of killing, such as burning a victim alive or breaking the victim's bones until the he or she finally dies.

In other cases, the Maoists hold those they abduct for ransom or in order to compel a victim's relative to resign from the security forces. Maoists also occasionally force entire villages or schools to attend political indoctrination meetings. They usually release the villagers or students at the end of such meetings, although some may be pressured into joining the insurgents. In some cases, however, the victims abducted by the Maoists are never seen again.

During its mission to Nepal, Human Rights Watch documented eleven cases of abductions by the Maoists: two of the victims were later released, two are believed to

have been killed, one has reportedly joined CPN-M, and others remain missing. Human Rights Watch calls on the CPN-M to clarify the whereabouts of the missing individuals and end its practice of executing those it abducts.

Nepali government forces also have a very poor human rights record. In addition to the appalling record of enforced disappearances documented here, government forces have been responsible for numerous summary and extrajudicial executions, torture, and arbitrary arrests, all perpetrated with almost complete impunity.

“Disappearances” by government forces have taken place since the late 1990s, but the number of victims skyrocketed after the resumption of hostilities in 2003. In almost all cases documented by Human Rights Watch, witness testimony confirmed that individuals who “disappeared” were last seen in the custody of government security forces, who had detained them during large-scale operations or targeted raids, arrested them at checkpoints, or had simply taken them away from places of work or study.

“Disappearances” take a particularly heavy emotional toll on family members and friends, who do not know whether the “disappeared” person is dead or alive. After being arrested by the security forces, most “disappeared” persons are never again seen or heard from, and the families are left without a clue as to their fate. Relatives continue to search for the “disappeared,” inquiring at nearby army barracks, prisons, police offices, and other places of detention, but the security officials simply claim to have no knowledge of the arrest, or deny having the detainees in their custody. The families’ appeals to the Chief District Officers (CDOs), courts, and to other governmental and non-governmental agencies prove futile in these cases. Civil authorities rarely intercede on behalf of the “disappeared,” alleging they are powerless over the army.

In a number of cases, however, family members were able to visit relatives in detention prior to their “disappearance,” or received reliable information of their whereabouts through other means, such as reports from released detainees who had spent time in custody with the “disappeared” person. Their testimonies suggest that the majority of the “disappeared” are held incommunicado in unofficial places of detention, primarily army barracks and camps across Nepal.

Human Rights Watch identified dozens of army barracks and camps, as well as police stations and other facilities, which have been implicated in “disappearances.” Among the places of detention where the “disappeared” persons were last seen alive are Bhairabnath Gulm (Maharajgunj) army barracks (Kathmandu), Chhauni (Jagadal) army barracks (Kathmandu), Balazu police station and Balazu army camp (Kathmandu), Shorakutte

police station (Kathmandu), Farping army camp (Kathmandu), Fulbari army barracks (Kaski), Bijayapur army barracks (Kaski), Pokhara police post (Kaski), Bharatpur police post (Chitwan), Rajdal army barracks (Lalitpur), Suryabinayak army barracks in Bhaktapur (Kavre), Mahendra Gand army barracks (Gorkha), Choprak police station (Gorkha), Gorkha district police headquarters (Gorkha), Nawalparasi army barracks (Nawalparasi), Bhansar police post (Tanahu), Tulsipur army barracks (Dang), Lamahi Armed Police Force barracks (Dang), Rajpur area police post (Dang), Tulsipur prison (Dang), Ghorahi regional police station (Dang), Ghorahi army barracks (Dang), Chisapani army barracks (Bardia), Thakurdwara army barracks (Bardia), Rambhampur army barracks/army post (Bardia), Guleria district police office and Guleria prison (Bardia), Kohalpur army barracks and Kohalpur police post (Banke), and Rajha Airport Army Barracks (Banke).

Enforced disappearances also increase the risk of other abuses, such as extrajudicial executions and torture. In twenty-eight cases documented in this report, families of the “disappeared” believe that their relatives were killed after being taken into custody by the security forces. Reports of the killings have come from eyewitnesses to executions, media stories, human rights and humanitarian organizations, or unofficial contacts in the security forces. However, in only one of the cases was the death officially confirmed and the body returned to the family. In many other cases documented by Human Rights Watch in Nepal, particularly those where the “disappeared” persons have been missing for years, it is likely that they were the victims of extrajudicial executions while in the custody of the security forces.

Flawed Nepali legislation contributes to the prevalence of “disappearances.” The October 2004 revision of the much-criticized Terrorist and Disruptive Activities Ordinance (TADO), originally adopted during the state of emergency in 2001, allows security forces to hold individuals in preventive detention for up to one year without charge or trial and reinstates their almost absolute immunity from prosecution, thus creating fertile ground for abuses.

The broad impunity enjoyed by Nepali security forces for human rights violations, documented previously in reports by Human Rights Watch and others, is one of the primary factors leading to widespread “disappearances.” In addition, the army routinely either ignores or refuses to accept habeas corpus orders issued by the courts. It brazenly lies to judicial authorities regarding the whereabouts of individual detainees, thereby undermining the judiciary’s meager efforts to address the problem. For its part, the Supreme Court of Nepal has been remiss in its duty to use its constitutional powers to ensure compliance with its orders and promote accountability.

Despite overwhelming evidence of human rights violations by security personnel, neither the government nor the RNA command has taken sufficient action to prevent and punish the abuses. Human Rights Watch urges senior officers not to take these responsibilities lightly: the failure to take appropriate action against “disappearances,” particularly in light of the extensive documentation provided in this and other reports, may make officers personally criminally liable for such abuses under the doctrine of command responsibility.

The RNA and the Home Ministry have also obstructed the efforts of the NHRC to address the problem of “disappearances.” Specifically, army officials have repeatedly denied NHRC representatives access to barracks and other places of detention, thus preventing the Commission from establishing the whereabouts of the “disappeared” persons in cases it was investigating.

Until the past year, the international community, particularly the United States and India, Nepal’s major suppliers of military assistance, failed to respond adequately to the crisis. After September 11, 2001, the United States largely viewed the conflict in the context of its global “war on terror.” It offered unconditional support to the Nepali government and largely disregarded its appalling human rights record. However, in late 2004 the U.S. Congress passed legislation placing human rights conditions on further U.S. military assistance. President Bush signed the bill into law in December 2004. The law requires the Nepali government to:

- take effective steps to end torture by security forces and to prosecute members of such forces who are responsible for gross violations of human rights;
- determine the number of and make substantial progress in complying with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders;
- cooperate with the National Human Rights Commission of Nepal to identify and resolve all security related cases involving individuals in government custody; and
- grant the National Human Rights Commission of Nepal unimpeded access to all places of detention.

The U.S. Departments of State and Defense now have the duty to closely monitor compliance with these conditions and to report when they are not observed. There are

signs that the U.S. is beginning to monitor the behavior of the armed forces more carefully, but it is unclear how sustained this has been or will be.

Immediately after the passage of the U.S. legislation, the Nepali army chief of staff made an unprecedented visit to the Supreme Court and the National Human Rights Commission. He promised to comply with the Court's habeas corpus orders and to cooperate with the human rights monitoring efforts of the NHRC. It is unclear whether this was a sincere commitment or a mere public relations gesture.

In the past year, the United Nations and European Union have also significantly intensified their pressure on the Nepali government, urging its compliance with international obligations and seeking concrete action to curb human rights abuses. In January 2005, the United Nations High Commissioner for Human Rights, Louise Arbour, said in a speech in Kathmandu that the U.N. believed that unimpeded access by the NHRC to all places of detention without prior notification was of central importance to resolving the "disappearance" crisis.

Under this mounting international pressure, the Nepali government has publicly asserted its commitment to uphold human rights and to abide by the laws of war in its counterinsurgency operations. It has also taken several steps toward addressing the problem of "disappearances," such as establishing a governmental committee to investigate the "disappearances" and opening a new detention center for suspects previously held in army barracks.

These responses clearly demonstrate that the international community should continue using its influence to put an end to human rights abuses and promote accountability in Nepal. But such pressure needs to be focused, sustained, and unified. Unfortunately, India has undermined these messages by continuing to offer unconditional support for the government.² This has included recent announcements of increased military aid and the holding of high level and high profile governmental visits. India has signally failed to make human rights a formal part of its diplomacy with Nepal.

The most important test of Nepal's commitment to human rights will be its willingness to address the root problem of accountability. This will require the prosecution and

² Following the February 1, 2005, coup by King Gyanendra and the RNA, India issued an unusually strong statement, saying that the King's actions "constitute a serious setback to the cause of democracy in Nepal and cannot but be a cause of grave concern to India." See BBC News Online, "Nepal Crisis Cabinet Unveiled," February 2, 2005 [online], http://news.bbc.co.uk/1/hi/world/south_asia/4228309.stm (retrieved February 3, 2005).

dismissal of senior military and police officials responsible for “disappearances” and other serious violations. Progress will depend on the political will of key actors in Nepal, including the RNA command, the interim government, and the king. Neither the government nor the Maoists can expect to enjoy public support or international legitimacy so long as they engage in egregious human rights abuses.

Human Rights Watch calls on the Nepali government to take immediate measures to stop enforced disappearances and address the factors that make them possible. The authorities should thoroughly investigate all cases of “disappearance,” including those documented in this report. They must urgently take steps to hold perpetrators accountable in a credible and systematic manner. Habeas corpus orders issued by Nepali courts must be respected, and the security forces must be held accountable for contempt of court when they provide false information to the courts.

Human Rights Watch urges key supporters of the Nepali government and armed forces, including the governments of the United States, United Kingdom, and India, to make ending the practice of “disappearances” a condition of continuing military support. We urge the U.N. Commission on Human Rights to adopt a resolution at its 2005 session condemning abuses by both sides of the conflict and specifically addressing the responsibility of the Nepali security forces for widespread “disappearances.”

In order for Nepal to effectively address the crisis of “disappearances,” the international community will also need to increase its support for institutions responsible for human rights monitoring and accountability, such as the NHRC, the courts, and human rights and other relevant NGOs. All international actors should insist upon unfettered access for the NHRC to places of detention, both official and unofficial, so that it can conduct independent and impartial investigations into allegations of “disappearances” and related human rights abuses.

Detailed recommendations to the Nepali government and to the international community are found in the closing chapter of this report.

II. Background

A devastating civil war between Maoist insurgents and government security forces has been ravaging Nepal for the past nine years. It has taken place in a climate of political instability and dire economic circumstances. The hostilities have already claimed over ten thousands lives, and the death toll continues to grow. The victims have for the most part been Nepali civilians. Since the beginning of the conflict, both the Maoists and the government security forces have been responsible for massive human rights abuses that continue unabated to date.³

The conflict broke out in February 1996, after leaders of the Maoist faction of the Communist Party of Nepal (CPN-M)⁴ presented the government with a forty-point list of demands, including the call for a secular republican state and a constituent assembly.⁵ When the government failed to respond, a week later the Maoists resorted to violence, attacking police stations in five districts, seizing arms, and killing several officers.⁶

The attacks marked the beginning of CPN-M's "people's war," for which the party had been preparing since its split from the alliance of communist parties, CPN (Unity Center), in 1994. The alliance broke apart when part of the group rejected the idea of an immediate armed uprising and chose instead to stay in mainstream politics through

³ The human rights abuses by the Maoists and the governmental forces have been extensively documented by Human Rights Watch and other organizations. See, e.g., Human Rights Watch, *Between a Rock and a Hard Place: Civilians Struggle to Survive Nepal's Civil War* (New York: Human Rights Watch, 2004); Amnesty International, "Nepal: a deepening human rights crisis," December 19, 2002, ASA 31/072/2002; Amnesty International, "Nepal: Escalating Disappearances Amid a Culture of Impunity," August 30, 2004; International Crisis Group, "Nepal: Obstacles for Peace," June 17, 2003; International Crisis Group, "Nepal: Back to the Gun," *Asia Briefing*, October 22, 2003.

⁴ Nepal has a number of discrete political bodies that operate under the name of Communist Party of Nepal, including CPN-Maoist, but also more mainstream parties such as the United Marxist-Leninist Communist Party of Nepal (CPN-UML). These bodies operate as distinct political organizations and are often mutually antagonistic, each considering itself the only legitimate communist party in Nepal. The non-Maoist communist parties in Nepal have rejected the Maoists' resort to armed rebellion against the government. CPN-UML is a significant mainstream political force in Nepal. For a detailed analysis, see Deepak Thapa, *A Kingdom Under Siege: Nepal's Maoist Insurgency 1996-2003* (Kathmandu: The Printhouse, 2003).

⁵ Sudheer Sharma, "The Maoist Movement: An Evolutionary Perspective," in *Understanding the Maoist Movement of Nepal*, Deepak Thapa, ed. (Kathmandu: Modern Printing Press, 2003), 361. The memorandum containing the forty-point list of demands was signed by Dr. Baburam Bhattarai, chairman of the Maoists' political wing, United People's Front. The full text of the memorandum can be found in *Understanding the Maoist Movement of Nepal*, 391-395.

⁶ Man Ranjan Josse, "From Birth to People's War," NepalNews.com [online], <http://www.nepalnews.com.np/contents/englishweekly/telegraph/2004/jun/jun02/views.htm> (retrieved December 20, 2004).

participation in parliamentary elections. The advocates of armed uprising, later named the Communist Party of Nepal (Maoist), chose to boycott the elections and went underground, preparing their cadres for armed struggle.⁷

The government initially responded to the Maoist attacks with regular police forces. The police, poorly equipped and untrained in counterinsurgency operations, proved unable to control the situation. Faced with steadily escalating fighting, in the beginning of 2001 the government reinforced the regular police with the paramilitary Armed Police Force (APF). Finally, after declaring a nationwide state of emergency on November 26, 2001, the government deployed the Royal Nepalese Army (RNA) to combat the Maoist rebels. Although the state of emergency was repealed on August 27, 2002, the army remains the primary force in the counterinsurgency operation, with the police and the APF under its operational command.⁸

Even under the army's command, the security forces have proven unable to quell the Maoist insurgency. Since 1996, the insurgency has spread throughout the country, and estimates suggest that the Maoists have established control over approximately 40 percent of Nepal's countryside, essentially assuming the functions of governance in the areas under their control.⁹

Several attempts at peace talks during periods of ceasefire in 2001 and 2003 failed, with both sides violating truce agreements.¹⁰ The most recent ceasefire, declared in January

⁷ Communist Party of Nepal (Unity Center) was formed in 1990 by two Maoist parties, the CPN (Fourth Congress) and CPN (Mashal) under the leadership of Pushpa Kamal Dahal, alias Prachanda, and later joined by a breakaway faction of CPN (Masal), led by Baburam Bhattarai. In 1991 the alliance decided that its political wing, the United People's Front of Nepal (UPFN), would take part in the parliamentary elections, and managed to gain nine seats in the parliament. However, by the 1994 parliamentary elections the Unity Center and, accordingly, the UPFN, had split into two factions. Although initially both UPFN factions approached the Election Commission for recognition, the commission only recognized one of them. The other faction, led by Baburam Bhattarai, decided along with the Prachanda-led Unity Center to boycott the elections and give up their participation in the political process in favor of armed uprising. In 1995 the party, renamed CPN-Maoist, adopted the "Plan for Historical Initiation of the People's War." See Arjun Karki and David Seddon, "The People's War in Historical Context," in *The People's War in Nepal: Left Perspectives* (Delhi: Adroit Publishers, 2003); Thapa, *A Kingdom under Siege*, 36-48.

⁸ On November 4, 2003, the government announced the establishment of the so-called Unified Command, consisting of the army, APF, police, and National Investigation Department, under the operational command of the army. See "Statement by Rt. Hon. Prime Minister Surya Bahadur Thapa at the press conference regarding Future Plan, Strategies and Programs of His Majesty's Government" (unofficial translation), November 4, 2003 [online], <http://www.mofa.gov.np/pmpressnov4.htm> (retrieved November 27, 2004).

⁹ Nickerson, Heather "In the Spotlight: Communist Party of Nepal – Maoists," Center for Defense Information, August 30, 2004 [online], <http://www.cdi.org/friendlyversion/printversion.cfm?documentID=2397> (retrieved February 2, 2005).

¹⁰ For a detailed analysis of the failed negotiations, see International Crisis Group, "Nepal Background: Ceasefire: Soft Landing or Strategic Pause?" Asia Report N°50, April 10, 2003; International Crisis Group,

2003, was renounced by the Maoists in August 2003, shortly after government forces summarily executed two civilians and seventeen Maoists in Doramba VDC, Ramechhaap district, on August 17, 2003.¹¹ The Doramba massacre remains a notorious example of the egregious abuses that have become a characteristic feature of Nepal's civil war. Immediately after withdrawing from the peace talks, the Maoists shot two RNA colonels, one fatally, in Kathmandu.¹² The fighting between government forces and Maoists recommenced with increased intensity, leading to a further deterioration of the already dismal human rights situation in the country.¹³

During the 2003 ceasefire, the government and the Maoists agreed to the idea of a Human Rights Accord that would be binding on both sides. Most important, it would have provided for independent human rights monitoring the conduct of both sides. However, the accord was never signed. The government instead published in March 2004 a twenty-five-article "Commitment on the Implementation of Human Rights and Humanitarian Law." One motive for this commitment paper was to ward off a potentially critical resolution at the annual meeting of the United Nations Commission on Human Rights taking place in Geneva at that time.

In the course of their "people's war," the Maoists have deliberately killed scores of civilians whom they accuse of being "informers" or being engaged in other acts of defiance toward Maoist rule. They have specifically targeted local officials and civil servants, teachers, journalists, off-duty army and police personnel, and members of non-

"Nepal: Obstacles for Peace," Asia Report N° 57, June 17, 2003; Bhagirath Yogi, "The Elusive Peace: Nepal," Peace and Conflict Monitor, November 16, 2004 [online], http://www.monitor.upeace.org/innerpg.cfm?id_article=223 (retrieved December 20, 2004).

¹¹ For a detailed description of the Doramba massacre and the botched investigation, see Human Rights Watch, "Between a Rock and a Hard Place: Civilians Struggle to Survive in Nepal's Civil War," October 2004; as well as Nepal's National Human Rights Commission, "On the Spot Inspection and Report of the Investigation Committee: Doramba, Ramechhap Incident," National Human Rights Commission, 2060 BS (2003). While the government maintained that the Maoists had been preparing for a resumption of hostilities, and simply used the Doramba massacre as a pretext for returning to war, Maoist leaders Prachanda and Baburam Bhattarai publicly pointed to Doramba as the incident provoking the withdrawal of the Maoists from the ceasefire; see Prachanda's interview published in the Maoist Information Bulletin, No 4, September 14, 2003, cited in: Rita Manchada, "On the warpath again: The collapse of the ceasefire between the government forces and the Maoists once again leaves Nepal in a state of turmoil," October 24, 2003 [online], <http://www.hinduonnet.com/thehindu/thscrip/print.pl?file=20031024001405400.htm&date=fl2021/&prd=fline&> (retrieved December 29, 2003).

¹² "Nepal Rebels Kill Colonel," BBC World, August 28, 2003.

¹³ For an analysis of the breakdown of the ceasefire and its consequences, see International Crisis Group, "Nepal: Back to the Gun," *Asia Briefing*, October 22, 2003.

Maoist political parties, such as the Nepali Congress party and the Communist Party of Nepal (Unified Marxist-Leninist) (CPN [UML]).¹⁴

In order to achieve the maximum deterrent effect on the population, the Maoists often execute their victims in public, forcing the victim's relatives and other villagers to observe the killing. The executions are often preceded by horrendous torture and may involve excruciating methods of killing, such as burning a victim alive or breaking the victim's bones until he or she finally dies.

Further, one of the weapons in the Maoist arsenal, homemade explosive devices, victimizes both security forces and civilians indiscriminately. Maoist cadres also regularly accost civilians and require them to contribute "donations" to the Maoist cause, and force the families of security personnel to leave their homes and flee the villages. The insurgents have also taken hostages for ransom and abducted villagers, including schoolchildren and their teachers, for forcible political indoctrination.

There have been credible allegations that Maoist rebels recruit and use children as soldiers or in other combat-related capacities, such as spies, cooks, or porters.¹⁵ In general, the Maoists establish a harsh and oppressive atmosphere in areas under their control.

Government security forces also present a serious threat to Nepalis. Since the beginning of the conflict, and especially after the deployment of the RNA in counterinsurgency operations, government forces have been responsible for numerous summary and extrajudicial executions, enforced disappearances, arbitrary arrests, and acts of torture, all perpetrated with almost complete impunity.

The suspension of important constitutional safeguards under the state of emergency and the enactment of sweeping security legislation, such as TADO, has further entrenched this vicious cycle of abuse and impunity. TADO enables the Nepali government to label the Maoists terrorists and gives sweeping powers to the security forces. Over protests from civil society and lawyers groups, it has been renewed several times since the

¹⁴ These and other abuses committed by the Maoists are documented in Human Rights Watch, *Between a Rock and a Hard Place*, 53-63.

¹⁵ See, e.g., Amnesty International, "Nepal: A Spiraling Human Rights Crisis;" "Nepal: A Deepening Human Rights Crisis;" Thapa, *A Kingdom under Siege*, 162-163.

revocation of the state of emergency and continues to govern the conduct of counterinsurgency operations today.¹⁶

The ongoing armed conflict and the deepening human rights crisis in Nepal have been aggravated by political instability in the country. One of the key destabilizing factors is the overwhelming power Nepal's monarchy wields over democratic institutions. In 1990, a mass uprising forced the monarchy to institute democratic reforms and lift the ban on political parties that existed in the country during the Panchayat years.¹⁷ The constitution that was drafted in 1990 marked the beginning of a new political era. However, a stable democracy did not emerge. The constitution granted the king inordinate powers over the newly-formed parliament. At the same time, the major political parties, mired in internal rivalries and corruption, failed to promote much-needed change. These and other factors have led to a profound destabilization of the Nepali political system.¹⁸

Since the first parliamentary election in 1991, thirteen coalition governments have formed and dissolved. Largely based in Kathmandu's urban elite, representatives in the two dominant parties, the Nepali Congress Party and the United Marxist-Leninists, have done little to address key governance issues, such as the caste and ethnic discrimination and economic inequities that are the source of much discontent in Nepali society.¹⁹ Widespread corruption has created further disillusionment and tension among the rural impoverished, who often do not see any benefits from development funds that have been allocated to their areas.²⁰

¹⁶ Section V of this report contains a detailed analysis of the current Nepali legislation and its human rights implications.

¹⁷ The system of governance known as Panchayat was devised by Nepal's King Mahendra in 1961. The country was governed by the king, while all political parties, with the exception of the royalist Rastriya Panchayat Party, were banned. In February 1990, several banned parties launched the so called Movement for the Restoration of Democracy, organizing nationwide strikes and protests. After the government failed to suppress the protests by force, King Birendra gave in to the demands, lifted the ban on political parties and appointed an interim government to oversee the drafting of the new constitution. See Thapa, *A Kingdom under Siege*, 18-36.

¹⁸ Padmaja Murthy, "Understanding Nepali Maoists' Demands: Revisiting Events of 1990," *Strategic Analysis: A Monthly Journal of the IDSA* Vol. IIVII No. 1, January-March 2003.

¹⁹ For a detailed analysis both of the disparities between urban and rural economies in Nepal, as well as a discussion of development funds, see S. Mansoob Murshed and Scott Gates, "Spatial Horizontal Inequality and the Maoist Insurgency in Nepal," World Institute for Development and Economics Research, Research Paper No. 2004/43, July 2004.

²⁰ Chitra K. Tiwari, "Maoist Insurgency in Nepal: Internal Dimensions," South Asia Analysis Group, Paper No. 187, January 20, 2001 [online], <http://www.saag.org/papers2/paper187.htm> (retrieved December 15, 2004).

The sense of instability deepened after the shocking 2001 massacre of King Birendra and other members of the royal family by Crown Prince Dipendra.²¹ The event resulted in King Gyanendra's accession to the throne and prompted a crisis in Nepal's precarious democracy.

In 2002, Prime Minister Sher Bahadur Deuba replaced local elected bodies with appointed officials (which is allowed under Nepal's constitution). Shortly thereafter, the king dissolved the parliament. King Gyanendra postponed elections indefinitely, dismissed Deuba, and seized executive authority, appointing his own prime minister and cabinet.²² These actions were deemed illegal by many legal commentators.

The April 2004 "anti-regression" demonstrations by Nepal's leading political parties eventually led to the resignation of the cabinet appointed by the king and the reappointment of Deuba. However, while the king is constitutionally obliged to call new elections to form a new parliament, to date he has failed to do so. Elections are currently planned for April 2005. However, leading opposition parties have already expressed serious doubts regarding the possibility of holding free and fair elections in the midst of the conflict with the Maoists, while the Maoists have repeatedly threatened major disruption at the polls. The government's ultimatum to the Maoists to start talks by January 13, 2005, has so far remained unanswered.²³

The instability in the central government has led to severe insecurity and a crisis of faith in the government's ability to function effectively, thus creating a power vacuum that the Maoists seek to fill. In addition, with the suspension of the democratic system in October 2002, the parties were excluded from negotiations the king had initiated with the Maoists. The parties' resentment about being barred from the political process and their abject failure to forge an effective policy for dealing with the CPN-M have created further gaps in governance that the Maoists have exploited to extend and consolidate their power.²⁴

Economic factors also contribute significantly to Nepal's ongoing crisis. With 42 percent of the population living below the poverty line and annual per capita income just

²¹ See Jonathan Gregson, *Massacre at the Palace: The Doomed Royal Dynasty of Nepal* (New York: Miramax Books, 2002).

²² International Crisis Group, "Nepal Backgrounder: Ceasefire: Soft Landing or Strategic Pause?" April 10, 2003.

²³ See, e.g., "Nepal sets deadline for Maoists to start talks," *The Hindustan Times*, November 26, 2004.

²⁴ *Ibid.*

U.S.\$230, the World Bank rates Nepal the twelfth-poorest country in the world.²⁵ The situation is worst in Nepal's remote, mountainous countryside, where the economy is based on subsistence agriculture. Many believe reducing poverty in these rural areas would be a key factor in alleviating strife and conflict in the country.²⁶ However, development projects planned for the regions were abandoned after the areas fell under Maoist control. Further, the government's efforts to control the insurgency have deflected funds from development into the security sector, leaving the poverty of rural areas unaddressed.²⁷ Unsurprisingly, the Maoists have been able to politicize Nepal's dire economic situation, claiming that the failure to carry out reforms within the old "semi-feudal" system proves the urgent need to establish a "new democratic system." As noted by some analysts, to a certain extent the Maoist movement is "a by-product of Nepal's unsuccessful development endeavors."²⁸

While the CPN-M leaders have repeatedly demanded that the United Nations or another international body supervise peace negotiations, the Nepali government has so far objected to any international mediation of the conflict.²⁹ For their part, intergovernmental organizations, such as the United Nations and the European Union, as well as individual governments have on a number of occasions called on both sides of the conflict to cease fighting and work toward a political solution of the conflict.³⁰

²⁵ World Bank, "Nepal Country Brief," September 2004 [online], <http://www.worldbank.org.np/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/NEPALEXTN/0,,contentMDK:20094195~menuPK:148707~pagePK:141137~piPK:217854~theSitePK:223555,00.html> (retrieved December 20, 2004).

²⁶ Murshed and Gates, "Spatial Horizontal Inequality and the Maoist Insurgency in Nepal."

²⁷ Ken Ohashi, "Crisis Opens Doors: Restoring Faith in the Face of Maoist Insurgency," World Bank [online], <http://www.worldbank.org.np/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/NEPALEXTN/0,,contentMDK:20191699~pagePK:141137~piPK:217854~theSitePK:223555,00.html> (retrieved December 20, 2004).

²⁸ Thapa, *A Kingdom under Siege*, 55.

²⁹ "Nepal Urges Rebels for Talks, Silent on Key Demands," Reuters, September 30, 2004.

³⁰ See e.g., "Secretary-General Deeply Troubled by Reported Escalation of Fighting in Nepal," ReliefWeb, December 23, 2004 [online], <http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/b8a79ce15d48f84d85256f73006dc64a?OpenDocument> (retrieved December 29, 2004); "EU urges Nepal rebels to end violence, begin talks," Reuters, December 15, 2004; "US hopes Nepal, Maoist rebels forge peace pact," Agence France Presse, October 5, 2004.

III. Nepal's Obligations under International Law

Nepal is a party to six of the major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR)³¹ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.³² As a party to the treaties, it is obliged to adhere to human rights law as set out in these instruments.

Nepal also has an obligation to abide by international humanitarian law, which regulates the conduct of hostilities and protects persons affected by armed conflict, including captured combatants and civilians. Specifically, since the conflict in Nepal meets the Geneva Conventions' definition of an internal armed conflict, Nepal is required to adhere to Common Article 3 of the 1949 Geneva Conventions, which applies to "conflicts not of an international character."³³

In addition, Nepal must follow the standards set out in the 1992 U.N. General Assembly's Declaration on the Protection of All Persons from Enforced Disappearances (the "Declaration on Enforced Disappearances").³⁴ Although a non-binding standard, the Declaration reflects the consensus of the international community against this type of human rights violation and provides authoritative guidance as to the safeguards that must be implemented in order to prevent it.

³¹ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force Mar. 23, 1976. Nepal acceded to the ICCPR on May 14, 1991.

³² Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, U.N. Doc. A/39/51, entered into force June 26, 1987. Nepal acceded to the Convention against Torture on May 14, 1991.

³³ Nepal ratified the four Geneva Conventions in 1964. The official commentary to the Geneva Conventions of 1949 by the International Committee of the Red Cross (ICRC) lists a set of conditions that provide guidance in defining an internal armed conflict, foremost among them whether the insurgent party "possesses an organized military force, an authority responsible for its acts, [is] acting within a determinate territory and [is] having means of respecting and ensuring respect for the conventions." Another important indication of the status of a given conflict is whether the government has deployed its regular armed forces against the insurgency. See International Committee of the Red Cross, Commentary, IV Geneva Convention (Geneva: International Committee of the Red Cross, 1958). In Nepal, the Maoist rebels have an identifiable and organized command structure, both at the national and regional level, are in de-facto control of a significant part of Nepali territory, and have repeatedly stated their willingness to abide by the Geneva Conventions. Moreover, fighting between government and rebel forces has frequently been at a level well above mere disturbances. This was reflected in the Nepali government's 2001 decision to deploy the Royal Nepali Army against the Maoist insurgency.

³⁴ Declaration on the Protection of all Persons from Enforced Disappearances, United Nations, G. A. res. 47/133, U.N.Doc. A/RES/47/133, December 18, 1992.

From 2001 until the dissolution of parliament in late 2002, Nepal was under a nationwide state of emergency. The ICCPR allows states to suspend temporarily (or derogate from) certain provisions during an officially proclaimed “public emergency which threatens the life of the nation,” but only to the extent strictly necessary under the circumstances.³⁵ However, certain rights, including the right to life and protection from torture, are never derogable.³⁶ The Declaration on Enforced Disappearances unequivocally states that “no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.”³⁷

Prohibition of enforced disappearances

The U.N. Declaration on Enforced Disappearances describes “disappeared” persons as those who are arrested, detained, or abducted against their will or otherwise deprived of liberty by government officials, or by organized groups or private individuals acting on behalf of, or with the direct or indirect support, consent, or acquiescence of the government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or by a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.³⁸

Enforced disappearances constitute “a multiple human rights violation.”³⁹ They violate the right to life, the prohibition on torture and cruel, inhuman, and degrading treatment, the right to liberty and security of the person, and the right to a fair and public trial. These rights are set out in the ICCPR and the Convention against Torture, and Nepal, as a state party to both treaties, is obligated to respect them.

Under the ICCPR, no one should be subjected to arbitrary arrest or detention. An arrested person should be informed, at the time of arrest, of the reasons for his arrest and is to be promptly informed of any charges against him. Anyone arrested or detained on a criminal charge must be brought in a timely fashion before a judge or other officer authorized by law to exercise judicial power, and every person deprived of his or her

³⁵ ICCPR, Article 4(3). The rights under the ICCPR can be derogated from only where the signatory state has informed other member states through the auspices of the secretary-general of the United Nations. Nepal has not formally derogated from any rights under ICCPR even during its state of emergency.

³⁶ ICCPR, Article 4(2).

³⁷ Declaration on the Protection of all Persons from Enforced Disappearances, Article 7.

³⁸ Declaration on the Protection of all Persons from Enforced Disappearances, Preamble.

³⁹ United Nations Commission on Human Rights, “Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission Resolution 2001/46” (New York: United Nations, 2002), E/CN.4/2002/71, 36.

liberty by arrest or detention has the right “to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”⁴⁰

International humanitarian law also provides protection against enforced disappearances by prohibiting acts that precede or follow a “disappearance.” Common Article 3 of the Geneva Conventions requires that persons taken into custody, whether civilians or captured combatants, be treated humanely in all circumstances. Such persons may never be subjected to murder, mutilation, cruel treatment or torture, or the passing of sentences and carrying out of executions, without a proper trial by a regularly constituted court.⁴¹

In addition, Protocol II to the Geneva Conventions sets out the minimum standards for treatment of persons deprived of their liberty during the conflict, which include access to relief and communication with relatives.⁴² It also details the due process requirements that apply to all persons detained in connection with offenses arising out of a conflict, which include being charged without delay, the presumption of innocence, the prohibition on forced confessions, and the right to an adequate defense.⁴³ Nepal has not ratified Protocol II, but many of its provisions are recognized as customary international law and are therefore also applicable.

The U.N. Declaration on Enforced Disappearances recognizes the practice of “disappearance” as a violation of the rights to due process, to liberty and security of person, and to freedom from torture. It also contains a number of provisions aimed at preventing “disappearances,” stipulating that detainees must be held in officially recognized places of detention, of which their families must be promptly informed, and that they must have access to a lawyer.⁴⁴

The Declaration urges each state to take “effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory

⁴⁰ ICCPR, Article 9(4). Further protections are offered by Article 6 (the right to life), Article 7 (prohibition of torture), and Article 17 (protection from arbitrary interference with privacy, family and home). The rights under articles 9 and 17 are derogable during public emergencies, but even then the derogation should be proportional and subject to judicial control. Nepal has not formally derogated from any rights under ICCPR, hence the Covenant remains in full force.

⁴¹ Geneva Conventions of 1949, Common Article 3.

⁴² Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, adopted June 8, 1977, Article 5(2).

⁴³ Additional Protocol II, Article 6.

⁴⁴ Declaration on the Protection of all Persons from Enforced Disappearances, Article 10.

under its jurisdiction,”⁴⁵ and emphasizes that “no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance.”⁴⁶

“Disappearances” can also involve serious violations of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in 1979.⁴⁷ The latter requires, inter alia, that the detaining authority shall produce the arrested person without unreasonable delay before the reviewing authority, and that the proceedings to challenge the lawfulness of detention, which include the writ of habeas corpus, “shall be simple and expeditious.”⁴⁸

A widespread or systematic pattern of enforced disappearances constitutes a crime against humanity, a term which refers to acts that, by their scale or nature, outrage the conscience of humankind. The Rome Statute of the International Criminal Court (ICC) provides that enforced disappearances are a crime against humanity “when committed as a part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”⁴⁹ Nepal is not a signatory to the Rome Statute, but many of the definitions of crimes contained in the ICC are considered part of customary international law. The U.N. Declaration on Enforced Disappearances also terms “the systematic practice” of enforced disappearances to be “of the nature of a crime against humanity.”⁵⁰

Duty to investigate

Under international law, Nepal has a duty to investigate serious violations of human rights and international humanitarian law standards, and to punish the perpetrators.⁵¹

⁴⁵ Declaration on the Protection of all Persons from Enforced Disappearances, Article 3.

⁴⁶ Declaration on the Protection of all Persons from Enforced Disappearances, Article 6(1).

⁴⁷ United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988).

⁴⁸ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 32(2).

⁴⁹ Rome Statute of the International Criminal Court, U.N. Doc. No. A/CONF. 183/9 (July 17, 1998), 37 I.L.M. 999, Article 7(1).

⁵⁰ Declaration on the Protection of all Persons from Enforced Disappearances, Preamble.

⁵¹ The duty to try and punish those responsible for grave violations of human rights has its legal basis, inter alia, in the International Covenant on Civil and Political Rights (Article 2); and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Articles 4, 5, and 7).

In its resolutions, the United Nations General Assembly has repeatedly called on governments to devote appropriate resources to searching for the “disappeared,” and to “undertake speedy and impartial investigations.” It has urged states to ensure that law enforcement and security authorities are fully accountable in the discharge of their duties, and emphasized that such accountability must include “legal responsibility for unjustifiable excesses which might lead to enforced or involuntary disappearances and to other violations of human rights.”⁵²

The U.N. Declaration on Enforced Disappearances emphasizes that it is the state’s obligation to ensure that persons having knowledge of an enforced disappearance have the right “to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority.” Even in the absence of a formal complaint, the state should promptly refer the matter to the appropriate authority for investigation whenever there are reasonable grounds to believe that an enforced disappearance has been committed.⁵³ When the facts disclosed by an official investigation so warrant, any person alleged to have perpetrated an act of enforced disappearance is to be brought before competent civil authorities for the purpose of prosecution and trial.⁵⁴

The Declaration characterizes “disappearance” as a continuing offense so long as the perpetrators continue to conceal the fate and the whereabouts of the “disappeared” persons.⁵⁵ Further, the perpetrators should not benefit from any special amnesty or other measures that might exempt them from a criminal proceeding or sanction.⁵⁶

The latter provision reflects the consolidated view developed in international jurisprudence over the past decade that those responsible for crimes against humanity and other serious violations of human rights should not be granted amnesty.⁵⁷

⁵² Disappeared persons, United Nations G. A. Res. 33/173, adopted 22 December 1978.

⁵³ Declaration on the Protection of all Persons from Enforced Disappearances, Article 13.

⁵⁴ *Ibid.*, Article 14.

⁵⁵ *Ibid.*, Article 17.

⁵⁶ *Ibid.*, Article 18.

⁵⁷ See, e.g., Human Rights Committee, General Comment 20, Article 7 (Forty-fourth session, 1992), *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994). In regard to forced disappearances this point was emphasized by expert Manfred Nowak in his 2002 report on “disappearances” to the U.N. Commission on Human Rights:

As the [U.N.] Human Rights Committee rightly concluded, in the case of particularly serious human rights violations, such as enforced disappearances, justice means criminal justice, and purely disciplinary and administrative remedies cannot be deemed to provide sufficient satisfaction to the victims. Perpetrators of enforced disappearance should, therefore, not benefit from amnesty laws or similar measures.

In cases where “complaints by relatives or other reliable reports” suggest that a “disappearance” has resulted in the unnatural death of the “disappeared” in state custody, Nepali authorities— in accordance with the U.N. Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions— should launch a thorough, prompt, and impartial investigation to “determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death.” The investigation should result in a publicly available written report.⁵⁸

Redress for victims

International human rights law obliges states to provide reparations to victims of serious human rights violations. The ICCPR requires states to provide an “effective remedy” for violations of rights and freedoms and to enforce such remedies.⁵⁹ The U.N. Human Rights Committee, which authoritatively interprets and monitors adherence to the ICCPR, has affirmed the state obligation to provide reparations under the ICCPR, noting that “reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and

See United Nations Commission on Human Rights, “Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission resolution 2001/46” (New York: United Nations, 2002), E/CN.4/2002/71.

⁵⁸ Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, E.S.C. res. 1989/65, annex, 1989 U.N. ESCOR Supp. (No. 1) at 52, U.N. Doc. E/1989/89 (1989). Provision 9 of the Principles states:

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

Provision 17 of the Principles states:

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

⁵⁹ ICCPR, Articles 2(3) and 9(5).

changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.”⁶⁰

Guidance on reparation to victims can be found in the draft Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law that is currently being discussed in the U.N.⁶¹ The Principles—still under negotiation and elaboration—reaffirm that a state should provide adequate, effective, and prompt reparation to victims for acts or omissions constituting violations of international human rights and humanitarian law norms.⁶² In the case of Nepal, the issue of reparations for victims or their families is relevant to cases of unlawful detentions, enforced disappearances, and extrajudicial executions.

The U.N. Declaration on Enforced Disappearances specifically reaffirms the right of victims of “disappearances” and their families to obtain redress and adequate compensation, “including the means for as complete a rehabilitation as possible,” as well as the right of dependents to compensation when the victim has died as a result of an act of enforced disappearance.⁶³

Expert Manfred Nowak in his 2002 report on “disappearances” to the U.N. Commission on Human Rights stated:

In the case of enforced disappearance, which is a particularly serious and continuing human rights violation committed with the very intention of evading responsibility, truth and legal remedies, reparation is of the utmost importance, not only as a matter of redress for the individual victims, but also as a pre-condition for establishing truth, justice and peace in the societies affected by such practices.⁶⁴

⁶⁰ U.N. Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/74/CRP.4/Rev.6 (2004).

⁶¹ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law, U.N. Doc. E/CN.4/2000/62, January 18, 2000, annex, preamble.

⁶² *Ibid.*, Articles 15-16. See <http://daccessdds.un.org/doc/UNDOC/GEN/GO3/170/98/PDF/GO317098.pdf>

⁶³ United Nations Declaration on the Protection of All Persons from Enforced Disappearances (A/RES/47/133), December 18, 1992, Article 19.

⁶⁴ United Nations Commission on Human Rights, “Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for

the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission resolution 2001/46" (New York: United Nations, 2002), E/CN.4/2002/71.

IV. “Disappearances”

The current pattern of “disappearances” in Nepal had its origins in the late 1990s, when Nepali police forces launched large-scale operations against Maoist activists and their supporters. The crackdowns occurred in the country’s western and central regions, the areas most affected by the insurgency. The number of “disappearances” skyrocketed during the state of emergency (November 26, 2001–August 28, 2002), when the RNA was first deployed in the counterinsurgency and a number of constitutional rights were suspended. The most dramatic increase in “disappearances” occurred after the breakdown of the ceasefire in August 2003: according to the United Nations Working Group on Enforced and Involuntary Disappearances (WGEID), for two consecutive years, in 2003 and 2004, Nepal “recorded the highest number of new cases” of enforced disappearances in the world.⁶⁵ From January to September 2004, the WGEID transmitted 117 cases as urgent appeals to the Nepali government—more than for any other country in the world during that period.⁶⁶

Since May 2000, Nepal’s National Human Rights Commission (the NHRC) has received reports of 1,234 cases of “disappearance” perpetrated by security forces.⁶⁷ Informal Sector Service Center (INSEC), a prominent local human rights group that monitors the human rights situation all over the country, recorded 368 “disappearances” in 2003 alone, and 1,264 since the beginning of the conflict in 1996.⁶⁸

During its three-week-long mission to Nepal in September-October 2004, Human Rights Watch documented 203 cases of “disappearance,” the earliest of which dates back to the fall of 1997,⁶⁹ while the most recent occurred on September 17, 2004.⁷⁰

“Disappearances” occur throughout the country, affecting virtually all of Nepal’s seventy-five districts. The frequency of “disappearances” has closely mirrored the development of the fighting in Nepal, with the number of “disappearances” tending to

⁶⁵ United Nations Commission on Human Rights, Sixtieth session, Item 11 (b) of the provisional agenda: Civil and Political Rights, Including the Questions of: Disappearances and Summary Executions, Question of enforced or involuntary disappearances, *Report of the Working Group on Enforced or Involuntary Disappearances*, January 21, 2004, E/CN.4/2004/58.

⁶⁶ Gustavo Capdevila, “Human Rights: Society’s Debt to the Disappeared,” *All Africa*, October 11, 2004.

⁶⁷ The figure cited in: *The Himalayan Times*, December 12, 2004.

⁶⁸ Informal Sector Service Center (INSEC), *Human Rights Yearbook 2004*, (Kathmandu: INSEC, 2004), 10.

⁶⁹ See Appendix, the “disappearance” of Lila Khannal.

⁷⁰ See Appendix, the “disappearance” of Prakash Tharu.

be highest in areas where control is most actively contested between the security forces and the Maoists. In the late 1990s the most affected districts were Rolpa, Rukum, Jajarkot, Salyan, Gorkha, and Sindhuli, but the majority of recent cases documented by local and international human rights groups occurred in the vicinity of Nepal's capital, Kathmandu, and in central districts, such as Lalitpur and Dhading.⁷¹ Of the "disappearances" documented by the NHRC, 43 percent happened in middle Nepal, 23 percent in the mid-western part of the country, and 17 percent in the eastern part.⁷²

Human Rights Watch has documented "disappearances" that occurred in fourteen districts: Kathmandu, Lalitpur, Nuwakot, Kavre, Dhading, Lamjung, Gorkha, Chitwan, Nawalparasi, Tanahu, Kaski, Dang, Bardia, and Banke. Most of the documented "disappearances" were registered in Bardia (eighty-nine cases), Dang (twenty-nine cases), Banke (twenty-five cases) and Kathmandu (twenty-two cases). The research clearly demonstrates that the problem is not confined to any particular part of Nepal, but is prevalent throughout the country.

Perpetrators

In conflicts throughout the world, "disappearances" are largely carried out by secret services, special military units, death squads, or paramilitary groups.⁷³ This significantly

⁷¹ Amnesty International, "Nepal: Escalating "Disappearances" Amid a Culture of Impunity," August 30, 2004, AI Index: ASA 31/155/2004.

⁷² Nepal's National Human Rights Commission, "Number of Disappearance & Abduction Cases Registered at NHRC." A copy of the document is on file with Human Rights Watch. In terms of Nepal's administrative division, the middle region consists of three administrative zones (Janakpur, Bagmati, and Narayani), which include nineteen districts (Dolkha, Ramechhap, Sindhuli, Dhanusha, Mahottari, Sarlahi, Rasuwa, Dhading, Kathmandu, Nuwakot, Sindhupalchowk, Kavrepalanchowk, Lalitpur, Bhaktapur, Chitwan, Makawanpur, Parsa, Bara, and Rautahat). The mid-western area consists of three zones (Rapti, Bheri, and Karnali) which include fifteen districts (Rukum, Rolpa, Salyan, Pyuthan, Dang, Dailekh, Banke, Bardia, Surkhet, Dolpa, Humla, Jumla, Kalikot, and Mugu). The eastern region consists of three zones (Mechi, Koshi, and Sagarmatha) which include sixteen districts (Taplejung, Panchthar, Ilam, Jhapa, Sankhuwashava, Terhathum, Dhankuta, Bhojpur, Morang, Sunsari, Solukhumbu, Okhaldhunga, Khotang, Udayapur, Saptari, and Siraha).

⁷³ For a detailed analysis of patterns of disappearances in other countries see, e.g., Human Rights Watch, "Disappeared in Guatemala: The Case of Efraim Bamaca Velasquez," A Human Rights Watch Report, Vol. 7, No. 1, March 1995; Human Rights Watch, "Time for Reckoning: Enforced Disappearances and Abductions in Algeria," A Human Rights Watch Report, Vol. 15, No. 2(E), February 2003; Human Rights Watch, "Last Seen: Continued "Disappearances" in Chechnya," A Human Rights Watch Report, Vol. 14, No. 3(D), April 2002; Americas Watch (now Human Rights Watch/Americas), *El Salvador's Decade of Terror* (New Haven and London: Yale University Press and Human Rights Watch Books, 1991); Human Rights Watch, "State of War: Political Violence and Counterinsurgency in Colombia," A Human Rights Watch Report, December 1993; Amnesty International, "Disappearances in Guatemala under the Government of General Oscar Humberto Mejia Victores (August 1983-January 1985), AI Index: AMR 34/01/85, March 1985; Amnesty International, *Getting Away with Murder: Political Killings and "Disappearances" in the 1990s* (London: AI Publications, 1993); Amnesty International, *Sri Lanka: Extrajudicial executions, "disappearances", and torture, 1987 to 1990* (London: AI Publications, 1990); CONADEP, *Nunca Mas: A Report by Argentina's Commission on Disappeared*

complicates the process of identifying the perpetrators—both those giving orders and those carrying them out—and often creates insurmountable obstacles for establishing the whereabouts of the “disappeared.”

In Nepal, however, the situation is quite different. Almost all arrests and detentions that lead to “disappearances” are carried out by regular army units, police, or Armed Police Force (APF) personnel. The army and the APF have been deployed in counterinsurgency operations since 2001. On November 4, 2003, after the collapse of peace talks and the Maoists’ withdrawal from the ceasefire, the government declared the formation of the so-called Unified Command, consisting of the army, APF, police, and the National Investigation Department, under the operational command of the army.⁷⁴

The overwhelming majority of witnesses interviewed by Human Rights Watch unhesitatingly identified perpetrators as “army men,” “police,” “APF,” or “a joint group of army and police.” In many cases the witnesses indicated that the security personnel wore uniforms, used military vehicles, and sometimes presented their official security force identification.

Although in some cases soldiers and policemen were dressed in civilian clothes, or even disguised themselves as Maoists in an attempt to identify Maoist sympathizers in villages, they generally failed to deceive the villagers into mistaking their identity. For example, on April 11, 2002, a large group of RNA soldiers carried out a sweep in Manau VDC-8 in Bardia (described below).⁷⁵ They initially tried to fool some of the villagers into thinking

People (London: Faber and Faber, 1986); Iain Guest, *Behind the Disappearances: Argentina’s Dirty War Against Human Rights and the United Nations* (Philadelphia: University of Pennsylvania Press, 1990).

⁷⁴ “Statement by Rt. Hon. Prime Minister Surya Bahadur Thapa at the press conference regarding Future Plan, Strategies and Programs of His Majesty’s Government (unofficial translation),” November 4, 2003 [online], <http://www.mofa.gov.np/pmpressnov4.htm> (retrieved November 27, 2004). The decision was justified by the need for effective coordination among the security forces in the face of the rapid escalation of fighting after the August collapse of the ceasefire.

⁷⁵ The RNA raid was likely in response to the Maoist killing of Amrit Man Shreshtra, a large landowner in the village, about two months before the sweep. According to the witnesses, as described in more detail in the Appendix of this report, relatives of the late Amrit Man accompanied the RNA soldiers, pointing out people to arrest.

they were Maoists, asking the villagers to join them in blowing up a local bridge.⁷⁶ The RNA arrested eight people from the village, none of whom were seen again.⁷⁷

In a number of cases, the victims' families knew exactly which army barracks, camp, or post a unit was coming from, and at times could even identify the soldiers or officers by name. For example, on August 17, 2002, RNA soldiers arrested twenty-six-year-old teacher Jilla Sandesh Tharu, along with two other villagers from Magaragadi, Magaragadi VDC-9 in Bardia. But a relative of Tharu recognized one of the officers from a nearby Rambhapur army post—Jamdar Mahendra Thapa—among the soldiers.⁷⁸ The relatives tried to use this information to locate the three “disappeared” men, but their efforts proved futile, and the three men remain missing.⁷⁹

Since at present Maoist forces control much of Nepal's countryside, security forces typically operate out of heavily fortified positions at district headquarters, carrying out raids on villages from there. This makes it easier to determine which units are carrying out large-scale sweeps or targeted search and seizure operations in a given village. Moreover, as discussed below, the families of individuals taken into custody often receive credible information regarding their relatives' detention in specific army barracks, which also helps to establish the identity of the perpetrators.

Given the relative ease in identifying individual perpetrators, as well as the army and police units routinely involved in violations, few obstacles stand in the way of authorities locating and punishing those responsible for abuses. Thus far, however, the authorities have chosen to overlook the overwhelming evidence of security force involvement in “disappearances.”

⁷⁶ Human Rights Watch interview with a relative of Prem Bahadur Tharu, Bardia, September 28, 2004; Human Rights Watch interview with a relative of Dhani Ram and Sani Ram Tharu, Bardia, October 1, 2004; Human Rights Watch interview with a relative of Radhu Lal Chowdhury, Bardia, October 1, 2004. For more information, see Appendix, the “disappearances” of Prem Bahadur Tharu, Dhani Ram and Sani Ram Tharu, and Radhu Lal Chowdhury. Hereinafter the names of witness are on file with Human Rights Watch. They are being withheld to protect the witnesses' safety.

⁷⁷ Human Rights Watch interview with a relative of Mohan Chowdhury, Bardia, October 1, 2004; Human Rights Watch interview with a relative of Lauti Tharu, Bardia, September 28, 2004; Human Rights Watch interview with a relative of Kamali Tharu, Bardia, September 28, 2004. For more information, see Appendix, the “disappearances” of Mohan Chowdhury, Lauti Tharu and Kamali Tharu.

⁷⁸ Jamdar is a low-ranking officer in the Royal Nepalese Army.

⁷⁹ Human Rights Watch interview with a relative of Jilla Sandesh Tharu, Bardia, September 29, 2004. For more information, see Appendix, the “disappearances” of Jilla Sandesh Tharu, Shreeram Tharu, and Chulluwa Tharu.

Victims

Among the victims of “disappearances” in Nepal are people of various occupations, including farmers, workers, students, teachers, journalists, lawyers, shopkeepers, housewives, and others. In cases documented by Human Rights Watch, twenty-one of the “disappeared” were women. The majority was young people between the ages of twenty and thirty-five, and twenty-five victims were minors under the age of eighteen.

Of the 203 “disappearances” documented by Human Rights Watch, twenty-three individuals were allegedly active members of CPN-M, and another seventeen were said to belong to groups affiliated with CPN-M, such as the All-Nepal Student Union (Revolutionary), the Laborers’ Union (Maoist), or the All-Nepal Women’s Organization Revolutionary. Eight persons were former members of CPN-M who, according to their relatives, had discontinued their party membership and had returned to civilian life prior to their arrest.

Significantly, however, in over one-third of the cases documented by Human Rights Watch, the “disappeared” appear never to have been involved with any aspect of the Maoist movement and, according to their relatives, were either not active politically or members of non-Maoist political parties, such as the Nepali Congress or the CPN (UML).⁸⁰

In a number of cases people were detained because of their personal friendship or family connection with a person known to be a Maoist. Thus, nineteen-year-old student Dilip Chandra Hadkhale, a university student and an active member of the Nepali Congress Party, was apparently “disappeared” by the RNA solely because of his personal friendship with a CPN-M activist whom the army had killed earlier. The RNA first detained Hadkhale in September 2003, after which he was released as the result of a direct intervention by the university administration. While he was in custody, Hadkhale was questioned about his CPN-M friend and severely beaten. On January 21, 2004, Hadkhale was apparently rearrested and subsequently “disappeared.”⁸¹ Another student, sixteen-year-old Bir Bahadur Thapa from Dang, “disappeared” after being arrested at home by a group of RNA soldiers on April 28, 2002. His family is adamant that Thapa

⁸⁰ Human Rights Watch interview with a relative of Dharma Raj Dnagol, Kathmandu, September 18, 2004. Dnagol was a member of Nepali Congress. See also Human Rights Watch interview with a relative of Ram Prasad Acharya, Dhading, September 19, 2004. Acharya was a member of CPN-UML (United Marxist-Leninist), which has no links to CPN-M. For more information, see Appendix, the “disappearance” of Dharma Raj Dngol; the “disappearance” of Ram Prasad Acharya.

⁸¹ Human Rights Watch interviews with two relatives of Dilip Chandra Hadkhale, Tahanun, September 21, 2004. For more information, see Appendix, the “disappearance” of Dilip Chandra Hadkhale.

was not involved in politics and believes that he was “disappeared” because of his father, who is active in the political structures of CPN-M.⁸²

In other cases security forces arrested and “disappeared” villagers who had done nothing more than provide food and shelter to Maoists traveling through their villages.⁸³ These villagers are caught in a nearly impossible position: refusing to supply food and shelter to Maoists can lead to retribution from the Maoists, but offering it can lead to attacks by government forces.

Modus Operandi

In almost all cases documented by Human Rights Watch, people who had “disappeared” were last seen by their relatives or other witnesses in the custody of governmental security forces. Such forces had detained them during large-scale operations or targeted raids, arrested them at checkpoints, or had simply taken them away from their places of work or study.

“Disappearances” after large-scale operations

Large-scale operations—some of them prompted by Maoist attacks in a given area and some having no apparent cause—often result in arbitrary arrests and “disappearances.”

Thus, at least sixteen people “disappeared” after being arrested by RNA and APF forces in the course of a large-scale operation on October 20-22, 2002, in Rajapur, Bardia. The security forces based at the Manpur Tapara temporary army camp launched the arrest spree in response to Maoist destruction of many government offices in the months before the operation. The Maoists had also given an ultimatum to the family members of security personnel to coerce their relatives to resign from the security forces or leave Rajapur.

On the night of October 20, 2002, the soldiers arrested twenty-six-year-old farmer Fula Ram Tharu,⁸⁴ seventeen-year-old student Ram Karan Tharu,⁸⁵ and thirty-year-old farmer

⁸² Human Rights Watch interviews with two relatives of Bir Bahadur Thapa, Dang, September 24, 2004. For more information, see Appendix, the “disappearance” of Bir Bahadur Thapa.

⁸³ See, for example, Appendix, the “disappearances” of Hari Prasad Acharya, the “disappearance” of Neplai Tharu.

⁸⁴ Human Rights Watch interview with a relative of Fula Ram Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Fula Ram Tharu.

⁸⁵ Human Rights Watch interview with a relative of Ram Karan Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Ram Karan Tharu.

Runchya Tharu⁸⁶ from Jamunabachi village, Manpur Tapara VDC-8. The same night, a combined group of uniformed RNA soldiers and APF officers also detained thirty-year-old farmer Radheshyam Tharu,⁸⁷ and thirty-three-year-old Raj Kumar Tharu⁸⁸ from a nearby Vikrampur village. Also on October 20, a combined force of RNA and APF soldiers carried out arrests in Badalpur VDC-9, detaining four persons—twenty-six-year-old mill worker Basantu Tharu,⁸⁹ twenty-year-old Lautan Tharu, who had returned from working in India just seven days before,⁹⁰ twenty-year-old student Bagale Tharu,⁹¹ and twenty-one-year-old farmer Pharek Tharu.⁹²

RNA soldiers further arrested four people from Harinagar village, Khairi Chandanpur VDC-8, during the day on October 21, 2002: forty-five-year-old Sunawa Chowdhury,⁹³ twenty-four-year-old Bagi Ram Chowdhury,⁹⁴ nineteen-year-old student Kessar Kumar Chowdhury,⁹⁵ and thirty-eight-year-old medical shop owner Pati Ram Chowdhury.⁹⁶ The same day RNA soldiers arrested the twenty-eight-year-old owner of a small shop, Mangru Chowdhury,⁹⁷ and seventeen-year-old student Gopal Chowdhury⁹⁸ in Chapti village, Badalpur VDC-4.

⁸⁶ Human Rights Watch interview with a relative of Runchya Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Runchya Tharu.

⁸⁷ Human Rights Watch interview with a relative of Radheshyam Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Radheshyam Tharu.

⁸⁸ Human Rights Watch interview with a relative of Raj Kumar Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Raj Kumar Tharu.

⁸⁹ Human Rights Watch interview with a relative of Basantu Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Basantu Tharu.

⁹⁰ Human Rights Watch interview with a relative of Lautan Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Lautan Tharu.

⁹¹ Human Rights Watch interview with a relative of Bagale Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Bagale Tharu.

⁹² Human Rights Watch interview with a relative of Parek Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Parek Tharu.

⁹³ Human Rights Watch interview with a relative of Sunawa Chowdhury, Bardia, October 1, 2004. For more information, see Appendix, the “disappearance” of Sunawa Chowdhury.

⁹⁴ Human Rights Watch interview with anonymous witness, Bardia, October 1, 2004.

⁹⁵ Human Rights Watch interview with a relative of Kessar Kumar Chowdhury, Bardia, October 1, 2004. For more information, see Appendix, the “disappearance” of Kessar Kumar Chowdhury.

⁹⁶ Human Rights Watch interview with a relative of Pati Ram Chowdhury, Bardia, October 1, 2004. For more information, see Appendix, the “disappearance” of Pati Ram Chowdhury.

⁹⁷ Human Rights Watch interview with a relative of Mangru Chowdhury, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Mangru Chowdhury.

⁹⁸ Human Rights Watch interview with a relative of Gopal Chowdhury, Bardia, September 28, 2004. For more information, see Appendix, the “disappearance” of Gopal Chowdhury.

On the last day of the operation, October 22, RNA soldiers came to Pahadipur village, Badalpur VDC-3, and detained forty-one-year-old farmer and local-level CPN-M activist Moti Lal Tharu.⁹⁹

According to the families, aside from Moti Lal Tharu, none of the detainees was a member of CPN-M. Testimony from several witnesses indicates that the “disappeared” detainees were taken to the Manpur Tapara Secondary School, which the RNA had occupied as their “Manpur Tapara temporary army camp.” The relatives went daily to the school and saw the blindfolded detainees held in one of the school’s rooms. Many recognized their relatives from the clothes they were wearing at the time of arrest. After the Manpur Tapara temporary camp was dismantled on October 25, the sixteen detainees were never seen again.

Another ten detainees “disappeared” after two RNA operations carried out in February and April 2002. The operations were in response to the killing of a large landowner in Nauranga village in Manau VDC-8, Rajapur, Bardia in February 2002. RNA soldiers detained four people from the area on February 25, 2002, and another eight on April 11. Two detainees from the first group were released six days later, but twenty-two-year-old Nirmal Chowdhury¹⁰⁰ and thirty-eight-year-old Jagat Prasad Chowdhury¹⁰¹ “disappeared” after being last seen by the released detainees in the Thakurdwara army barracks. The eight persons detained in April—thirty-year-old Prem Bahadur Tharu,¹⁰² seventeen-year-old Dhani Ram and his seventeen-year-old brother Sani Ram Tharu,¹⁰³ twenty-year-old Radhu Lal Chowdhury,¹⁰⁴ twenty-one-year-old Mohan Chowdhury,¹⁰⁵ sixteen-year-old Lauti Tharu,¹⁰⁶ nineteen-year-old Kamali Tharu,¹⁰⁷ and Chillu Tharu

⁹⁹ Human Rights Watch interview with two relatives of Moti Lal Tharu, Bardia, September 30, 2004. For more information, see Appendix, the “disappearance” of Moti Lal Tharu.

¹⁰⁰ Human Rights Watch interview with a relative of Nirmal Chowdhury, Bardia, October 1, 2004. For more information, see Appendix, the “disappearance” of Nirmal Chowdhury.

¹⁰¹ Human Rights Watch interview with a relative of Jagat Prasad Chowdhury, Bardia, October 1, 2004. For more information, see Appendix, the “disappearance” of Jagat Prasad Chowdhury.

¹⁰² Human Rights Watch interview with a relative of Prem Bahadur Tharu, Bardia, September 28, 2004. For more information, see Appendix, the “disappearance” of Prem Bahadur Tharu.

¹⁰³ Human Rights Watch interview with a relative of Dhani Ram and Sani Ram Tharu, Bardia, October 1, 2004. For more information, see Appendix, the “disappearance” of Dhani Ram Tharu, the “disappearance” of Sani Ram Tharu.

¹⁰⁴ Human Rights Watch interview with a relative of Radhu Lal Chowdhury, Bardia, October 1, 2004. For more information, see Appendix, the “disappearance” of Radhu Lal Chowdhury.

¹⁰⁵ Human Rights Watch interview with a relative of Mohan Chowdhury, Bardia, October 1, 2004. For more information, see Appendix, the “disappearance” of Mohan Chowdhury.

¹⁰⁶ Human Rights Watch interview with a relative of Lauti Tharu, Bardia, September 28, 2004. For more information, see Appendix, the “disappearance” of Lauti Tharu.

(age unknown)—have not been seen since the arrest. Various security and government officials based in Tikapur Kailili district, Guleria, Thakurdwara, and Rajapur, have denied having any knowledge of the arrests.¹⁰⁸

Similarly, six people “disappeared” after each of the RNA operations in Dang district in April and September 2002. On April 19, 2002, a large contingent of uniformed RNA soldiers arrived at the Katberawa village, Bela VDC, supported by military helicopters. The villagers believe the operation may have been linked to a Maoist attack on the nearby Lamahi army barracks four months earlier. One person in the village, twenty-seven-year-old Chatak Bahadur Chowdhury, was killed by the soldiers as he was repairing a neighbor’s roof. The soldiers rounded up about fifty men from the area and took them to the nearby river, where they were interrogated. Six of them never came back: twenty-five-year-old Dani Ram Chowdhury,¹⁰⁹ twenty-eight-year-old Kedarnath Chowdhury, thirty-two-year-old Bhim Bhahadur Chowdhury,¹¹⁰ sixteen-year-old Hari Lal Chowdhury, his uncle Udaya Chowdhury,¹¹¹ and fifty-year-old Khim Bahadur Pun¹¹² “disappeared” without a trace. On several occasions relatives were told by officials that the men were killed in an “encounter,” but there has been no official confirmation of such an event. The men remain missing after last being seen alive in RNA custody.¹¹³

On September 6, 2002, RNA soldiers came to the village of Paharwa, Duduwa VDC, and arrested several men apparently at random, taking them to a riverbank where the villagers were taking part in the Gurua festival. The soldiers then blindfolded and tied the hands of thirteen of the captives, who were taken away. Several of the men were later released. However, one of the detained men, Shree Harsa Subedi, was found dead that night near the village, while six detainees—forty-one-year-old Sohan Lal

¹⁰⁷ Human Rights Watch interview with a relative of Kamali Tharu, Bardia, September 28, 2004. For more information, see Appendix, the “disappearance” of Kamali Tharu.

¹⁰⁸ Human Rights Watch interviews with the relatives of Dhani Ram and Sani Ram Tharu, Bardia, October 1, 2004; Human Rights Watch interview with a relative of Prem Bahadur Tharu, Bardia, September 28, 2004.

¹⁰⁹ Human Rights Watch interview with a relative of Dani Ram Chowdhury, Dang, September 25, 2004. For more information, see Appendix, the “disappearance” of Dani Ram Chowdhury.

¹¹⁰ Human Rights Watch interview with a relative of Kedarnath Chowdhury, Dang, September 25, 2004.

¹¹¹ Human Rights Watch interview with a relative of Hari Lal Chowdhury, Dang, September 25, 2004. For more information, see Appendix, the “disappearance” of Hari Lal Chowdhury.

¹¹² Human Rights Watch interview with a relative of Kim Bahadur Pun, Dang, September 25, 2004. For more information, see Appendix, the “disappearance” of Kim Bahadur Pun.

¹¹³ Human Rights Watch interview with a relative of Kim Bahadur Pun, Dang, September 25, 2004; Human Rights Watch interview with a relative of Dani Ram Chowdhury, Dang, September 25, 2004.

Chowdhury,¹¹⁴ twenty-five-year-old Som Raj Chowdhury,¹¹⁵ thirty-seven-year-old Kuira Chowdhury,¹¹⁶ thirty-three-year-old Chanak Lal Chowdhury,¹¹⁷ twenty-three-year-old Jagi Chowdhury,¹¹⁸ and seventeen-year-old Khushi Ram Chowdhury¹¹⁹—“disappeared.” The families of those detained told Human Rights Watch that the men were not involved with CPN-M in any way.

According to a released detainee, all of the arrested men were taken to the Tulsipur army barracks, where the soldiers photographed and then beat them severely with their fists, boots, and bamboo sticks. Four days after the arrest, the released detainee was transferred to the Ghorahi district police post and lost touch with the others.¹²⁰ In response to inquiries by the families and the VDC chairman, the army denied having the men in custody. Nothing has been heard about them since they were last seen alive at the Tulsipur army barracks.

Other major operations documented by Human Rights Watch include a May 23, 2002, raid in the village of Machaghar, Deudakala VDC-3, Bardia district, which resulted in the “disappearance” of five men;¹²¹ an August 23, 2001, operation in Pipal Tandi, Motipur VDC in Bardia, in which soldiers arrested a total of five persons from the village who were never seen again;¹²² the arrests of nine people in Pokhara area on November 4-10, 2003;¹²³ and others, as described in the Appendix to this report.

¹¹⁴ Human Rights Watch interview with a relative of Sohan Lal Chowdhury, Dang, September 24, 2004. For more information, see Appendix, the “disappearance” of Sohan Lal Chowdhury.

¹¹⁵ Ibid.

¹¹⁶ Human Rights Watch interview with a relative of Kuira Chowdhury, Dang, September 24, 2004. For more information, see Appendix, the “disappearance” of Kuira Chowdhury.

¹¹⁷ Human Rights Watch interview with a relative of Chanak Lal Chowdhury, Dang, September 24, 2004. For more information, see Appendix, the “disappearance” of Chanak Lal Chowdhury.

¹¹⁸ Human Rights Watch interview with the villagers in Paharwa, Duduwa VDC, Dang, September 24, 2004.

¹¹⁹ Human Rights Watch interview with a relative of Khushi Ram Chowdhury, Dang, September 24, 2004. For more information, see Appendix, the “disappearance” of Khushi Ram Chowdhury.

¹²⁰ Human Rights Watch interview, Dang, September 26, 2004. The name of the witness is on file with Human Rights Watch. His identity is being withheld to protect his safety.

¹²¹ See Appendix, the “disappearances” of Tirtha Bahadur Thapa, Shree Ram Tharu, Hira Sing Bathamagar, Bom Bahadur Shahi and Siya Ram Chowdhury.

¹²² See Appendix, the “disappearances” of Kali Ram Chowdhury, Bhag Ram Tharu, Hari Charan Tharu, Kalpalti Tharu, and Lal Bihari Tharu.

¹²³ See Appendix, the “disappearances” of Netra Prasad Baral, Tirtha Nath Luitel, Budhi Pande, Prakash Khanal, Badri Khadka, Keshar Singh Thakuri Krishna Panta, Bhanu Pariya, and Devi Prasad Dhakal.

“Disappearances” after targeted raids

In addition to these large-scale operations, Nepali security forces have conducted numerous targeted raids, arresting hundreds of individuals in a seemingly arbitrary manner. This has happened across the country—at homes, on roads, and at places of work or study. Many of those arrested have never been seen again.

In some cases the security forces have been accompanied during the arrests by “witnesses,” such as neighbors or co-workers of the detainee, or persons completely unknown to them, who were supposedly present to identify the suspect or testify to his affiliation with the Maoists. Security officials also often lure people away by saying they only want to talk to them, promising the detainees’ relatives they will return soon.

For example, at around 11 p.m. on December 18, 2003, five RNA soldiers in civilian clothing came to the house of thirty-five-year-old farmer Rajendra Thapa in Imadol-9, Lalitpur district. A relative of Thapa who was accompanying the army called him out of the house “to see some friends.” Thapa followed him but did not return. A day later the relative informed the family that Thapa had been taken to the Bhairabnath Gulm (Maharajgunj) army barracks for inquiry and would be released in a few days. Thapa has not been seen or heard from since then, although his relatives have petitioned numerous authorities and human rights organizations. The family went to the Bhairabnath Gulm and Rajdal army barracks, but the army denied having Thapa in its custody.¹²⁴

In another case, five or six RNA soldiers in civilian dress came to Krishna Secondary School in Chhaimale, Kathmandu, at 11:30 a.m. on March 1, 2004. The soldiers approached the school’s headmaster, identified themselves as RNA soldiers, and asked to see seventeen-year-old student Parlad Waiba. After Waiba was brought to the headmaster’s office, the soldiers took Waiba away for what they indicated would be ten minutes of questioning, collected his books from the class room, and departed with Waiba. He has not been seen since then. Faculty and students recognized the soldiers as belonging to the nearby Farping army camp, but when a relative went to the camp, the guards at the gate told him not to worry, that Waiba was being provided with food and shelter and was fine. The family has received no other information.¹²⁵

¹²⁴ Human Rights Watch interview with a relative of Rajendra Thapa, Kathmandu, September 18, 2004. For more information, see Appendix, the “disappearance” of Rajendra Thapa.

¹²⁵ Human Rights Watch interview with school official, Kathmandu, September 18, 2004 (the name of the witness is withheld to protect his safety); Human Rights Watch interview with a relative of Parlad Waiba, Kathmandu, September 18, 2004. For more information, see Appendix, the “disappearance” of Parlad Waiba.

In the majority of cases documented by Human Rights Watch, security personnel did not identify themselves, gave no reasons for the arrest, and gave relatives no indication of where a detainee was being taken. Furthermore, the witnesses often stated that RNA or other forces carrying out the arrests broke into homes, severely beat and verbally abused detainees before taking them away, and kept the relatives at gunpoint, threatening to kill them should they attempt to follow the detainee.

A relative of thirty-two-year-old Tanka Sharma, who was arrested by RNA soldiers on January 22, 2002, in Dulegaunda VDC ward 7, Kaski district, and subsequently “disappeared,” described Sharma’s arrest as follows:

They came inside and started beating him with bamboo sticks. His head was bleeding. They pushed him out of the house, tied his hands behind his back and blindfolded him. They were cursing him, accusing him of destroying the police post.¹²⁶

Sharma was seen by other detainees at the Fulbari army barracks, and was then reportedly seen in the company of soldiers, presumably being used to point out suspected CPN-M members during army patrols. Later, the family was directed to the Bijayapur army barracks in Kaski district, where officials told them on numerous occasions that Sharma was “out with the army,” and refused to let them see him. The army battalion stationed at the Bijayapur army barracks was later transferred to Gorkha district, and when the family inquired there, the army denied having any knowledge of the case.¹²⁷

When RNA soldiers were arresting forty-eight-year-old CPN-UML member Jangu Tharu at his home in Sonpur in Magragadi VDC-5, in Bardia, on August 11, 2002, his eighty-five-year-old mother attempted to ask the soldiers where they were taking her son. She told Human Rights Watch:

I came out of the house, asked them where they were taking him, and begged them not to take my son away. But they pointed a gun at me and said they would shoot me if I did not go back into the house.¹²⁸

¹²⁶ Human Rights Watch interview with a relative of Tanka Sharma, Kaski, September 21, 2004.

¹²⁷ Ibid.

¹²⁸ Human Rights Watch interview with the mother of Jangu Tharu, Bardia, September 29, 2004.

Jangu Tharu was taken away with three other men from the village, none of whom have been seen since his arrest, despite the families' efforts at finding the detainees.¹²⁹

In one-third of the cases documented by Human Rights Watch, the families had knowledge of where their relatives were held at some point after being detained. Some received a letter or a phone call from the detainees, others were notified by released detainees who saw their relatives in detention, and some managed to get information through contacts within the military or police. Moreover, a number of detainees were initially kept in an acknowledged place of detention where their relatives visited them regularly, and were only afterward "disappeared."

For example, after twenty-two-year-old farmer Tribhuwan Giri was arrested by the police on December 18, 2001, in Khohalpur, Pipalchautara in Bardia, his family visited him regularly, first at the Guleria police office where Giri was kept for over two months, and then in the Guleria prison, where he was transferred on February 13, 2002. Giri told his family that he was accused of being a Maoist, but assured them that he was innocent and would come home soon. The family saw him last on May 2, 2002; when they came to the prison on May 7, prison officials said that Giri was not there anymore and showed them a document indicating that nine people, including Giri, were released on May 2. A detainee released from the prison later told the family that on May 2 all nine had been taken from the prison in an RNA truck. Prison officials told the family that Giri "might have been taken" for interrogation to the Guleria district police office, but the police confirmed that Giri had been taken from prison by the army, although they did not know where exactly he was being held. The family has not received any information about Giri since.¹³⁰

A relative of twenty-nine-year-old carpenter Som Bahadur Bishwokarma was also able to visit him in detention. Bishwokarma was arrested by the RNA on July 7, 2002, while visiting his aunt in Gandaki regional hospital in Pokhara. He was taken to the Fulbari army barracks and for the first three months a relative was allowed to visit him there. Soon after, he "disappeared." His relative told Human Rights Watch:

I came to see him, and the army at the barracks told me he had been transferred to jail, but did not say which one. I searched every jail in the

¹²⁹ Human Rights Watch interviews with the relatives of Jangu Tharu, Ram Bharose Tharu, Jagana Tharu and Jagat Ram Tharu, Bardia, September 29, 2004. For more information, see Appendix, the "disappearances" of Jangu Tharu, Ram Bharose Tharu, Jagana Tharu and Jagat Ram Tharu.

¹³⁰ Human Rights Watch interview with a relative of Tribhuwan Giri, September 28, 2004. For more information, see Appendix, the "disappearance" of Tribhuwan Giri.

area, but could not find him. Then I inquired at the district police office in Pokhara, and the police said they had received his case, and were expecting him to be brought there. They told me he would come home soon, but he never did. Two months ago [in July 2004] INSEC inquired at the barracks again, and they said he was still alive, but they would not tell them where he was.¹³¹

“Disappearances” after re-arrest

The army has also become notorious for re-arresting the detainees released after investigation by the police or on the order of a judge. Such cases were frequently reported in the Nepali media, as well as in the “urgent appeals” of Amnesty International and the Asian Human Rights Commission.¹³² Human Rights Watch has also documented several cases where detainees “disappeared” after allegedly being released from detention. The relatives believe they were arrested again by the army.

Twenty-year-old Gita Ghartimagar was arrested together with twenty-five-year-old Nanda Bahadur K.C. on February 22, 2002, in Chandanpur, Gadawa VDC-9, in Dang district. She was first taken to Lamahi APF barracks, and then to Tulsipur prison, where a relative visited her several times. Three months after the arrest and a few days after the relative’s last visit to the prison, local newspaper *Naya Yugbodbh* reported the release of twenty-one detainees, including Gita Ghartimagar and Nanda Bahadur K.C., but neither detainee returned home. Officials at the Tulsipur prison told K.C.’s family that they had transferred the detainees to the district police headquarters, but staff at the headquarters told the family they had no knowledge of the detainees. A year later the prison authorities told the ICRC, which was inquiring on behalf of Ghartimagar’s family, that they had handed her over to municipal authorities. Ghartimagar’s family believes the detainees were rearrested by security forces after their release.¹³³

¹³¹ Human Rights Watch interview with a relative of Som Bahadur Bishwokarma, Kaski, September 21, 2004. For more information, see Appendix, the “disappearance” of Som Bahadur Bishwokarma.

¹³² See, e.g. “Prisoners Released, Rearrested,” *The Himalayan Times*, September 6, 2004; “Two Feed, Rearrested,” *The Himalayan Times*, November 18, 2004; Asian Human Rights Commission, “Nepal: Re-arrest of Four People by the Police in the Court Yard in the Presence of the Lawyers,” July 16, 2004 [online], <http://www.ahrchk.net/ua/mainfile.php/2004/739/> (retrieved December 5, 2004); Asian Human Rights Commission, “Nepal: Another Two Persons were Re-arrested Despite the Appellate Court’s Release Orders in Banke District,” December 1, 2004 [online], <http://www.ahrchk.net/ua/mainfile.php/2004/880> (retrieved December 5, 2004); Amnesty International, “Nepal: Two teenage boys and father,” September 28, 2004 [online], <http://www.amnesty.org.uk/news/press/15621.shtml> (retrieved December 5, 2004).

¹³³ Human Rights Watch interviews with the relatives of Gita Ghartimagar and Nanda Bahadur K.C., Dang, September 25, 2004. For more information, see Appendix, the “disappearances” of Gita Ghartimagar and Nanda Bahadur K.C.

In a small number of cases, persons who had “disappeared” for several months after the security forces had taken them into custody have suddenly “reappeared” in detention. In one such case, twenty-eight-year-old journalist Maheshower Pahadi and his friend, forty-seven-year-old Gyan Bahadur Koirala, were arrested on January 2, 2004, in Liwangkhalek VDC, Kaski district, and taken to the Fulbari army barracks. Four days later, Pahadi and Koirala were seen wearing army uniforms and being led by RNA soldiers, after which relatives of Pahadi were able to meet with him briefly. Following that episode, the family heard no news for four months. They continued to write to the Chief District Officer’s office and to various army barracks for information without result. After four months, the family heard on a local radio broadcast that the men were transferred to Kaski prison, and that they were being detained under the Terrorist and Disruptive Activities (Control and Punishment) Act (TADA), the successor to TADO. Since then, the family has been able to visit the detainees regularly.¹³⁴

Such cases support the conclusion that most of the “disappeared” are being held incommunicado in army detention for months, and that the army’s denials of any knowledge of their whereabouts cannot be taken at face value. It is equally likely that a significant number of the “disappeared” have been summarily executed in government custody, as documented later in this report.

Places of detention

Testimonies of relatives of the “disappeared” and of detainees released from custody suggest that while a small number of detainees are initially taken to police stations and then transferred to prisons, the overwhelming majority are held incommunicado in unofficial places of detention, such as army and APF barracks and camps across Nepal. Although the army is not legally authorized, as explained below, to keep persons in detention, the practice has been prevalent throughout the country since the deployment of the RNA and APF in the conflict.

Human Rights Watch identified numerous places of detention where large numbers of detainees are reportedly being held. The facilities most frequently mentioned by witnesses as the places where their relatives had been held at some point before “disappearing” are presented in the table below. The names of the “disappeared” are listed next to a given place of detention in cases where they had been visited in the facility by their relatives, seen there by other detainees or NHRC representatives, or notified their families—by phone, letters, or through messengers—of their whereabouts.

¹³⁴ Human Rights Watch interview, Kaski, September 22, 2004. The identity of the witness is withheld to protect his safety.

Some of these detainees may have been executed in custody or transferred later to another facility, yet these are the places (unless otherwise indicated) where they were last seen or reported to have been alive.

Bhairabnath Gulm (Maharajgunj) army barracks, Kathmandu	<ol style="list-style-type: none"> 1. Ram Shahi 2. Dharma Raj Dangol 3. Kiran Maharjan 4. Bhaikaji Ghimire 5. Surjeman Maharjan 6. Rajendra Thapa 7. Navaraj Thapa¹³⁵ 8. [Name withheld]¹³⁶
Chhauni (Jagadal) army barracks, Kathmandu	<ol style="list-style-type: none"> 1. Dev Bahadur Maharjan¹³⁷ 2. Mukunda Sedai 3. Dilip Chandra Hadkhale¹³⁸ 4. Arjun Ojha 5. Baikuntha Bhujel 6. Hari Prasad Acharya 7. Navaraj Thapa 8. Ram Prasad Acharya 9. Indra Bahadur Aryal 10. Sugendra Maharjan

¹³⁵ Thapa was held in Bhairabnath Gulm barracks for eight days in October 2003, then released and rearrested a month later. After the second arrest he was seen in Chhauni barracks.

¹³⁶ The name of the witness is withheld to protect his safety. He was kept in Bhairabnath Gulm barracks for three months in 2003 and then transferred to 6 No Bahini Bareni army barracks in Dhading, where he spent the next four months before being released. The army never acknowledged having him in detention in response to relatives' inquiries. Human Rights Watch interview, Dhading, September 19, 2004.

¹³⁷ Maharjan was detained incommunicado in Chhauni barracks in November 2003. In September 2004 he was transferred to Sundarijal investigation center in Kathmandu and allowed visits by his relatives. Human Rights Watch interview with a relative of Dev Bahadur Maharjan, Kathmandu, September 18, 2004.

¹³⁸ Hadkhale was detained in Chhauni barracks for one day in September, 2003, then released and "disappeared" on January 21, 2004.

Fulbari army barracks, Kaski	<ol style="list-style-type: none"> 1. Rita Nepali 2. Tanka Sharma¹³⁹ 3. Som Bahadur Bishwokarma 4. Chaman Lal Baral 5. Hari Prasad Poudel 6. Raju Chettri 7. Netra Prasad Baral¹⁴⁰ 8. Parbati Poudel
Tulsipur army barracks, Dang	<ol style="list-style-type: none"> 1. Sohan Lal Chowdhury 2. Som Raj Chowdhury 3. Kuira Chowdhury 4. Chanak Lal Chowdhury 5. Jagi Chowdhury 6. Khushi Ram Chowdhury 7. Kodu Lal Chowdhury
Lamahi APF barracks, Dang	<ol style="list-style-type: none"> 1. Gita Ghartimagar¹⁴¹ 2. Nanda Bahadur K.C.¹⁴² 3. Gyani Chowdhury¹⁴³ 4. Maya Kumary Chowdhury

¹³⁹ Sharma might have been transferred to Bijayapur Army Barracks in Kaski, and then to Gorkha district – see Appendix, the “disappearance” of Tanka Sharma.

¹⁴⁰ Baral was apparently transferred to Mahendra Gand army barracks in Gorkha after a month of detention in Fulbari barracks in late 2003.

¹⁴¹ Ghartimagar was then transferred to Tulsipur prison, but “disappeared” after allegedly being released. See Appendix, the “disappearance” of Gita Ghartimagar.

¹⁴² K.C. was then transferred to Tulsipur prison, but then “disappeared” after allegedly being released. See Appendix, the “disappearance” of Nanda Bahadur K.C.

¹⁴³ Gyani Chowdhury has not been seen in detention in Lamahi barracks; however, after her arrest, her parents were ordered to report to the barracks for questioning about their daughter’s activities, which strongly suggests that she was in detention there. See Appendix, the “disappearance” of Gyani Chowdhury.

Chisapani army barracks, Bardia/Banke	<ol style="list-style-type: none"> 1. Sita Ram Tharu (Bardia) 2. Krishna Prasad Tharu 3. Bom Bahadur Shahi¹⁴⁴ 4. Raj Kumar Tharu (Bardia) 5. Sher Bahadur Tharu 6. Bhava Kumar Chowdhury 7. Buddi Ram Tharu 8. Pati Ram Tharu 9. Bhook Lal Chowdhury 10. Lahanu Chowdhury 11. Ram Prasad Tharu 12. Likha Ram Tharu 13. Jagat Kumar Chowdhury 14. Gita Kumar Chowdhury 15. Pahadi Tharu 16. Raj Kumar Tharu (Banke) 17. Sita Ram Tharu (Banke) 18. Karna Bahadur Chowdhury 19. Yagya Buddi 20. Nar Bahadur Buddi 21. Gagan Bahadur Gharti 22. Narda Ram Gharti 23. Fula Raj Tharu 24. Raj Bahadur Tharu 25. Dayamanti Pun¹⁴⁵
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¹⁴⁴ It is likely that four other men arrested together with Shahi were also taken to the Chisapani barracks, although there is no direct evidence of their detention there. See Appendix, the “disappearances” of Tirtha Bahadur Thapa, Shree Ram Tharu, Hira Sing Bathamagar, Bom Bahadur Shahi and Siya Ram Chowdhury.

¹⁴⁵ Soldiers at the Chisapani barracks told the family that Pun was transferred to the Thakurdwara army barracks after five days of detention there. See Appendix, the “disappearance” of Dayamanti Pun.

Thakurdwara army barracks, Bardia	<ol style="list-style-type: none"> 1. Nirmal Chowdhury 2. Jagat Prasad Chowdhury 3. Sita Chowdhury 4. Dayamanti Pun 5. Jilla Sandesh Tharu
Rambhapur army barracks/army post, Bardia	<ol style="list-style-type: none"> 1. Tate Ram Tharu¹⁴⁶ 2. Hari Ram Chowdhury¹⁴⁷ 3. Jangu Tharu 4. Ram Bharose Tharu 5. Jagana Tharu 6. Jagat Ram Tharu¹⁴⁸ 7. Raj Kumar Tharu 8. Siya Ram Chowdhury 9. Kala Ram Tharu 10. Badhu Tharu 11. Babu Ram Tharu

As mentioned above, many of the sixteen people who “disappeared” as a result of the RNA and APF operation in the Rajapur area of Bardia RNA on October 20-22, 2002, were last seen in detention in the Manpur Tapara temporary army camp, which was later dismantled.

Other places where the detainees have been held in custody before their “disappearance” include Balazu police station and Balazu army camp (Kathmandu),

¹⁴⁶ Tate Ram Tharu and Hari Prasad Chowdhury have not been seen in detention in Rambhapur barracks; however, when they met with a senior officer there, he told them that if they could bring a statement from village leaders certifying the men had nothing to do with the Maoists, they might be released, strongly indicating that the men were indeed in his custody. See Appendix, the “disappearances” of Tate Ram Tharu and Hari Prasad Chowdhury.

¹⁴⁷ Ibid.

¹⁴⁸ Jangu Tharu, Ram Bharose Tharu, Jagana Tharu, Jagat Ram Tharu have not been seen in detention; however, when the ex-chairman of their village inquired at the Rambhapur army post, an officer there initially asked him to bring a petition to release the detainees signed by the acting chairman, suggesting that the men were in custody there. See Appendix, the “disappearances” of Jangu Tharu, Ram Bharose Tharu, Jagana Tharu and Jagat Ram Tharu.

Shorakutte police station (Kathmandu), Farping army camp (Kathmandu), Bijayapur army barracks (Kaski), Pokhara police post (Kaski), Bharatpur police post (Chitwan), Rajdal army barracks (Lalitpur), Suryabinayak army barracks in Bhaktapur (Kavre), Mahendra Gand army barracks (Gorkha), Choprak police station (Gorkha), Gorkha district police headquarters (Gorkha), Nawalparasi army barracks (Nawalparasi), Bhansar police post (Tanahu), Rajpur area police post (Dang), Tulsipur prison (Dang), Ghorahi regional police station (Dang), Ghorahi army barracks (Dang), Guleria district police office and Guleria prison (Bardia), Kohalpur army barracks and Kohalpur police post (Banke), and Rajha Airport Army Barracks (Banke).

The fact that so many different detention facilities have been directly implicated in “disappearances” demonstrates that the problem of “disappearances” in Nepal is not caused by a few rogue soldiers and officers, but is rather a nationwide epidemic and an institutional problem.

Evidence of killings in custody

While enforced disappearances themselves constitute an egregious violation of human rights, they also greatly increase the risk of extrajudicial killings, torture, and ill-treatment of detainees in custody.¹⁴⁹ The practice of holding people incommunicado in unacknowledged detention in unofficial facilities, maintaining no records of arrest and detention, and refusing to grant access to detainees by relatives and lawyers, creates ample opportunity for further abuses.

Many of the “disappeared” may have been killed in custody. Nepali security forces have been implicated in thousands of summary and extrajudicial executions; according to the National Human Rights Commission, they have been responsible for over 2,000 extrajudicial killings since 2001, when the RNA and APF were deployed in counterinsurgency operations.¹⁵⁰ INSEC reported that in 2003, 166 people were “killed by [the] State after arrest.”¹⁵¹ An earlier Human Rights Watch report documented numerous unlawful killings both by the Maoists and government forces.¹⁵²

¹⁴⁹ This section discusses torture and killings only in governmental custody. Maoist forces have also been responsible for numerous cases of killings and torture, documented in Human Rights Watch's previous report on Nepal. See Human Rights Watch, *Between a Rock and a Hard Place*, 53-60.

¹⁵⁰ The National Human Rights Commission, *Human Rights in Nepal: A Status Report 2003*, 16.

¹⁵¹ Informal Sector Service Center (INSEC), *Human Rights Yearbook 2004*, (Kathmandu: INSEC, 2004), 9.

¹⁵² Human Rights Watch, *Between a Rock and a Hard Place*, 27. For a description of summary executions and unlawful killings by Nepali security forces see pages 26-53; for a description of extrajudicial executions by Maoist forces, see pages 53-60.

During its latest visit to Nepal, Human Rights Watch obtained convincing evidence of extrajudicial killings of captured Maoists and civilians. Twenty-nine of the families interviewed for this report believe their “disappeared” relatives were killed after being taken into custody by security forces. Reports of the killings came from eyewitnesses to executions, media stories, human rights and humanitarian organizations, or unofficial contacts in the military. However, in only one of the cases was the body returned to the family. In five other cases, the families believe their relatives were killed in custody, although they were unable to cite a basis for their suspicion.

Some people were executed by security forces almost immediately after arrest. Thus, on the night of October 2, 2002, about five hundred RNA troops, some uniformed and some in civilian clothing, surrounded the village of Madaha in Motipur VDC-5 in Bardia. At around 1 a.m., a group of soldiers came to the parental home of thirty-four-year-old Khagga Tharu and his twenty-three-year-old brother Kala Ram Tharu. The soldiers entered the house and started beating and yelling at Khagga. They then ordered him to put his clothes on and brought him to a nearby field. His elderly relatives told Human Rights Watch:

Shortly after they left, we heard two gunshots from across the field, and wanted to go, but other soldiers were still in the house and they did not let us. They had their flashlights and guns pointed at us. The soldiers [that left with Khagga] then came back and took a wooden bed from our house... Next morning we went to the field and found Khagga’s small sleeping veil that he took with him, all covered in blood.¹⁵³

The soldiers brought Khagga’s body back to the village, although his relatives were not allowed to see it. That night, they arrested four other men, including Kala Ram Tharu, and ordered them to carry Khagga’s body away from the village on the wooden bed they had taken from his house. The body of Khagga Tharu was never returned to his family, while three of the detainees—Kala Ram Tharu, forty-nine-year-old Badhu Tharu, and twenty-six-year-old Babu Ram Tharu—have not been seen since that night. The fourth detainee was released a week after the arrest and told the families that after the four men brought Khagga Tharu’s body to a military van parked in a neighboring village, they were blindfolded and brought to the Rambhapur army post. He was transferred to the Chisapani army barracks together with the other men, and reported to the families that

¹⁵³ Human Rights Watch interview with two relatives of Kala Ram and Khagga Tharu, Bardia, September 28, 2004.

the missing men were still being detained at Chisapani Army Barracks at the time of his release.¹⁵⁴ The families' efforts to locate them have proven futile.¹⁵⁵

In a number of cases, according to witnesses, soldiers provoked the detainees to attempt an escape during the arrest—a common tactic used by RNA soldiers, who then shoot the detainee and claim he was trying to run away. A released detainee who was arrested together with five other men, who subsequently “disappeared”¹⁵⁶ during the May 23, 2002, RNA operation in the village of Machaghar, Deudakala VDC-3, Bardia, told Human Rights Watch:

The soldiers first took us to a nursery in the village—there they interrogated and beat us with their boots... Then they walked us to a riverbank, and said, ‘OK, now run away.’ We told them: ‘If we run away, you’ll shoot us,’ and we stayed.¹⁵⁷

The villagers who saw sixteen-year-old Bir Bahadur Thapa (see above) as he was taken away by RNA soldiers later told the family that the soldiers had ordered Thapa to run away, but that he refused, and was then blindfolded and handcuffed.¹⁵⁸

Other testimonies confirm that some of the “disappeared” were executed by RNA in unofficial places of detention, such as army barracks. Thirty-five-year-old Sita Ram Tharu, from Magarghadi VDC-4, Bardia district, was detained by RNA soldiers who arrived in his village at about 4 p.m. on December 16, 2001. The soldiers also arrested three other villagers, including two relatives of Tharu, all of whom were later released. One of the released detainees told Human Rights Watch that they had all been taken to the Chisapani army barracks, where she witnessed what appears to have been the execution of her relative Sita Ram Tharu:

¹⁵⁴ Ibid.

¹⁵⁵ Human Rights Watch interviews with the relatives of Kala Ram and Khagga Tharu, Bardia, September 28, 2004; Human Rights Watch interview with a relative of Badhu Tharu Bardia, September 28, 2004; Human Rights Watch interview with a relatives of Babu Ram Tharu, Bardia, September 28, 2004. For more information, see Appendix, the “disappearances” of Khagga Tharu, Kala Ram Tharu, Badhu Tharu, and Babu Ram Tharu.

¹⁵⁶ See Appendix, the “disappearances” of Tirtha Bahadur Thapa, Shree Ram Tharu, Hira Sing Bathamagar, Bom Bahadur Shahi and Siya Ram Chowdhury.

¹⁵⁷ Human Rights Watch interview, Bardia, September 27, 2004. The name of the witness is on file with Human Rights Watch. His identity is being withheld to protect his safety.

¹⁵⁸ Human Rights Watch interviews with two relatives of Bir Bahadur Thapa, Dang, September 24, 2004. For more information, see Appendix, the “disappearance” of Bir Bahadur Thapa.

I was there when they killed him. They interrogated him for some time. Then, after a while, he was taken away by the soldiers, into the forest. His hands were tied and he was blindfolded. Three or four minutes after they took him into the forest, I heard two gunshots. Then the same soldiers came back to us and took us into a room.¹⁵⁹

The case of Sita Ram Tharu, whose execution remains unconfirmed by the government to date and whose body was never handed over to his family, provides strong evidence that executions of detained people have taken place at the Chisapani army barracks, the very location where a large number of persons have “disappeared,” and raises the possibility that many other “disappeared” persons were similarly killed.

On a number of occasions, the Unified Command issued statements indicating that certain individuals—invariably categorized as “Maoists”—were killed in “encounters” with security forces, despite strong evidence suggesting that the persons had been previously detained and “disappeared” in governmental custody. The “disappearance” and execution of four persons in Gorkha district in late 2002 illustrates this tactic.

On December 4, 2002, several police officers and RNA soldiers in civilian dress came to the home of twenty-one-year-old student Niru Pokhrel in Pritihivi Narayan Municipality of Gorkha, where they showed their security force identification cards. They said they wanted to take Pokhrel in for questioning, but that they would return her the next morning. Pokhrel was never seen again; however, relatives brought Pokhrel clean clothes several times over the next few weeks at the District Police Headquarters in Gorkha, and were given her dirty clothes for washing, strongly suggesting that Pokhrel was alive and for a time was kept at the district police headquarters.¹⁶⁰

The next day, December 5, 2002, a group of RNA soldiers came to the Choprak VDC, Gorkha home of Keshar Bahadur Nepali, a fifty-year-old teacher who had been appointed head of the local village committee of the Maoists’ “People’s Government.” Nepali was arrested from his home and taken to the Lakeside army camp, where he was used by the RNA to identify other CPN-M members over the following days.¹⁶¹

¹⁵⁹ Human Rights Watch interview, Bardia, September 29, 2004. The name of the witness is on file with Human Rights Watch. His identity is being withheld to protect his safety. For more information, see Appendix, the “disappearance” of Sita Ram Tharu.

¹⁶⁰ Human Rights Watch interview with a relative of Niru Pokhrel, Gorkha, September 20, 2004. For more information, see Appendix, the “disappearance” of Niru Pokhrel.

¹⁶¹ Human Rights Watch interview with a relative of Keshar Bahadur Nepali, Gorkha, September 20, 2004. For more information, see Appendix, the “disappearance” of Keshar Bahadur Nepali.

A high school teacher who had been in detention at the Gorkha district police office from December 28, 2002 to January 17, 2003, confirmed to Human Rights Watch that he had seen Niru Pokhrel and nineteen-year-old Durga Pokhrel, both of whom had been his students, in detention there. He also heard the voice of Keshar Bahadur Nepali, who was from his home village, at the police station. Other detainees also pointed out to him a fourth detainee, forty-seven-year-old Khadanada Pande.¹⁶²

About one month after the arrest, local radio stations and newspapers carried a government announcement that Pokhrel and Nepali, together with Durga Pokhrel, a nineteen-year-old student from Choprak VDC-6 in Gorkha district, and Khadanada Pande, identified as a CPN-M activist, had been killed in an “encounter” with security forces.¹⁶³ Given the fact that at least two of the victims were known to have been in detention prior to the killings, the “encounter” appears to have been staged, and a more credible conclusion is that the four were killed while in police custody. Because the Nepali government has never formally acknowledged the killings or handed over the bodies to the relatives, the four remain “disappeared” to date.

The killing of these four persons in detention is not the only suspected execution case in Gorkha. According to local human rights activists, on January 2, 2003, just five days later, Nepali security forces executed another five detained Maoists suspects: twenty-one-year-old Bishnu Marahatta; twenty-two-year-old Kalika Poudel; twenty-two-year-old Purna Chandra Acharya; nineteen-year-old Kumar Thapa; and twenty-year-old Nabin Shirestha. The disappearance of all nine persons remains unresolved, and the substantiated allegations that they were all killed in custody have not been investigated by the authorities.¹⁶⁴

Human Rights Watch has also received unexpectedly candid confessions regarding custodial killings from several soldiers and a policeman interviewed at checkpoints in Bardia district. When Human Rights Watch researchers asked a young soldier at one of the checkpoints what they generally did with the Maoists they captured, he bluntly responded: “We kill them.”

¹⁶² Human Rights Watch interview, Gorkha, September 20, 2004. The name of the witness is on file with Human Rights Watch. His identity is being withheld to protect his safety.

¹⁶³ Human Rights Watch interview with a relative of Niru Pokhrel, Gorkha, September 20, 2004; Human Rights Watch interview with a relative of Keshar Bahadur Nepali, Gorkha, September 20, 2004; Human Rights Watch interview with Narnath Marhatta, Gorkha, September 20, 2004; Human Rights Watch interview with INSEC official, Gorkha, September 20, 2004.

¹⁶⁴ Human Rights Watch interview with INSEC activist, Gorkha, September 20, 2004.

In a separate interview with a policeman and an RNA soldier, the policeman said that they interrogate the detained Maoists and, when asked what happened afterwards, also said: “We kill them.” The soldier corrected him, saying “No, we take them to jail,” but the policeman continued: “Yes, we take them to jail and then we kill their asses.”¹⁶⁵

Evidence of torture in custody

Despite Nepal’s obligations under international law, and the explicit prohibition of torture in the Nepali Constitution, torture and ill-treatment in custody are prevalent throughout the country.¹⁶⁶ Based on a nation-wide survey conducted by Nepal’s Center for Victims of Torture (CVICT), the National Human Rights Commission reported that up to 70 percent of persons arrested by state authorities are likely to be tortured.¹⁶⁷ The NHRC observed that “most of the persons who are ‘disappeared’ go through extreme torture in captivity.”¹⁶⁸

Human Rights Watch interviews with individuals who were released after the government denied holding them in custody, as well as with families who visited their relatives in detention before their “disappearance,” consistently show the prevalence of ill-treatment and torture in custody. Many individuals who subsequently “disappeared” were beaten during arrest, and in twenty-three cases evidence suggests that the persons were subjected to severe beatings or other forms of torture while in detention. In a majority of the cases where relatives were able to obtain information about the “disappeared” person’s treatment in custody, beatings and torture were reported.

For example, when relatives visited thirty-eight-year-old Satya Narayan Prajapati in detention in Suryabinayak army barracks in Bhaktapur, Kavre, he told them he had been severely tortured and complained of two broken teeth and pain in his kidneys. Prajapati, a Kathmandu-based lawyer and an activist in the CPN-M front organization, United People’s Front party, was arrested by security forces in Sangachowk, Kavre district, on April 26, 2002. The relatives saw him in detention a month after his arrest, after which

¹⁶⁵ Human Rights Watch interviews, Bardia, September 29, 2004.

¹⁶⁶ Nepal acceded to the Convention against Torture on May 14, 1991; Article 14 (4) of the Constitution of the Kingdom of Nepal (1990) states that “no person who is detained during investigation or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhuman or degrading treatment. Any person so treated shall be compensated in a manner as determined by law.”

¹⁶⁷ The National Human Rights Commission, *Human Rights in Nepal: A Status Report 2003* (Kathmandu: National Human Rights Commission, Nepal, 2003), 35.

¹⁶⁸ Sanjaya Dhakal, “A terrible situation,” *Nepalnews.com*, November 5-11, 2004 [online], <http://www.nepalnews.com.np/contents/englishweekly/spotlight/2004/nov/nov05/national6.htm> (retrieved December 6, 2004).

he “disappeared.” The soldiers at Suryabinayak army barracks told the family Prajapati had been transferred to Kathmandu, while at the Balazu army camp in Kathmandu the family was told that he had been detained there briefly but was then transferred again. Since then, the family has been unable to obtain any information of his whereabouts.¹⁶⁹

Thirty-four-year-old Arjun Ojha “disappeared” after being arrested on March 25, 2004, by two plainclothes RNA soldiers while he was buying groceries in the Kalimati market of Kathmandu. A second person who was arrested with Ojha¹⁷⁰ and released three months later told the family that while they were held together at Chaunni army barracks for thirty days, Ojha was severely beaten by RNA soldiers and suffered injuries to his chest. In September 2004 Ojha managed to speak with his family in a one-minute phone call, but was unable to state where he was being kept.¹⁷¹

Twenty-eight-year-old journalist Maheshower Pahadi also told his family that he had been severely tortured in army custody, and that one of his fingers had been broken (see case description above).¹⁷²

In at least one case involving a fourteen-year-old boy, the torture inflicted by RNA soldiers resulted in death. Fourteen-year-old Narda Ram Gharti was arrested from Jammunitole village, Kohalpur VDC-6, Banke district, together with thirteen other men by police officers on June 10, 2002. The detainees were transferred to Chisapani Army Barracks, where they were regularly beaten with heavy bamboo canes during interrogation. After eleven days of beatings, fellow detainees saw Narda Ram Gharti close to death and “swollen all over his body.” He died from his injuries soon thereafter (see case description in Appendix).

Witness testimonies strongly suggest that the detainees are often kept blindfolded throughout the entire time of their detention. In one such case, a released detainee who was held in unacknowledged detention for seven months told Human Rights Watch that after his arrest on October 1, 2003, he spent three months in the Bhairabnath Gulm (Maharajgunj) army barracks in Kathmandu, and another four months in the Bahini

¹⁶⁹ Human Rights Watch interview with a relative of Satya Narayan Prajapati, Kathmandu, September 18, 2004. For more information, see Appendix, the case of Satya Narayan Prajapati.

¹⁷⁰ The name of the second detainee is on file with Human Rights Watch. His identity is being withheld to protect his safety.

¹⁷¹ Human Rights Watch interview with a relative of Arjun Ojha, Kathmandu, October 11, 2004.

¹⁷² Human Rights Watch interview, Kaski, September 22, 2004. The identity of the witness is being withheld to protect his safety.

Bareni army barracks in Dhading. He was blindfolded throughout that time, and only discovered his place of detention from other detainees.¹⁷³

¹⁷³ Human Rights Watch interview, Dhading, September 19, 2004. The name of the witness is on file with Human Rights Watch. His identity is being withheld to protect his safety.

V. Factors contributing to the crisis of “disappearances”

The government's failure to acknowledge and end “disappearances”

According to the United Nations, Nepal had the highest number of new “disappearances” in the world in both 2003 and 2004.¹⁷⁴ “Disappearances” and extra-judicial killings have become an integral part of Nepal’s counterinsurgency campaign. The security forces commit the “disappearances,” and instead of taking action to prevent such severe abuses, civilian authorities have focused on issuing denials and covering up the abuses. Only one senior officer has been held accountable for “disappearances” in Nepal. Even if the government has not directly asked its security forces to commit disappearances as part of its campaign against the Maoists, its failure to take reasonable steps to end the practice or to hold perpetrators accountable makes civilian authorities deeply complicit in the epidemic of “disappearances” in Nepal. In the face of such government inaction, disappearances can fairly be characterized as government policy.

For a long time, the government of Nepal refused to acknowledge the seriousness of the human rights crisis in the country or to admit that “disappearances”—as well as other human rights violations in the country—could be attributed to government forces. The government’s failure to take sufficient action on abuses by the security forces has been further exacerbated by the impotence of its own bureaucratic institutions and the poor record-keeping of government ministries. Nepal’s institutions are further weakened by the Maoists’ campaign of intimidation and murder against government officials.

High-ranking Nepalese officials go to great lengths to persuade the outside world, which is becoming ever more concerned about Nepal’s deteriorating human rights record, that the government is doing everything necessary to protect people’s rights. Even when the government admits that certain human rights problems exist in Nepal, it blatantly denies the responsibility of its security forces for the abuses, and consistently places all the blame for the existing violations and the failure to stop them on the Maoists.

Thus, defending Nepal’s position at the sixtieth session of the U.N. Human Rights Commission in March 2004, the Minister of Foreign Affairs, Dr. Bhek Bahadur Thapa, asserted that the current situation in Nepal is caused exclusively by “threats and violence created and sustained by the Maoists,” while the government is fully “committed to

¹⁷⁴ This figure is based on the number of cases the Working Group receives information about, and is not based on statistically valid surveying methods.

ensuring with utmost sincerity that even in responding to the threats posed by [the] insurgency,” it keeps “the respect for human values and human rights uppermost in [its] mind.” He emphasized that “the security forces have been cautious and sensitive to protect human rights of people.”¹⁷⁵

The refusal by Nepali authorities to acknowledge the problem of “disappearances”—and their failure to take action to stop the abuses—was also evident in a statement made in September 2004 by the Nepali embassy in Washington, D.C., publicly denying the veracity of allegations of human rights violations by the Royal Nepalese Army:

[The army] is a professional force, committed to duty, discipline and caring for the civilian population. Any accusation of military atrocities against the civilian population by the [Royal Nepalese Army] is malicious propaganda.¹⁷⁶

Even ardent supporters of the RNA and opponents of the Maoists within the U.S., U.K., and Indian military establishments privately admit that the RNA commits many abuses, blaming these on the poor quality of the country’s officer corps, poor training, and poor equipment.

On the question of “disappearances,” the government has been particularly obstinate. Addressing a meeting organized by the NHRC to mark International Human Rights Day on December 10, 2004, Prime Minister Sher Bahadur Deuba heatedly refuted the allegations of security force responsibility for “disappearances,” saying:

You know, [the Maoists] are not known by their real names... So, a Maoist gets arrested in one name and may be released with a different name. Some may have died during the battle. Some may have even crossed over to India across the open border. Then, how can the government be blamed for this?¹⁷⁷

¹⁷⁵ See “Dr. Thapa Defends Nepal’s Human Rights Record,” *The Kathmandu Post*, March 19, 2004.

¹⁷⁶ “The Record on Nepal,” *The Washington Times*, September 17, 2004. The statement, signed by Nepali Embassy Deputy Chief of Mission Rudra K. Nepal, was published in *The Washington Times* in response to a September 11, 2004 article by Chitra Tiwari entitled “Nepal’s Poor Suffer Most in Civil War.”

¹⁷⁷ See Nepalnews.com “Pressurize Rebels, Not the Government: PM Deuba,” [online], December 10, 2004 <http://www.nepalnews.com.np/archive/2004/dec/dec10/news08.php> (retrieved December 18, 2004).

In the absence of a clear government commitment to stop widespread “disappearances,” it is impossible to undertake the steps necessary for eliminating the phenomenon. Such steps would require addressing the factors that make the practice so widespread, including existing legislation, the impunity of security forces, the impotence of the judicial system and CDOs to exercise control over the security forces, and the weakness of human rights monitoring mechanisms.

Inadequate legal framework

Although Nepal’s constitution, in conformance with international law, guarantees fundamental human rights, such as the right to life, the right to liberty and security of person, the right to a fair trial, and prohibitions against torture, a number of existing laws either effectively negate or fail to uphold these constitutional safeguards.

Under the state of emergency declared in November 2001, the constitutional protections against arbitrary detention and the right to judicial remedies (apart from habeas corpus) were suspended altogether, thus rendering people even more vulnerable to arbitrariness and abuse.¹⁷⁸ At the same time, security forces were given additional powers to arrest and detain suspects on preventive detention orders under the Terrorist and Disruptive Activities Ordinance (TADO). The ordinance was later replaced by the Terrorist and Disruptive Activities (Control and Punishment) Act (TADA), which was enacted into law for two years in April 2002.

When TADA expired in April 2004, the Nepali authorities were unable to renew it as a parliamentary act, as Parliament and other democratic institutions had been disbanded by King Gyanendra in October 2002, effectively suspending Nepal’s brief experiment with democracy. Instead, King Gyanendra extended the legislation by royal proclamation (reverting to its status as an ordinance).

The first TADO granted security forces sweeping powers to arrest persons suspected of involvement in acts of terrorism without a warrant.¹⁷⁹ Under the law, detainees can be

¹⁷⁸ Article 115 (8) of the Nepali Constitution allows the government to suspend certain rights, such as the rights to freedom of thought, expression, assembly, and movement, the right not to be held in preventive detention without sufficient ground and the right to judicial remedies (apart from habeas corpus) during a state of emergency. International law permits the suspension of certain rights during a state of emergency, but only to the extent strictly required by the exigencies of the situation.

¹⁷⁹ TADO, Section 5(a). Under TADA (Section 3(2)) Terrorist or disruptive activities include damage, destruction, injury, death, kidnapping and threats, and the production, distribution, storage, transport, export, import, sale, possession or installation of explosive or poisonous substances, or the assembly and training of persons for these purposes, as well as conspiring, causing, compelling, instigating, remunerating, or publicizing acts of terrorism, or harboring persons involved with terrorist and disruptive activities.

kept for up to sixty days for investigation and for up to ninety days in preventive detention in “a place suitable for human beings,” without being brought before a court of law.¹⁸⁰

On October 13, 2004, King Gyanendra again issued by Royal Proclamation a revised and even more draconian Terrorist and Disruptive Activities Ordinance (TADO 2004), which provides the security forces with even greater powers, allowing them to hold individuals in preventive detention for up to one year without charge or trial and without any recourse to the judiciary.¹⁸¹

In its current incarnation, TADO 2004 also provides Nepali security forces with immunity from prosecution for “any act or work performed or attempted to be performed in good faith while undertaking their duties,” effectively making them unaccountable for possible violations.¹⁸² RNA personnel seem to interpret the various versions of TADO as relieving them of accountability for unlawful actions imposed by the Army Act (see below).

The above-cited provisions of TADO 2004 are in clear breach of the Nepali Constitution, as well as of Nepal’s international obligations under the ICCPR and the Convention against Torture. The act’s blatant unconstitutionality and unlimited potential for abuse have prompted sharp criticism by the NHRC, which noted that the law “aids and abets those who, under the guise of maintaining ‘law and order’ or ‘security concerns,’ continue to violate the human rights of the citizens of Nepal.”¹⁸³

¹⁸⁰ TADO, Sections 9, 17(5). Under the sections, a person can be put in preventive detention on the basis of “a reasonable ground for believing” that the person “has to be prevented from committing acts that could result in a terrorist or disruptive act.” The wording of the sections thus creates an insufficient threshold for derogating from the constitutional protection guaranteed by Article 15(1) of Nepal’s Constitution, which states that nobody should be subjected to preventive detention “unless there is a sufficient ground of existence of an immediate threat to the sovereignty, integrity or law and order situation” in the country.

¹⁸¹ Terrorist and Disruptive Activities Ordinance, Ordinance no 61, 2061, *Nepal Rajpatra (Nepal Gazette)*, Part 54, Annex 33, Ashoj 27, 2061. The revised Section 9 of the Ordinance states:

In case there exist appropriate grounds to believe that a person has to be stopped from doing anything that may cause a terrorist and disruptive act, the Security officer may issue an order to keep such person in preventive detention at a place, which is suitable for human being for six months. In case there exist appropriate grounds for believing that the person in the prevention detention has to be stopped for additional period from doing anything that may cause a terrorist and disruptive act, the security officer with permission from Home Ministry of His Majesty Government may issue an order to keep in preventive detention mentioned in this clause for another six months.

¹⁸² TADO, Section 20.

¹⁸³ The National Human Rights Commission, *Human Rights in Nepal: A Status Report 2003*, 16.

Several other laws adopted during the Panchayat era and still in place today provide a basis for arbitrary arrest and detention.¹⁸⁴ For example, the vaguely worded Public Security Act allows the authorities to keep a person who allegedly threatens the “sovereignty, integrity or public tranquility and order of the Kingdom of Nepal” in preventive detention for a period of up to twelve months, without specifying any criminal charge.¹⁸⁵

The Public Offense and Punishment Act of 1970 and the Anti-State Crimes and Penalties Act of 1989 have also frequently been used to detain people for prolonged periods of time without proper judicial oversight.¹⁸⁶ The broad discretionary powers vested by these laws in local authorities, such as CDOs, create grounds for arbitrariness and abuse.

Nepali law does not provide a proper framework for establishing accountability for human rights violations and redress for victims. The Police Act, which regulates the functioning of Nepali police forces, does not include provisions holding police legally responsible for unlawful detention, mistreatment of detainees, or any other violations of the rights of people in police custody.¹⁸⁷ It also introduces immunity for the Chief District Officer or for any police personnel “for action taken by him in good faith while discharging his duties.”¹⁸⁸

¹⁸⁴ From 1962 to 1990, Nepal was under the system of governance known as Panchayat, under which all political parties except the Royalist Rastriya Panchayat Party were banned, and the country was run by the King.

¹⁸⁵ The Public Security Act 1989, *Nepal Ain Sangraha (Collection of Nepalese Laws)*, Vol.3 (ka), 2055, Section 5. The Public Security Act was adopted initially allowed preventive detention for up to ninety days on the orders of a local authority, which could be extended to six months with the endorsement of the Home Ministry. In 1991, the law was amended to allow an additional six-month extension of the detention period with the approval of an advisory board established under the act (Section 7).

¹⁸⁶ The Public Offense and Punishment Act covers such crimes as disturbing the peace, vandalism, rioting and fighting. According to NHRC, in the past the law was often used by CDOs to suppress political activists and leaders, and after 1990, the ruling party has used it against its own political opponents (See The National Human Rights Commission, “Human Rights in Nepal: A Status Report 2003,” 45). The Anti-State Crimes and Penalties Act includes crimes such as insurrection and treason and carries punishments of up to life imprisonment.

¹⁸⁷ The Police Act was adopted in 1955, and amended several times. Chapter 6 of the Police Act contains a long list of crimes for which police personnel may be responsible, ranging from to participation in an armed rebellion to feigning “sickness or physical weakness.” The only provision that could be construed as introducing responsibility for human rights violations is Section 34(n), which makes a police official liable if “he unjustly harasses any person through arrogance or intimidation or causes loss or damage to the property of any person.” This provision, however, significantly lacks specificity, and fails to ensure adequate accountability for law enforcement personnel in the discharge of their duties, as required by international law. The Police Act 1955, *Nepal Ain Sangraha (Collection of Nepalese Laws)* Vol. 3 (Kha) 2060.

¹⁸⁸ The Police Act, Section 37.

Moreover, even the 1996 Torture Compensation Act, which obliges the government to pay compensation for torture, fails to recognize torture or custodial death as criminal acts or to subject the responsible officials to criminal liability.¹⁸⁹

Nepali law does not contain provisions that would create a legal basis for compensation to be granted by the courts in cases of “disappearance.”¹⁹⁰

The Public Security Act contains inconsistent provisions regarding the possibility of challenging a detention order in a court of law.¹⁹¹ Further, the act does not establish adequate criminal liability for abuse of authority under its provisions, stipulating merely that if an order issued by the local authority “is proved to have been issued with mala fide motives, departmental action shall be taken against such authority, and he shall be punished.”¹⁹²

Although the Army Act of 1959 regulating the functioning and conduct of the Royal Nepalese Army establishes the legal responsibility of personnel for “improper” arrests, these provisions do not apply to arrests carried out under TADO.¹⁹³ In addition, the

¹⁸⁹ Torture Compensation Act, 1996, *Nepal Ain Sangraha (Collection of Nepalese Laws)*, Supplementary Part, 2053. (Supplementary Part 2053) The Act’s failure to recognize torture as a criminal act contradicts Nepal’s obligations under the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁹⁰ In the past, international human rights organizations, such as Amnesty International, have repeatedly called upon the Supreme Court of Nepal “to follow the practice elsewhere in South Asia where the courts have ordered damages to be paid to the family” of a “disappeared” person, as a form of redress by a specified date, in cases where it has been proven that someone who has “disappeared” was last seen in the custody of the state. However, the court authorities have not acted on these recommendations. See Amnesty International, “Nepal: Widespread ‘Disappearances’ in the Context of Armed Conflict,” October 16, 2003, ASA 31/045/2003.

¹⁹¹ Section 11 of the Act stipulates that “no order issued under this act may be questioned in the court of law.” At the same time, Section 12.A (1) allows a person who “feels that he has been detained in contravention of this law or in a *mala fide* manner” to file a complaint at the District Court “while still in detention or within 35 days after his release.” In 1996-2000, several Maoist sympathizers detained under the Public Security Act were released after the Supreme Court found their detention illegal. However, to the best of our knowledge, the procedure has not been used since 2000.

¹⁹² The Public Security Act, Section 13.

¹⁹³ The Army Act 1959, *Nepal Ain Sangraha (Collection of Nepali Laws)*, Vol. 3 (B), 2056 (1999). Article 42 establishes that a member of the armed forces “will be liable to be punished with imprisonment for a term not exceeding two years, or with punishment of a lesser degree” mentioned in the Act:

- In case he arrests any person or places him in detention and does not present his case for a hearing without any reasons or does not present his case before the appropriate authority for investigations: or
- In case any person who has ordered that any person be kept in military custody fails without proper reasons to submit... a statement signed by him against the person to be kept in custody immediately or as early as possible or within 48 hours in any circumstances.

Army Act grants immunity from prosecution “in case any person dies or suffers any loss as a result of any action taken” in the course of discharging duties.¹⁹⁴

Taken together, the various provisions allowing for long-term detention without charge and without judicial oversight, as well as the near absolute immunity from prosecution granted to the security forces, create an atmosphere in which large numbers of “disappearances” occur under the guise of legality.

Impunity of the security forces

One of the most significant factors contributing to the prevalence of “disappearances” is the systemic impunity enjoyed by Nepali security forces and their blatant disregard for the few existing safeguards whose purpose is to protect individuals from abuses.

Within the security forces, the legal provisions discussed in the previous section create a sense of being shielded from justice, of being above the law. Providing due process to detainees thereby recedes in importance, since there are likely to be no penalties for failure to follow the law. The cases of “disappearances” documented by Human Rights Watch clearly demonstrate that arrests and detentions are routinely carried out in a manner that violates existing Nepali and international laws.

As the examples cited in the previous chapter and in the Appendix to this report show:

- Security forces arrest and keep individuals in detention for periods of time exceeding prescribed limits and without CDOs having any knowledge of the detentions;
- The RNA holds people in detention in army barracks, although no law authorizes the military to keep detainees in their custody;
- The security forces often keep no record of detentions;
- The security forces keep detainees incommunicado, denying access to relatives, lawyers, and human rights groups
- In the vast majority of cases the security forces deny ever having arrested a person or having an individual in detention, even when there is clear evidence of the person being in their custody; and

¹⁹⁴ The Army Act, Section 24.A. The explanation to the section stipulates that for the purposes of this Section, the term “any action taken while discharging duties” means any action “to be taken for internal security or self-defense, including flag march, patrolling and guard duty.”

- The security forces often re-arrest individuals released by court order.

Moreover, the sweeping impunity granted to security forces by TADO and other laws contributes to routine ill-treatment and torture in detention, as well as summary and extrajudicial executions of people in custody.

While the government often tries to shield its security forces from criticism by denying occurrences of violations, the security forces themselves, especially the army, are so confident they will not be prosecuted that they make no effort to disavow their involvement in egregious abuses.

For example, the chief spokesman for the Royal Nepal Army Brigade, General Dipak Gurung, once told *The Washington Post* that the army sometimes held people without disclosing their whereabouts. Moreover, asked about one of the torture methods reportedly used by RNA—dunking a detainee’s head into a water-filled container—Gurung acknowledged the possibility that it had occurred, lamenting that the RNA did not “have truth serum.”¹⁹⁵

In another interview Gurung asserted that constant blindfolding is necessary to stop detainees from identifying and targeting interrogators after release, and that the constant use of handcuffs is necessary “because without them they try to run away and then we have to shoot them.” At the same time, he firmly stated: “They are not disappeared. We do not kill people in custody.”¹⁹⁶ The above-cited testimony by several security force personnel who admitted that army and police execute detained Maoists in custody clearly refutes this assertion.¹⁹⁷

The army’s sense that it will not be punished for even egregious abuses and its unwillingness to distinguish between combatants and ordinary civilians is also demonstrated in its interactions with relatives of the “disappeared,” who often approach army officials in desperate efforts to locate their loved ones. Many witnesses told Human Rights Watch that RNA soldiers and officers treated them in a humiliating and abusive way. They said that when they came to army barracks to inquire about the whereabouts of their “disappeared” relatives, the soldiers and officers, beyond simply refusing to

¹⁹⁵ John Lancaster, “Rights Groups Cite Pattern of Abuse by Nepal’s Army,” *The Washington Post*, November 21, 2004.

¹⁹⁶ Catherine Philp, “Torture in Kathmandu: Hundreds Just Disappear in War on Maoism,” *The Times*, December 18, 2004.

¹⁹⁷ Human Rights Watch interviews, Bardia, September 29, 2004,

provide them with any information or denying that a person was in their custody, also verbally harassed and threatened them with arrest or physical reprisals. Some witnesses said that they did not dare to inquire at the army barracks, having heard from others that they could end up arrested or killed themselves.

Internal investigations into human rights violations by the security forces are extremely rare and for the most part inadequate. Even in the most highly-publicized cases, such as the summary execution of two civilians and seventeen Maoists in Doramba in August 2003, the army failed to establish proper accountability for the perpetrators.¹⁹⁸ Army officials initially denied responsibility and made several sham investigations into the massacre. It was only under intense local and international pressure that the RNA finally brought some of the perpetrators of such killings to justice. However, to date the military has refused to openly name those indicted, and has kept the trials closed to the public. The army has also failed to acknowledge superior responsibility on the part of senior officers for the operation.

Faced with mounting evidence of human rights violations and the pressure to establish accountability for perpetrators, the government established so called Human Rights Cells, first in the civilian police and APF, and then in the RNA. The effectiveness of these bodies, however, has been questioned by human rights groups.¹⁹⁹ A number of witnesses also told Human Rights Watch that they had reported the “disappearances” of their relatives to the Human Rights Cells, but that they believed no action had been taken in response to their complaints.²⁰⁰

While in recent years several soldiers were reportedly prosecuted for unlawful killings,²⁰¹ no security personnel have ever been held accountable for a “disappearance,” arbitrary

¹⁹⁸ For a detailed description of the Doramba massacre and the botched investigation, see Human Rights Watch, *Between a Rock and a Hard Place*, 28-32, as well as NHRC's report: “On the Spot Inspection and Report of the Investigation Committee: Doramba, Ramechhap Incident,” National Human Rights Commission, 2060 BS (2003).

¹⁹⁹ For example, Amnesty International claimed that it had raised numerous cases of reported human rights violations with the APF, police and RNA Human Rights Cells, but the number of cases investigated by the bodies remained insignificant. See, Amnesty International, “Nepal: Escalating Disappearances Amid a Culture of Impunity.”

²⁰⁰ See, for example, Appendix, “disappearance” of Surjeman Maharjan; “disappearance” of Ram Prasad Acharya.

²⁰¹ See e.g., “Military Court Sentences Soldier for Killing Father, Son,” *The Kathmandu Post*, July 15, 2003, for a report on an RNA soldier convicted of murdering two people in Bardia in January 2003; Nepalnews.com, “RNA Initiates Actions Against Rights Abusers,” March 18, 2004 [online], <http://www.nepalnews.com.np/contents/englishweekly/spotlight/2004/mar/mar19/newsnotes.htm> (retrieved November 29, 2004), referring to the killing of three persons by RNA in December 2003, for which two soldiers were sentenced to two years of imprisonment.

arrest, or unlawful detention. In December 2004, Brigade General Dipak Gurung told the press that the RNA had detected thirty-nine cases of human rights violations by its personnel, for which forty-three soldiers were given prison terms, thirty dismissed, and eleven demoted.²⁰² Although Gurung promoted the list as indicative of the RNA's efforts in prosecuting human rights abusers, the list actually shows almost complete inaction by the RNA on major abuses. Close scrutiny of the thirty-nine cases of "human rights violations" shows that most involve petty offenses such as theft and brawling by drunken soldiers. Although the security forces have been implicated in thousands of summary executions and "disappearances," such cases are almost completely absent from the list released by Gurung.

Moreover, Gurung implicitly denied allegations of unlawful military detention, saying that there were only forty-seven civilians in army detention—all of them under CDOs' orders—and another sixty-one were detained in the newly formed Sundarijal detention center.²⁰³ These figures contrast sharply with the evidence gathered by Human Rights Watch and other groups of illegal detention and subsequent "disappearances" of people taken into custody by the military.

The army has also successfully eluded any control or interference by civilian authorities. A number of relatives of the "disappeared" told Human Rights Watch that after the army detained their family members, they tried to get information from CDOs and to persuade them to act. However, the CDOs refused to help. Two witnesses, in recounting the responses they received from the officers, independently cited identical answers: the witnesses described how the CDOs had told the families that "had it been the police," they would have been able to do something, but against the army they were powerless.²⁰⁴ In many other cases, the CDOs themselves were directly involved in "disappearances."

²⁰² "RNA Brings Guilty Soldiers to Book," *The Kathmandu Post*, December 8, 2004. Notably, the figures were released at the time when the U.N. Working Group on Disappearances was visiting Nepal, and the government was under pressure to demonstrate its commitment to accountability for human rights violations. To the best of Human Rights Watch's knowledge, the only other incident when the army took public action against its personnel was in February 2004, shortly after E.U. ambassadors to Nepal expressed serious concerns about the deteriorating human right situation in Nepal, and the U.N. Human Rights Commission was soon to debate a resolution on the human rights situation in Nepal during its March session. At that time, the report of the RNA human rights cell said that "the Army Court has penalized at least 22 army men for various crimes, ranging from murder and extortion to rights abuses, committed after the army was mobilized following the breakdown of ceasefire." See Nepalnews.com, "RNA Punishes Culprits of Rights Abuses," February 6-12, 2004 [online], <http://www.nepalnews.com.np/contents/englishweekly/spotlight/2004/feb/feb06/newsnotes.htm> (retrieved December 6, 2004).

²⁰³ "RNA Brings Guilty Soldiers to Book," *The Kathmandu Post*, December 8, 2004.

²⁰⁴ Human Rights Watch interview with a relative of Kodu Lal Chowdhury, Dang, September 24, 2004. For case details, see Appendix, the "disappearance" of Kodu Lal Chowdhury; Human Rights Watch interview with a relative of Chaman Lal Baral, Kaski, September 22, 2004. For case details, see Appendix, the "disappearance" of Chaman Lal Baral.

The RNA is also notorious for its utter disdain for civilian courts, including the Supreme Court of Nepal. The army routinely ignores habeas corpus orders issued by the courts, refuses to accept the courts' notices, and brazenly lies to the courts regarding the detainees' whereabouts, as has been documented previously by Human Rights Watch and others.²⁰⁵ This clearly violates the Constitution of Nepal, which establishes the duty of the government and all its related agencies to assist the Supreme Court and all other courts in "dispensing justice," and the requirement to abide by the courts' decisions and orders.²⁰⁶ The police have demonstrated a similar attitude, routinely defying the courts. For example, in July 2004, policemen directed by the Supreme Court to appear before the court to clarify the circumstances of the arrest of two students who subsequently "disappeared" ignored the order even after police headquarters assured the court they would comply.²⁰⁷

The Defense Ministry has proved unwilling to rein in the forces under its command and ensure their compliance with judicial orders. Indeed, the Defense Ministry itself has often failed to provide the court with truthful information. An illustrative case occurred in late October 2004, when in response to the Supreme Court's notice, the Defense Ministry denied having detained three individuals who—as their relatives asserted—were arrested by the army on October 16. However, a day after the court received the Ministry's written explanation, the RNA headquarters confirmed that the three men were indeed arrested and were being kept in detention by the army.²⁰⁸

The RNA also has fiercely opposed the efforts of human rights and humanitarian monitoring bodies to establish the whereabouts of detainees allegedly held in army custody. Army officials have deceived not only the NHRC, but also international organizations. For example, one of the "disappeared" described in a letter to his family how the army was hiding detainees held in barracks during ICRC visits. Twenty-nine-year-old Sugendra Maharjan, arrested by RNA soldiers on November 15, 2003, in Kathmandu, had been missing for almost a year, when his family received a letter in

²⁰⁵ See Human Rights Watch, "Between a Rock and a Hard Place"; Amnesty International, "Nepal: Escalating Disappearances Amid a Culture of Impunity" and "Nepal: Widespread 'disappearances' in the context of armed conflict." INSEC, in its report on the 2003 human rights situation in Nepal, named four army establishments that denied accepting court orders seeking explanation of detainees' whereabouts: Bhairabnath Gan, Chhauni Barrack, Bhadrakali Gan, and Jagadal Gan; see Informal Sector Service Center (INSEC), *Human Rights Yearbook 2004*, (Kathmandu: INSEC, 2004), 48.

²⁰⁶ Constitution of the Kingdom of Nepal (1990), Articles 95 and 96.

²⁰⁷ See "Cops Defy Supreme Court Order," *The Himalayan Times*, July 10, 2004.

²⁰⁸ "Defense Ministry Denies Hand in Detention," *The Himalayan Times*, October 27, 2004; "RNA Contradicts Defense Ministry's Denial," *The Kathmandu Post*, October 28, 2004.

September 2004 smuggled from Jagadal army barracks in Kathmandu and addressed to the head of ICRC.²⁰⁹ In the letter Maharjan wrote:

We [have been] detained at Jagadal barracks without any legal proceedings for several months. We have been tortured and intimidated in custody, and no information of our detention is given to our family members [confirming] that we are taken in custody by the security forces. We are not produced before any judicial authorities....We came to know about [the ICRC] visit in these barracks to meet [several named detainees]. At that time, we were kept in a room which was locked by the soldiers. During [the ICRC's] second visit, we were kept in a tunnel inside the compound of the barracks.²¹⁰

The testimony indicates the army's supreme confidence in avoiding scrutiny and its belief in the monitors' inability to hold its officials accountable, which fosters an atmosphere of impunity conducive to "disappearances."

Impotence of the courts

Although the Constitution of Nepal vests in the judiciary an "extraordinary power" to enforce the fundamental rights conferred by the constitution as well as "any other legal right for which no other remedy has been provided,"²¹¹ in reality the courts by and large fail to use this power to uphold human rights and deliver justice to victims of governmental abuses.

The courts have been particularly inert and ineffective in the case of "disappearances." They have inexplicably limited themselves to examining only the legality of detention, and have often failed to take action in cases where the security forces refused to acknowledge the very fact of arrest or detention, thus denying the petitioners assistance in establishing detainees' whereabouts.

²⁰⁹ Human Rights Watch interview with a relative of Sugendra Maharjan, Kathmandu, September 18, 2004. Maharjan's name appeared on a list of seventy-five previously "disappeared" persons that the Nepalese authorities acknowledged were in detention on October 11, 2004. Apparently, shortly after he wrote the letter to the ICRC he was transferred to the Sundarijal investigation centre in Kathmandu. His family now regularly visits him in the center.

²¹⁰ Letter dated September 16, 2004 given to Human Rights Watch by family members (copy on file at Human Rights Watch).

²¹¹ Constitution of the Kingdom of Nepal (1990), Article 88 (2).

As one of the witnesses described to Human Rights Watch, the Supreme Court's response to her habeas corpus petition on behalf of a "disappeared" relative was as follows: "They dismissed the petition, saying: 'Search yourself, we cannot do it.'" ²¹² Thirteen witnesses told Human Rights Watch that they had submitted habeas corpus petitions on behalf of their "disappeared" relatives. In four cases the petitions were dismissed, and in seven cases they remained pending for months or even years after submission.

Moreover, even in cases where the courts delivered verdicts in favor of petitioners or issued orders aimed at establishing the whereabouts of a detainee, these efforts were undermined by the courts' inability to enforce their decisions. The family of Surjeman Maharjan, who "disappeared" after being arrested on September 29, 2003, by uniformed RNA soldiers at his home in Pulchowk, Lalitpur, obtained an order from the Supreme Court ordering the army to reveal the whereabouts of Maharajan, but the army responded by denying Maharjan was in their custody. ²¹³ After the "disappearance" of Ram Milan Balmiki, who was arrested in Kohalpur VDC on April 26, 2002, the courts issued three habeas corpus orders requiring the army to produce Balmiki, but the army has never responded. ²¹⁴

In the face of the routine failure by the army and other security forces to comply with the courts' habeas corpus notices and to provide the courts with truthful information regarding the detainees' whereabouts, the judiciary has done little to ensure compliance with its orders.

The situation is aggravated by the absence of provisions criminalizing perjury in Nepali law, which prevents holding army and police officials criminally liable for lying during court hearings.

At the same time, the constitution unequivocally empowers the Supreme Court to "initiate proceedings and impose punishment in accordance with law for contempt of itself and of its subordinate courts or judicial institutions." ²¹⁵ Using this provision, the court could effectively oppose the security forces' impudence and promote

²¹² Human Rights Watch interview with a relative of Shree Ram Ghimire, Kaski, September 21, 2004. For case details, see Appendix, the "disappearance" of Shree Ram Ghimire.

²¹³ Human Rights Watch interview with a relative of Surjeman Maharjan, Kathmandu, September 17, 2004. For case details, see Appendix, the "disappearance" of Surjeman Maharjan.

²¹⁴ Human Rights Watch interview with S.L. Balmiki and Maili Balmiki, Banke, March 17, 2004. For case details, see Appendix, the "disappearance" of Ram Milan Balmiki.

²¹⁵ Constitution of the Kingdom of Nepal (1990), Article 86 (2).

accountability. Moreover, it could do much more to establish the whereabouts of “disappeared” detainees by issuing search warrants against the security forces in habeas corpus cases as provided by Supreme Court regulations.²¹⁶

Instead, the Supreme Court chooses to address relevant ministries sporadically with toothless reprimands, which they do not take seriously.

In this respect, the developments in the case of Krishna Khatri Chhetri (known as Krishna K.C.) are illustrative. Krishna K.C., the former vice-president of the All Nepal Free Student Union (Revolutionary), “disappeared” after being arrested by security forces in Kathmandu on September 13, 2003. The first habeas corpus petition was dismissed in November 2003 after the army denied having arrested him. After credible information appeared suggesting that Krishna K.C. was being held in the Bhairabnath Gulm (Maharajgunj) army barracks, another habeas corpus petition was filed, and in May 2004 the Supreme Court ordered the National Human Rights Commission to prepare a report on the arrest and whereabouts of Krishna K.C.²¹⁷

The RNA continued to deny having Krishna K.C. in its custody, and when NHRC staff attempted to visit the Bhairabnath Gulm barracks, where the man was allegedly being held, army officials did not let them in. In response, the Supreme Court addressed the Ministry of Defense, requiring compliance with its decision, and the army finally allowed the NHRC to enter, but again refused to produce Krishna K.C., claiming he was not in detention. At an October 2004 meeting with Human Rights Watch, the head of the Army’s Human Rights Cell stated that Krishna K.C. was not in army custody.²¹⁸ On November 9, 2004, however, the NHRC claimed to have “sufficient proof” that Krishna K.C. was still being kept in the Bhairabnath Gulm barracks.²¹⁹

On June 28, 2004, after the Supreme Court had yet again reprimanded the army, reminding the RNA that it is obliged to follow the court’s orders and respond to inquiries in a timely manner,²²⁰ Chief of Army Staff General Thapa announced at a

²¹⁶ Supreme Court Regulation 2049, *Nepal Niyam Sangraha*, Vol. 1, 2055, Section 34. The Nepal Bar Association has repeatedly called on the Supreme Court to use its right to issue search warrants in habeas corpus cases, but the Supreme Court, admitting the availability of this legal action, was non-committal regarding the prospects of using it against the RNA. See Kiran Chapagain, “RNA Cocks a Snook at Supreme Court Order,” *The Kathmandu Post*, March 12, 2004.

²¹⁷ A detailed description of the case can be found in Human Rights Watch, “Between a Rock and a Hard Place,” and Amnesty International, “Nepal: Escalating Disappearances Amid a Culture of Impunity.”

²¹⁸ Human Rights Watch meeting with RNA human rights cell, October 6, 2004.

²¹⁹ “Krishna K.C. in RNA Detention: NHRC,” *The Kathmandu Post*, November 9, 2004.

²²⁰ “Top Nepal Court Raps Army Over Rights,” *The Hindustan Times*, June 23, 2004.

press-conference that he had issued an order requiring that the court's show cause notices should be responded to promptly. He went on to state that should an army barracks fail to answer, the headquarters would be responsible for responding to the court.²²¹ Little, however, has changed, and apparently neither the courts' reprimands nor orders from the Chief of Staff were taken seriously. Just days after Thapa issued his statement, an official assigned to serve the Supreme Courts' notices to the Bhairabnath barrack in another habeas corpus case informed the court that "the army claims that neither [of] these people [is] in detention nor [is] the army ready to accept the court's orders."²²²

The courts' evident inability to adequately sanction the security forces or to assist people in establishing the whereabouts of their "disappeared" relatives has led to disappointment and disillusionment about the effectiveness of judicial remedies. According to INSEC, in 2003, despite the significant increase in "disappearances," the number of habeas corpus petitions filed at the courts declined.²²³ This is an unfortunate trend, because habeas corpus proceedings that challenge the legality of arrest and detention are one of the most important instruments for the prevention of "disappearances."

Obstruction of the work of the National Human Rights Commission

Nepal's National Human Rights Commission was established by the government in 2000 in response to pressure by local and international human rights groups for creation of an "independent and autonomous" body to protect and promote human rights in Nepal.²²⁴ Under the law, the NHRC has powers to conduct investigations and inquiries into human rights violations, as well as into incidents of "negligence in the prevention" of such violations by any person, organization, or authority.

In order to perform this function, the commission is authorized, among other things, to "visit, inspect and observe any authority, jail or any organization under His Majesty's Government," and to search and seize any "thing or document" if it has reasonable

²²¹ Human Rights Watch interview with a Supreme Court official, January 21, 2005. The name of the witness is on file with Human Rights Watch.

²²² "City Barrack Defied Supreme Court Order," *The Himalayan Times*, July 2, 2004.

²²³ Informal Sector Service Center (INSEC), *Human Rights Yearbook 2004*, 41. INSEC insists that the decrease in the number of petitions cannot be attributed to the actual decrease in human rights violations. Its data shows that while in January-February 2003, there were only nine writ petitions related to habeas corpus filed at the Supreme Court, while "in the same duration of one month the NHRC received some 60 applications seeking protection of life." *Ibid.*, 48.

²²⁴ Human Rights Commission Act of 1997 (B.S. 2053), Preamble. The full text of the Act can be found at: <http://www.nhrc-nepal.org/?ID=122&AFD=0> (retrieved December 4, 2004).

grounds to believe that such material is related to the subject matter of the inquiry.²²⁵ In addition, while conducting its inquiries, the NHRC may require “any person to appear before the Commission for recording his/her statement and information within his knowledge,” and summon and examine witnesses.²²⁶

The NHRC has tried to use its powers to address the problem of “disappearances.” In 2002, it formed a five-member committee to investigate “disappearances,” which started actively documenting the cases that had occurred since the beginning of the “people’s war,” and taking action on complaints submitted by relatives.

The commission proved effective in monitoring and reporting on the human rights situation in the country, as well as in raising human rights awareness and developing policy recommendations for the government. However, it soon became obvious that despite the provisions of the law, in practice the NHRC did not have the power or capacity to conduct adequate investigations into violations, compel testimonies, or make relevant authorities enforce its decisions.

As the NHRC has tried to implement its mandate, the government and security forces have increasingly tried to obstruct its work. In March 2004 the Home Ministry accused the NHRC of preparing biased reports that tarnished the image of the security forces. The ministry also stated that, “while deploying the teams for investigation of complaints against the security forces, the Commission and other organizations [must] inform local security forces and include a representative from security forces in the investigation team.”²²⁷ The NHRC voiced serious concern about this effort to undermine its “impartiality and independence,” and requested “measures to be taken in the future for the prevention of such interventions on the Commission’s activities.”²²⁸

In June 2004, after it was denied entry to the Bhairabnath Gulm army barracks, the commission again protested the obstruction of its work. Following a Supreme Court order (see above), the NHRC team went to the barracks to inquire about the whereabouts of Krishna K.C. However, the RNA informed the prime minister, chief

²²⁵ Human Rights Commission Act of 1997 (B.S. 2053), Sections 9 (2e); 11(3).

²²⁶ *Ibid.*, Section 11(1) a, b.

²²⁷ Letter of Home Minister Thapa to the National Human Rights Commission, March 29, 2004, cited in the National Human Rights Commission’s press-release, April 1, 2004 [online], <http://www.nhrc-nepal.org/?ID=240&AFD=0> (retrieved December 4, 2004).

²²⁸ “Commission Voices Serious Concerns Over Home Ministry Letter Hitting on the Independence of NHRC,” Press-release of the National Human Rights Commission, April 1, 2004 [online], <http://www.nhrc-nepal.org/?ID=240&AFD=0> (retrieved December 4, 2004).

justice, and chairman of the NHRC that it would not permit anybody to enter any of its units without permission from “above,” and that it was also “impractical to correspond to its units for the purpose [of entering barracks].”²²⁹ The letter did not specify what was meant by “above,” but it clearly demonstrated the unwillingness of security forces to cooperate with the NHRC, and the commission’s weakness in the face of what seemed to be a coordinated effort to prevent it from effectively fulfilling its functions.

In September 2004, the commission reiterated that the army had regularly denied its representatives access to barracks and other places of detention and expressed bitter resentment about the government’s evident “indifference over the fate of hundreds of people who have disappeared.”²³⁰

Because of the systematic obstruction of its work, the NHRC has been largely ineffective in cases of “disappearances.” The majority of witnesses told Human Rights Watch that they have reported—either directly or through local NGOs—the “disappearances” of their relatives to the commission, but the NHRC was unable to help them.

While obstruction by the security forces is the main problem the NHRC faces in its work on “disappearances,” the Commission’s own institutional weaknesses also contribute to its relative lack of efficacy. The NHRC presently lacks the capacity to investigate many of the “disappearances” reported to the body, and often fails to remain in regular contact with the relatives of the “disappeared” to ensure that its information is up to date. In addition, the NHRC has made public only a small fraction of its investigations, which limits its advocacy capacity. In order to fully carry out its mandate, the NHRC needs to become a more proactive institution with the capacity to investigate and publicize abuses in a timely manner, and to ensure accountability for the perpetrators. The NHRC would also require additional resources in order to fully carry out its mandate.

Reportedly, some progress “on an agreement for cooperation between the NHRC and the RNA” was achieved during the December 2004 visit by the U.N. Working Group on Enforced or Involuntary Disappearances (WGEID) to Nepal.²³¹ On December 9, 2004,

²²⁹ “No Entry in Units: RNA,” *The Kathmandu Post*, June 23, 2004.

²³⁰ “Nepal Rights Panel Says Government Indifferent over Disappearances,” Agence France Press, September 25, 2004.

²³¹ “Working Group on Enforced or Involuntary Disappearances of United Nations Commission on Human Rights Concludes Visits to Nepal,” statement by Professor Stephen J. Toope, Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights, December 14, 2004 [online],

on the eve of International Human Rights Day, the RNA held an event at its headquarters at which NHRC representatives were invited to speak. The army chief of staff reassured the NHRC that “the security forces are very alert and sensitive [to] protection and promotion of human rights,” and the NHRC chairperson expressed his hope for continuing cooperation between the RNA and the Commission.²³²

With the expiry of the tenure of the first group of NHRC commissioners in March 2005, the future of the commission itself is uncertain. New commissioners cannot be lawfully appointed in the present political vacuum, since it requires a three-member recommendation committee comprised of the prime minister, chief justice, and the leader of the opposition party in parliament.²³³ As there is no functioning parliament, unless a new parliament is elected, or the Human Rights Commission Act is amended to extend the tenure of the present commissioners until the parliament is in place, the future of the commission may be in danger.

<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/EC0E26503958D6B1C1256F6A005B28CF?opendocument> (retrieved December 16, 2004).

²³² “Security Forces Sensitive to Rights, Says RNA Chief,” *The Rising Nepal*, December 10, 2004.

²³³ Human Rights Commission Act of 1997 (B.S. 2053), Section 4(2).

VI. Nepal's Record in Addressing Human Rights Abuses and "Disappearances"

The government's pledge to uphold human rights

On March 26, 2004, the government of Nepal announced its commitment to abide by international human rights and humanitarian law, and published a comprehensive twenty-five-article statement on the matter.²³⁴ Among other things, the statement reiterated and elaborated the protections against enforced disappearances, affirming the government's commitment to take measures "to prevent illegal or arbitrary detention and enforced disappearances."²³⁵

The government announced its commitment during the sixtieth session of the United Nations Commission for Human Rights. It appeared to be crafted mostly to avoid the anticipated condemnation of Nepal under Item 9 proceedings.²³⁶

The March 2004 statement stipulated the authorities' responsibility to inform a detainee of the reasons for his or her arrest, to inform the relatives and legal representatives about the detainee's whereabouts and transfers, and to maintain a register in every place of detention that would contain "the name of every person detained and the dates of entry, discharge or transfer."²³⁷ It stated that the detainees should be held in officially recognized places of detention, and reiterated the ban on torture and inhumane treatment, prescribing that "any person responsible for such treatment shall be prosecuted and punished according to the law."²³⁸ The government also pledged to provide "necessary facilitation" to the National Human Rights Commission in discharge

²³⁴ "His Majesty's Government's commitment on the implementation of human rights and international humanitarian law, announced by Prime Minister Surya Bahadur Thapa on March 26, 2004;" an unofficial translation of the document can be found at: <http://www.mofa.gov.np/hrcommitments.htm> (retrieved December 4, 2004). The government's commitment was introduced in lieu of the Human Rights Accord that was agreed in principle by both sides on the conflict during the last ceasefire, but was put aside after the Maoists renounced the ceasefire in response to the Doramba massacre by governmental forces.

²³⁵ "His Majesty's Government's commitment on the implementation of human rights and international humanitarian law," Article 3.

²³⁶ See "Commission Adopts Chair Statement on Afghanistan, Haiti, Nepal, Timor-L'este and Colombia, Commission for Human Rights," U.N. High Commission for Human Rights, April 21, 2004. See also "Agenda Item 9: Question of the violation of human rights and fundamental freedoms in any part of the world," Amnesty International statement at Commission for Human Rights 60th Session, AI IOR 41/013/2004, April 6, 2004.

²³⁷ Ibid, Article 4.

²³⁸ Ibid, Articles 6 and 8.

of all of its activities,²³⁹ and guaranteed the right “to verify the status of the detainee, his/her health condition, and the right to identify the authorizing and arresting authorities,” proclaiming the need to “honor” the courts’ orders to make judicial remedies effective.²⁴⁰

The March 2004 commitment provides an improved conceptual and operational framework for upholding important human rights safeguards and promoting accountability. The government, however, still has to demonstrate the seriousness of its commitment by taking practical action to implement it.

So far the commitments have remained empty declarations, unsubstantiated by real efforts to stop the violations. Since March, the rate of illegal detentions and “disappearances” has not decreased. Human Rights Watch has documented several cases that occurred after the commitment was announced, and many more have been documented by local human rights groups. The security forces have continued to undermine judicial remedies by ignoring court orders, and the obstruction of the NHRC’s activities has grown more egregious. In September 2004, the NHRC’s chair Nayan Bahadur Khatri told diplomats and donor agencies in Kathmandu that the commission was deeply disappointed by the government’s failure to “fulfill its pledge to protect human rights.”²⁴¹

The National Human Rights Commission and non-governmental human rights groups have also criticized the government’s National Human Rights Action Plan (NHRAP), which was devised with the assistance of the United Nations Development Program (UNDP), and made public in July 2004. The plan addressed a wide range of human rights and development concerns, largely focusing on the issues of education, health and culture, as well as the rights of women, children, and ethnic minorities.²⁴²

The NHRC denounced the NHRAP’s failure to focus “on the gross human rights violations such as illegal detention [and] cases of disappearances.” According to the commission’s chair, “at a time when people are being killed everywhere including

²³⁹ Ibid, Article 23.

²⁴⁰ Ibid., Article 10.

²⁴¹ Cited in: “NHRC Flays Government’s Laxity,” *The Kathmandu Post*, September 9, 2004.

²⁴² National Human Rights Action Plan, His Majesty’s Government, Office of the Prime Minister and Council of Ministers, Singhdurbar, Kathmandu, Nepal, April 2004. A copy of the action plan is on file with Human Rights Watch. A summary of the action plan can be found in “NHRAP Aims at Improving Human Rights Situation,” *The Rising Nepal* [online], July 15, 2004, at: <http://www.gorkhapatra.org.np/pageloader.php?file=2004/07/16/topstories/main6> (retrieved December 6, 2004).

Kathmandu, and an individual's right to freedom is at stake, the plan should have devised programs to address these issues."²⁴³ The non-governmental organization Human Rights and Peace Society accused the government of adopting various plans and never implementing them, tagging the NHRAP as "the government's ploy to hoodwink the international community that [the] human rights situation is under control in Nepal."²⁴⁴

Government investigations into "disappearances"

The most significant step undertaken by the Nepali government in addressing the problem of "disappearances" has been the establishment of the five-member Committee for the Investigation of Alleged Disappearances of Persons by the State. The committee was formed in July 2004 in response to a hunger strike organized by the families of the "disappeared." Since then, its initial one-month tenure has been renewed several times. It is headed by the Home Ministry's Joint Secretary Narayan Gopal Malego. Its other members are the Joint Secretary at the Ministry of Defense, Deputy Inspector General of the Nepal Police, Deputy Inspector General of the Armed Police Force, and Deputy Chief Office of the National Investigation Department.²⁴⁵

The committee's initial report, released on August 11, 2004, was generally a disappointment, causing the frustrated families of the "disappeared" to resume their hunger strike. In a public statement, the NHRC excoriated the ineffectiveness of the committee, which had by then dealt with only thirty-six cases of "disappearance." It had established the whereabouts of twenty-four of the thirty-six persons, but had not sought the assistance of the NHRC, which had hundreds of complaints on file.²⁴⁶

Since then, however, the committee has released three other reports, allegedly establishing the whereabouts of a total of 320 persons. The September 14, 2004, report made public the whereabouts of fifty-four persons, of whom, according to the committee, thirty were already released, seventeen still in government detention, and seven killed in "encounters" with security forces.²⁴⁷

²⁴³ Cited in: "Government's NHRAP Draws Mixed Reactions," *The Himalayan Times*, July 16, 2004.

²⁴⁴ Ibid.

²⁴⁵ Nepalnews.com, "Government Forms Panel to Probe on Disappearance Cases," July 1, 2004 [online], http://www.nepalnews.com.np/archive/2004/jul/arc_jul04_01.htm (retrieved January 20, 2005).

²⁴⁶ National Human Rights Commission press release, August 17, 2004 [online], <http://www.nhrc-nepal.org/?ID=253&AFD=0> (retrieved December 5, 2004).

²⁴⁷ "Whereabouts of Fifty-four Missing Made Public," *The Kathmandu Post*, September 14, 2004. The full list can be found in: "Government Makes Public Status of 54 Persons," *The Rising Nepal*, September 14, 2004 [online], <http://www.gorkhapatra.org.np/pageloader.php?file=2004/09/15/topstories/main1> (retrieved December 14, 2004).

The next report, released on October 12, 2004, revealed the whereabouts of another 126 individuals. The committee reported that three were killed in clashes, seventy-four were still in detention under TADA, twenty-one were released after interrogation, ten “have surrendered,” and another fourteen were released after detention.²⁴⁸

Finally, during the WGEID visit to Nepal in December, a list of another 116 “disappeared” was disclosed. Among them, according to the committee, six individuals were killed in “encounters,” one surrendered to the authorities, fourteen were released after interrogation, seventeen were set free after being detained, thirty-three remained in detention, and forty-five are being held at an investigation center at Sundarijal.²⁴⁹

In December 2004, the committee’s tenure was renewed for another two months. Some human right activists are skeptical about the work of the commission, claiming that instead of sincerely searching for people who had been “disappeared,” the government had embellished the list with the names of many people “who were released a long time back...in order to make the list look long.”²⁵⁰ Of the more than 200 cases of “disappearances” documented by Human Rights Watch in this report, the work of the commission has provided answers in only a tiny minority of those cases.

A major problem is the limited mandate of the committee. For example, the committee does not examine the circumstances that led to a given “disappearance” and does not address the issue of the security forces’ responsibility for unlawful arrests and detentions in cases where the detainees were subsequently released. The committee has not investigated whether some of the “disappeared” who were allegedly killed in “encounters” were in fact victims of extrajudicial executions in custody. The committee has also not examined whether the detainees who were reportedly “released” were indeed set free or whether, as documented in several cases in this report, they actually remain “disappeared.” as has been evidenced in several cases in this report. In cases in which detainees “reappear,” moreover, the committee lacks the mandate to hold security forces accountable for having kept detainees incommunicado in unofficial places of detention.

²⁴⁸ “Nepal Reveals Whereabouts of 126 Missing Civilians,” Agence France Press, October 12, 2004. The full list can be found in: “Report on Whereabouts of 126 Persons Presented,” *The Rising Nepal*, October 12, 2004 [online], <http://www.gorkhapatra.org.np/pageloader.php?file=2004/10/12/topstories/main1> (retrieved December 14, 2004).

²⁴⁹ Nepalnews.com, “Government Discloses Whereabouts of 116 Missing Persons,” December 13, 2004 [online], <http://www.nepalnews.com.np/archive/2004/dec/dec13/news13.php> (retrieved December 14, 2004).

²⁵⁰ “Government makes names of 126 disappeared public,” *The Himalayan Times*, October 11, 2004.

Legalizing illegal detention: The Sundarijal Investigation Center

Under mounting local and international pressure, the government has also tried to address the problem of “disappearances” by legalizing illegal detention by security forces. In September 2004, the government opened an “inquiry and investigation center” in the Sundarijal Old Arsenal and reported its intention to move suspects detained under the Public Security Act and TADO to the new location. The government explained its decision to open a center separate from the existing facilities by citing the necessity to control Maoist “terrorism” by carrying out “an effective inquiry and investigation of those arrested by security forces on the charge of being Maoists,” and to stop the practice of illegal detention in military barracks.²⁵¹

Indeed, the above-cited reports by the government investigation committee show that some of those listed as “disappeared” were apparently transferred to the center.

The center is headed by a Home Ministry official, although it is located in the former army barracks, and the army seems to have significant influence over the facility, including ensuring its external security. A source at the Home Ministry told *The Kathmandu Post* in September that both civil police and army personnel will be interrogating detainees at the center, and that they will either release them after questioning or hand them over to be tried in a court of law.²⁵²

It is unclear to what extent the center will help solve the problem of illegal detention and “disappearance” of people arrested by the security forces. The center can house about 115 detainees.²⁵³ As mentioned above, on December 8, 2004, the army spokesperson Brigade General Dipak Gurung announced that there were sixty-one detainees at the center, while another forty-seven were still in army detention.²⁵⁴ He did not explain why the remaining detainees were not transferred to the center. Meanwhile, local and international human rights groups continue to document numerous cases of illegal detention in army barracks and the subsequent “disappearance” of detainees.

The NHRC is quite skeptical about the potential of the Sundarijal center to solve the problem of “disappearances.” According to the NHRC, very few of the “disappeared”

²⁵¹ “Government to Legalize Illegal Detention by Security Forces,” *The Kathmandu Post*, September 17, 2004.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ “RNA Brings Guilty Soldiers to Book,” *The Kathmandu Post*, December 8, 2004.

whose cases are on file with the Commission have indeed “reappeared” in the investigation center.²⁵⁵ A member of the NHRC also told Human Rights Watch that despite the Home Ministry’s assurance, the NHRC representatives have been repeatedly denied access to the Sundarijal center, and the center thus remains no more accessible to outside scrutiny than other detention facilities. Moreover, according to the NHRC member, the warden of the facility had complained to the Commission that he was unable protect the detainees from the RNA, which he said came to the center in the middle of night and took detainees away without any explanation.²⁵⁶

²⁵⁵ Human Rights Watch correspondence with a member of the National Human Rights Commission, January 21, 2005.

²⁵⁶ HRW interview with NHRC official, January 14 2005, Kathmandu.

VII. The Role of the International Community

The importance of sustained international attention to Nepal's deepening human rights crisis can hardly be overestimated. Given the country's dependence on foreign aid, the Nepali government is quite sensitive to outside pressure. Last year was especially indicative of Nepal's susceptibility to international opinion, since increased pressure by key international players led to renewed attention to human rights by government and army officials and potentially important concessions from the government.

The European Union's criticism of Nepal's "seriously deteriorating" human rights situation in February 2004 and the threat of adopting a strongly worded resolution at the April session of the United Nations Commission on Human Rights (UNCHR) prompted the government's public pledge to uphold human rights and abide by international humanitarian law, discussed above.²⁵⁷ In addition, consistent pressure from the E.U. has finally compelled the RNA to admit its responsibility for the Doramba killings and bring at least some of the perpetrators to justice.

Nepal managed to avoid UNCHR condemnation in 2004 largely due to United States opposition to the proposed resolution. Nonetheless, the much softer "Chairman's statement" on human rights assistance to Nepal adopted by the commission on April 21, 2004, expressed concern over Nepal's deteriorating human rights situation and the growing number of civilian victims.²⁵⁸ The statement appealed to the government to strengthen its efforts to ensure the enjoyment of fundamental rights and condemned the indiscriminate violence by the Maoists.

The statement also encouraged the government to cooperate with the Office of the United Nations High Commissioner for Human Rights (OHCHR), especially on the issue of external assistance to the National Human Rights Commission. Subsequently, the OHCHR and the Nepali government signed a Memorandum of Understanding concerning technical assistance to the NHRC, which could potentially strengthen the

²⁵⁷ "EU Envoys Urge Nepal to Improve Rights Record," Agence France-Presse, February 2, 2004.

²⁵⁸ "Commission Adopts Chairman's Statements on Afghanistan, Haiti, Nepal, Timor-Leste and Colombia," ReliefWeb, April 21, 2004 [online].
<http://www.reliefweb.int/w/rwb.nsf/0/3cdb587851d7123949256e7e0007d434?OpenDocument> (retrieved December 29, 2004).

capacity of the commission to address human rights abuses, including enforced disappearances.²⁵⁹

In January 2005, United Nations High Commissioner for Human Rights Louise Arbour said in a speech in Kathmandu that the U.N. believed the human rights situation is so problematic that it is necessary for the NHRC to have unimpeded access to all places of detention without prior notification, and that this was of central importance to resolving the “disappearance” crisis.

On December 23, 2004, concern over Nepal’s human rights crisis was voiced by the United Nations Secretary General Kofi Annan, who stated that he was “deeply troubled by reports of an escalation of fighting in Nepal and of continued grave human rights violations.” He urged the government and the CPN-M to initiate a dialogue, and further called on the government, among other things, to guarantee “the safety and ability of the National Human Rights Commission” to carry out its “essential work.”²⁶⁰

The work of the United Nations Working Group on Enforced and Involuntary Disappearances (WGEID) has been particularly important in addressing the “disappearances” crisis in Nepal. It is doubtful that the Nepali government would have implemented even the meager measures discussed above to address the problem of “disappearances” if it had not been for the increased attention on the part of the WGEID. Alarmed by the soaring number of new cases reported from Nepal, the WGEID made the country one of its top priorities. It has transmitted dozens of cases as urgent appeals to the government, calling on the authorities to investigate the reported “disappearances” and bring the perpetrators to justice.

In December 2004, a WGEID delegation conducted a nine-day visit to Nepal in order “to discuss the cases of enforced or involuntary disappearance received and transmitted by the Working Group to the Government of Nepal and to examine the situation of disappearances in Nepal in the light of international human rights standards.”²⁶¹ The

²⁵⁹ “Memorandum of Understanding between the United Nations Office of the High Commissioner for Human Rights and His Majesty’s Government of Nepal Concerning Technical Assistance to the National Human Rights Commission of Nepal,” Geneva/Kathmandu, December 13, 2004. A copy is on file with Human Rights Watch.

²⁶⁰ “Secretary-General Deeply Troubled by Reported Escalation of Fighting in Nepal,” ReliefWeb, December 23, 2004 [online], <http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/b8a79ce15d48f84d85256f73006dc64a?OpenDocument> (retrieved December 29, 2004).

²⁶¹ “Working Group on Enforced and Involuntary Disappearances of United Nations Commission on Human Rights concludes visit to Nepal,” United Nations press-release, December 14, 2004 [online].

delegation met with the highest Nepali authorities, including the king, the prime minister, the chief justice of the Supreme Court and the RNA chief, as well as with human rights groups and relatives of the “disappeared.”

At the conclusion of its visit, the WGEID reiterated its concerns over the continued practice of “disappearances” and the impunity of the security forces. The delegates urged the authorities to introduce concrete measures to end the practice, including a complete prohibition of incommunicado detention in army barracks, protection of human rights defenders from persecution, and unhindered access for the National Human Rights Commission to all places of detention without being obligated to give prior notification.²⁶² Continued pressure from the United Nations and donor governments will, however, be necessary to ensure the implementation of the WGEID recommendations.

Another significant development was recent legislation in the United States placing human rights conditions on future military assistance to Nepal.²⁶³ President Bush signed the bill into law in December 2004. The law requires the Nepali government, as a condition of assistance, to:

- take effective steps to end torture by security forces and to prosecute members of such forces who are responsible for gross violations of human rights;
- determine the number of and make substantial progress in complying with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders;
- cooperate with the National Human Rights Commission of Nepal to identify and resolve all security related cases involving individuals in government custody; and
- grant the National Human Rights Commission of Nepal unimpeded access to all places of detention.

The immediate reaction of the Nepali authorities to the new legislation has yet again demonstrated their responsiveness to international pressure. The day after the U.S. Congress passed the act, the RNA chief of staff Pyar Jung Thapa paid an unprecedented

<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/EC0E26503958D6B1C1256F6A005B28CF?opendocument> (retrieved December 16, 2004).

²⁶² Ibid.

²⁶³ H.R.4818/Consolidated Appropriations Act, 2005 (Enrolled as Agreed to or Passed by Both House and Senate), enacted December 8, 2004. Section 590(c).

visit to the head of the Nepal's Supreme Court and, according to a Supreme Court source, "assured the Chief Justice that the Royal Nepalese Army (RNA) would cooperate with the Supreme Court and abide by human rights law and court orders."²⁶⁴ The army chief of staff also visited for the first time the chairman of the National Human Rights Commission and expressed the RNA's willingness to cooperate with the Commission.²⁶⁵

The new U.S. legislation could have a significant effect, promoting the accountability of the security forces and preventing enforced disappearances, torture, arbitrary detention, and other abuses. However, since the Nepali government obviously has a vested interest in feigning compliance with the new law, careful monitoring by the U.S. government is crucial for ensuring that security forces actually fulfill the conditions.

In addition, a number of recent statements by U.S. officials also indicate that they might reconsider their unreserved indulgence of the Nepali security forces' conduct. For example, during his October 2004 visit to Kathmandu, Deputy Assistant Secretary of State Donald Camp reportedly stated that it would be difficult to convince Congress "to continue the flow of funding if Nepal's government forces do not improve their human rights record."²⁶⁶

Other states providing military assistance to Nepal, primarily India, the United Kingdom, and Belgium, also should ensure that basic human rights standards are met as a condition of providing aid. They should also monitor the use of arms provided to Nepal. European assistance has been largely conditioned by the criteria set out in the 1998 European Code of Conduct on Arms Exports and corresponding national legislation.²⁶⁷ However, some national legislation, such as a law passed by Belgium in 2003, incorporates exceptions regarding assistance to "democratic regimes whose existence is under threat." Such laws might be used to justify further support of Nepali security forces without proper oversight.²⁶⁸ The ability and willingness of European suppliers to devote adequate resources to monitoring the use of military assistance also remains a matter of concern.

²⁶⁴ "RNA Will Obey Court Orders," *The Kathmandu Post*, November 25, 2004.

²⁶⁵ *Ibid.*

²⁶⁶ Chitra Tiwari, "Nepalese Pause Violence for Two Festivals; Government Reciprocates Rebel Cease-fire," *The Washington Times*, October 23, 2004.

²⁶⁷ For a detailed analysis of international military assistance to Nepal, see Human Rights Watch, *Between a Rock and a Hard Place*, 82-96.

²⁶⁸ "Loi introduisant en droit belge le Code de conduite européen sur les exportations d'armes (Law introducing into Belgian law the EU Code of Conduct on Arms Export)," adopted March 26, 2003 [online], <http://www.grip.org/bdg/g2072.html> (retrieved December 28, 2004).

At the same time, India, which is believed to be the largest supplier of arms, training and other military assistance to Nepal, has never predicated its support on the security forces' adherence to human rights.²⁶⁹ Moreover, it has consistently opposed broader international monitoring of the conflict, thus tacitly helping to shield the Nepali authorities from accountability.²⁷⁰

International actors have justified their support for the Nepali government by citing fears that the coming to power of the Maoists would have calamitous consequences, given their horrendous record of intolerance and human right abuses. While these concerns are fully justified and criticism of Maoist abuses is certainly appropriate, the behavior of the Maoists provides no excuse for government abuses. In addition, the government's sorry and well-known record of abuses only undermines public confidence in the government and may drive Nepalis to support the Maoists or lead to indifference about who governs the country.

A recent statement by a high-level E.U. delegation during its December visit to Nepal exemplifies the international community's often inappropriate response to Nepal's crisis. The delegation properly criticized the Maoists for systematic and gross human rights abuses, but completely failed to acknowledge the pattern of egregious human rights violations by government forces, including the appalling number of enforced disappearances.²⁷¹

Such one-sided statements fuel the rebel forces' indignation²⁷² and send the wrong message to the government, indulging its disregard for human rights and bolstering its

²⁶⁹ In April 2003, India's army chief of staff revealed that India had, up to that point, provided arms and ammunition to Nepal worth U.S.\$25.8 million, and that it would provide another \$12.9 million in weapons. The chief of staff emphasized that "the Indian government is prepared to provide any type of military assistance to establish peace in Nepal," and added that "the Indian army is ready to assist the Nepali army in whatever it can and at any time." See "India to Provide Arms, Help in Restoration of Peace in Nepal," Agence France-Presse, April 25, 2003.

²⁷⁰ The opposition to a larger international role in Nepal is largely caused by India's own domestic concerns. India, which has for years opposed similar attempts to introduce international mediation or monitoring of the conflict in Kashmir, is widely believed to be apprehensive that bringing international monitors or mediation to Nepal would set a negative precedent for its attempts to oppose such a move in Kashmir.

²⁷¹ Prakash Dhakal, "EU Expresses Grave Concern over Rights Situation in Nepal," *Nepalnews.com*, December 15, 2004 [online], <http://www.nepalnews.com.np/archive/2004/dec/dec15/news05.php> (retrieved December 20, 2004).

²⁷² The Maoists immediately accused the E.U. delegation of being "one-sided and irresponsible" and said that they had expected that the E.U. would play a "balanced and positive" role in settling the ongoing conflict. CPN-M Chairman Prachanda added: "If the EU is up to forcing our party, the agitating parties and the Nepali people to surrender to the feudal dictatorial regime, its desire will never become a reality." See *Nepalnews.com*, "EU Statement Unexpected: Maoists," December 16, 2004 [online], <http://www.nepalnews.com.np/archive/2004/dec/dec16/news10.php> (Retrieved December 20, 2004).

sense of impunity. International actors must undertake to avoid this tendentious approach if they hope to play a positive role in bringing the conflict to an end and alleviate the suffering of Nepali people.

VIII. Recommendations

To the government of Nepal:

1. Acknowledge at the highest level responsibility for large-scale “disappearances,” and take all steps necessary to bring an end to the widespread practice of “disappearances,” extrajudicial and summary executions, and unlawful arrest and detention. Ensure that military, police, and other security forces comply in full with the requirements of international human rights and humanitarian law.
2. Repeal or revise laws that undermine constitutionally guaranteed protections against human rights violations, such as the Public Security Act, the Public Offense and Punishment Act, the Anti-State Crimes and Penalties Act, and TADO.
3. Take measures to prevent enforced disappearances, including:
 - Cease the practice of secret detention and of holding detainees in military barracks and other unofficial places of detention. Ensure that all persons detained by security forces are held at recognized places of detention, and that arresting officers identify themselves and present official identification.
 - All places of detention must maintain records regarding every detainee, including the date, time, and location of arrest, the name of the detainee, the reason for detention, and the name of the forces effecting the detention. The records must be available to detainees' families, counsel, and other legitimately interested persons. All transfers of detainees should be reflected in the records.
 - Detainees should be informed immediately of the reasons for arrest and any charges against them. The family should be informed promptly of the arrest and location of the detainee. Any persons detained by the security forces must be allowed contact with family and unhindered access to legal counsel.
 - Uphold the detainee’s constitutional right to be brought before a judicial authority within twenty-four hours of arrest (or within a reasonable time if arrested in a remote location).
4. Take all necessary steps to establish accountability for those who order and carry out “disappearances,” as well as other abuses of human rights and humanitarian law.

- Introduce legislation making “disappearance” a criminal offense that is punishable by sanctions commensurate with the gravity of the crime.
 - Discipline or prosecute as appropriate all those implicated for participation in abuses in accordance with international due process standards.
 - Hold superior officers, whether civilian or military, criminally accountable if they knew, or should have known, that forces under their command had committed or were about to commit criminal acts, and nothing was done to prevent such commission.
5. Investigate all cases of enforced disappearance, including those documented in this report. Ensure that each “disappearance” is investigated until the fate of the victim is clearly and publicly established. Ensure that the Committee for the Investigation of Alleged Disappearances of Persons by the State has relevant authority to conduct prompt, independent, and impartial investigations into “disappearances.” Toward this end:
 - Authorize the Committee to obtain information from any state agencies, including the military, about the whereabouts and status of the “disappeared.”
 - Provide the Committee with investigative powers to search unannounced and unaccompanied security force facilities and records related to the “disappearance.”
 - Empower the Committee to compel the attendance of those implicated in carrying out or ordering the “disappearances,” and to compel the disclosure and production of documents.
 - Instruct the Committee to keep the families of the “disappeared” informed of the progress of its investigations.
 6. Ensure and promote the Supreme Court’s ability to use its constitutionally vested powers to enforce fundamental rights. The court must promptly examine and pursue each valid habeas corpus petition and designate a proper officer of the court to enforce habeas corpus. Non-compliance with the Court’s orders should be subject to sanctions.
 7. Order the Home Ministry and the Defense Ministry to promptly respond to inquiries and comply with all habeas corpus orders issued by the courts.
 8. Provide redress for the families of those who have “disappeared” in the form of monetary compensation as well as counseling and social assistance programs.
 9. Strengthen the structural and operational independence of the National Human Rights Commission. Instruct all governmental agencies, including the Home Ministry and the Defense Ministry, to cooperate with the NHRC’s investigations

into allegations of violations of human rights and humanitarian law by the security forces, including enforced disappearances. Provide adequate funding and staffing for the NHRC, ensuring that the NHRC receives unfettered access to the technical assistance of the United Nations, in accordance with the Memorandum of Understanding between the government and the Office of the United Nations High Commissioner for Human Rights.

10. Consistent with “His Majesty's Government's Commitment on the Implementation of Human Rights and International Humanitarian Law,” outline an implementation plan, with firm deadlines and measurable benchmarks, to improve the government’s compliance with international human rights and humanitarian law obligations.

To the international community:

The United Nations:

1. The United Nations Commission on Human Rights should adopt a resolution condemning ongoing abuses by both sides in the conflict in Nepal and specifically calling on the Nepali government to end the practice of enforced disappearances by security forces.
2. The United Nations Working Group on Enforced and Involuntary Disappearances should continue its probe into “disappearances” in Nepal, urging the government to promptly investigate individual cases transmitted by the WGEID and to implement the WGEID’s recommendations aimed at ending the practice altogether.
3. The Office of the United Nations High Commissioner for Human Rights should hold the Nepali government to its commitments under the Memorandum of Understanding concerning technical assistance, ensuring that the NHRC has unhindered assistance and can fully perform its statutory functions.

The United States, India, the United Kingdom, and other states providing military assistance to Nepal:

1. The United States government should ensure that, in accordance with recently adopted legislation, military assistance is provided to Nepal only if the Nepali government complies with the conditions in the law. In monitoring compliance with the law, U.S. officials should pay special attention to units quartered in army barracks known to be locations where many “disappeared” persons are reportedly held in unofficial detention, including the ones listed in this report.

2. States that have not done so should make military assistance to Nepal contingent on the government's adherence to international human rights and humanitarian law and exclude any assistance to units implicated in human rights violations. All suppliers should actively monitor the use of any weapons or non-lethal items to ensure they are not being utilized to commit abuses.
3. States providing military assistance to Nepal should pressure the government to abide by its commitments under international law. They should publicly condemn specific violations, including the widespread enforced disappearances committed by security forces, and urge the government to address them.

Appendix

Kathmandu

1. *Dinesh (Rajesh) Limbu*



At around 12 p.m. on August 24, 2004 (Bhadra 8, 2061), ten men in civilian dress came to the office of Apanga Mahila Sang, an organization for disabled women in Koteshwor-35, Kathmandu. Thirty-four-year-old **Dinesh Limbu**, who had come there to visit a friend, was taken away by the men. His friend told the family about the arrest, saying he believed the men were from the army. Limbu has not been seen since then.

A relative informed NHRC and Amnesty International, as well as local human rights organizations, of the “disappearance,” and added Limbu’s name to the list prepared by the “disappeared” persons’ relatives who were on hunger strike in August 2004.¹ The family was unable to obtain any information on his whereabouts.

Limbu was running a small shop and was actively seeking foreign employment (two years ago he worked in Saudi Arabia). The family did not know whether he was politically involved.²

2. *Arjun Ojha*

At about 3 p.m. on March 25, 2004 (Chaitra 12, 2060), two RNA soldiers in civilian dress detained thirty-four-year-old **Arjun Ojha** while he was buying groceries in the Kalimati market of Kathmandu. Later that same day, at about 7 p.m., a group of about ten RNA soldiers came to the apartment of Ojha and asked a relative where Ojha was,

¹ In June 2004 the families of the “disappeared” organized a hunger strike, demanding that the government provide information on their relatives’ whereabouts. In response, in July 2004, the government formed a Committee for the Investigation of Alleged Disappearances of Persons by the State. Disappointed by the Committee’s initial report which dealt with only thirty-six cases of “disappearance,” the families resumed their hunger strike in August 2004.

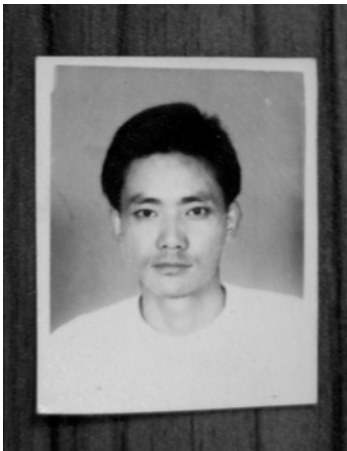
² Human Rights Watch interview with a relative of Dinesh Limbu, Kathmandu, September 18, 2004.

and why he had not reported to Khanikhola Police Station that day, as he was required to do (see below).

Ojha's relatives learned of the arrest the next day, and reported the detention to the ICRC, NHRC, Amnesty International, and other human rights groups. A second person arrested together with Ojha³ was released after about three months, and informed the family that he had been held together with Ojha at the Chaunni army barracks for thirty days. During this period, according to the released detainee, Ojha had been severely beaten by RNA soldiers and had suffered injuries to his chest. The family was unable to obtain any more information until late September 2004, when they received a one-minute phone call from Ojha, who told them he was "fine inside," but was unable to state where he was being held.

Ojha was originally from Goganpani VDC in Dhading district, but was living in Kathmandu, working as a construction supplies dealer, at the time of his arrest. He had earlier been active in the Maoist movement, but surrendered himself on January 28, 2002 (Magh 15, 2058) to the RNA. After his surrender, he was held for fifteen days at the Dhadingbesi army camp, and then transferred to the CDO's office in Dhading, where he spent ninety days in detention under TADA. After his release, he was required to report regularly to the Khanikhola police station. He did not resume his Maoist activities after his surrender, according to family members.⁴

3. Surendra Rai



Thirty-eight-year-old **Surendra Rai**, a member of the ethnic Rai community, worked in a carpet factory in Kathmandu. On February 27, 2004 (Falgun 15, 2060), a group of four RNA soldiers in civilian dress came to the factory accompanied by a co-worker of Surendra Rai, who pointed him out to the soldiers. The soldiers detained Rai at the factory, but nine days later they returned Rai to his home and released him. On March 15, 2004 (Chaitra 2, 2060), two RNA soldiers in civilian dress came to Rai's home and asked him to accompany them. Other RNA soldiers were waiting outside the home. He was released again the next day and told to report to the

³ The name of the second detainee is on file with Human Rights Watch. His identity is being withheld to protect his safety.

⁴ Human Rights Watch interview with a relative of Arjun Ojha, Kathmandu, October 11, 2004.

Rajdal army barracks on March 18, 2004 (Chaitra 5, 2060). He went to report to Rajdal Barracks on March 18, 2004, as ordered, and was never seen again.

A relative repeatedly tried to gain access to Rai at Rajdal barracks. On March 29, 2004 (Chaitra 16, 2060), the relative managed to fool a guard into believing that she had an appointment to see Rai. The soldier went to check, and confirmed that Rai was at Rajdal barracks but could not be visited. When the relative returned two weeks later, a guard at the gate went to check and told her that Rai no longer was at the barracks. Although the government included Surendra Rai's name on a list of acknowledged detainees reportedly released, he remains in detention.

The family reported the case to the NHRC, ICRC, and various human rights organizations, and received two letters from Rai through the ICRC. The letters confirmed that Rai was alive and in custody, but provided no information as to his whereabouts.

Rai was not a member of CPN-M, but was active in Rai cultural organizations and a trade union. The co-worker who identified Rai to the soldiers had previously been arrested by the RNA on suspicion of being a Maoist.⁵

4. Parlad Waiba

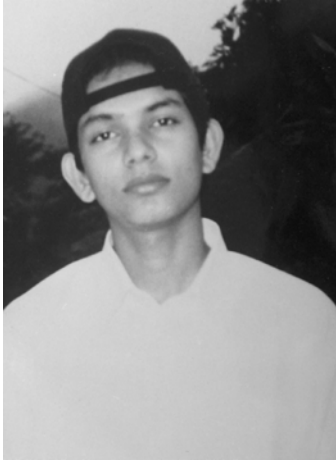
On March 1, 2004 (Falgun 18, 2060), five or six RNA soldiers in civil dress came to Krishna Secondary School in Chhaimale, Kathmandu, at 11:30 a.m. The soldiers went to the school's headmaster, identified themselves as RNA soldiers, and asked to see a student, seventeen-year-old **Parlad Waiba**. After Waiba was brought to the headmaster's office, the soldiers said they would need to take Waiba away for about ten minutes of questioning, collected his books from the class room, and departed with Waiba. The soldiers were recognized by faculty and students as belonging to the nearby Farping Army Camp. Waiba has not been seen since then.

The family registered the "disappearance" with the NHRC, ICRC, and various human rights organizations. An elderly relative of Waiba also went to the Farping army camp to ask about him, and was told by the guards at the gate not to worry, because Waiba was being provided with food and shelter and was fine. No other information has been received by the family.

⁵ Human Rights Watch interview with a relative of Surendra Rai, Kathmandu, September 18, 2004.

According to the family and school officials, Waiba was not involved with the Maoists.⁶

5. *Dilip Chandra Hadkhale*



Dilip Chandra Hadkhale, a nineteen-year-old resident of Byas VDC-1 in Tahanun district, was a student at Amrit Science Campus in Kathmandu. In September 2003 (Ashoj 2060), he was detained by a group of RNA soldiers at the entrance gate to Amrit Science Campus. The soldiers blindfolded him and took him to the Chaunni army barracks. Following a direct intervention by the campus administration, which vouched for Hadkhale, he was released the next day. He went home to his family in Tahanun district, and told them he had been severely beaten in detention, and questioned about his friend Hari Thapa, a CPN-M activist who had been killed earlier by the RNA. Apparently, the army had discovered a photograph that included Hadkhale in Hari Thapa's possession. After recovering, Hadkhale returned to his studies in Kathmandu. On January 21, 2004 (Magh 7, 2060), he left his room to meet a friend and never returned; the campus administration, his friends, and his relatives all believe he was re-arrested by the RNA.

The family contacted influential politicians, including a former deputy prime minister and the secretary of defense, looking for information. They filed applications with the RNA's Chief of Staff, and reported the "disappearance" to the ICRC, NHRC and various human rights organizations, but have not received any information about the fate of Hadkhale. The family is adamant that Hadkhale was an active member of the Nepali Congress party and was not involved with CPN-M activities; he was simply friends with a CPN-M member, the late Hari Thapa.⁷

6. *Mukunda Sedai*

At around 4 p.m. on December 19, 2003 (Poush 4, 2060), three RNA soldiers in civilian clothes arrested thirty-five-year-old farm owner **Mukunda Sedai** in a tea shop in Bhimsenthan, Kathmandu. The shop owner told the family that the soldiers ordered

⁶ Human Rights Watch interview with a school official, Kathmandu, September 18, 2004 (the name of the witness is on file with Human Rights Watch; his identity is being withheld to protect his safety). Human Rights Watch interview with a relative of Parlad Waiba, Kathmandu, September 18, 2004.

⁷ Human Rights Watch interviews with two relatives of Dilip Chandra Hadkhale, Tahanun, September 21, 2004.

everybody in the shop to put their hands up, asked the customers whether they were involved with the Maoists, and then called Sedai by name and took him away.

Two days later several dozens soldiers came to search Sedai's house in Swayambhu-15, Kathmandu, and the neighbors saw that Sedai himself, blindfolded, was with them. However, when the family asked the soldiers about Sedai, they denied having him in custody.

A month after the arrest, Sedai sent his family a letter saying that he was being held in the Chhauni army barracks. His cell mate later informed the family that Sedai was there but that he might later have been transferred to another barracks.

A relative went to the Chhauni barracks but was told that detainees were not held there. The family filed an application with army headquarters, police headquarters and armed police headquarters, and reported the case to NHRC, Amnesty International, and ICRC. Both the police and the armed police denied holding Mukunda Sedai, while the army has never responded.

The family is adamant that Sedai was never involved with the Maoists or any other political party. He owned a small farm Jivanpur-6, Dhading district and was coming to Kathmandu to sell vegetables. The family believes that other villagers have reported on Sedai to the army, accusing him of supporting the Maoists.⁸

7. Nischal Nakarmi

According to his family, the army had been actively searching for twenty-seven-year-old **Nischal Nakarmi**, and Nakarmi had gone into hiding to avoid arrest. On December 3, 2003 (Mangshir 17, 2060), Nakarmi was detained by RNA soldiers in the Koteshower area of Kathmandu. He was able to call his family on December 8, 2003 (Mangshir 22, 2060), telling them that he had been detained, but that he did not know where he was being held. This was the last contact between Nakarmi and his family. A weekly newspaper later reported that the RNA had detained Nakarmi and that he was being held at Sundrarijal investigation center in Kathmandu.

The family reported the "disappearance" to Amnesty International, INSEC, ICRC, and the NHRC, but received no information. Even after the arrest, RNA soldiers came to the family's residence several times, inquiring about the whereabouts of Nakarmi.

⁸ Human Rights Watch interview with a relative of Mukunda Sedai, September 18, 2004.

Nakarmi is suspected by the Nepali authorities of being an organizer for CPN-M, and was previously detained for six months during the state of emergency.⁹

8. Bhaikaji Ghimire

9. Bhim Giri



On December 3, 2003 (Mangshir 17, 2060), at about 3:30 p.m., a group of armed men in civilian clothes followed twenty-nine-year-old **Bhim Giri**, a college student, and his friend (age unknown) **Bhaikaji Ghimire** as they left the Mahendra Ratna College in Kathmandu on motorbike. The armed men followed the motorbike in two taxis that had their license plates covered up. Outside the college, a scuffle broke out between the armed men and Bhim Giri and his friend, until the armed men fired into the air and identified themselves as RNA soldiers. As the RNA soldiers bundled the two men into the taxis, Bhim Giri yelled out his name and asked the onlookers to notify journalists and human rights organizations of his arrest. A

relative of Bhim Giri was among the witnesses to his arrest.

Relatives of Bhim Giri contacted journalists, and informed the Nepal Bar Association, the NHRC, Amnesty International, the ICRC, and other human rights organizations. They met with the Chief District Officer of the area, who denied any knowledge of the arrest. The family has not received any information about the whereabouts of Bhim Giri or Bhaikaji Ghimire since their arrest.

Bhim Giri was a student at Mahendar Ratna College. He had previously served as secretary of the college branch of the All-Nepal Free Students' Union (Revolutionary), a Maoist-affiliated organization, but no longer served in that position at the time of his arrest. Bhaikaji worked as managing director of the *Sama Dristi* weekly newspaper, the official newspaper of CPN-M.¹⁰

⁹ Human Rights Watch interview with a relative of Nischal Nakarmi, Kathmandu, September 18, 2004.

¹⁰ Human Rights Watch interview with a relative of Bhim Giri, Kathmandu, September 18, 2004.

On November 9, 2004, a NHRC representative claimed that Bhaikaji Ghimire, among others, was held in the Bhairabnath army barracks.¹¹

10. Arjun Pokharel

11. Kaushala Pokharel

On November 26, 2003 (Mangshir 10, 2060), at around 1 p.m., two men in civilian clothes took twenty-four-year-old student **Arjun Pokharel** from his home in Chabahil, Kathmandu. The neighbors who witnessed the arrest informed the family. Three days later, on November 29 (Mangshir 13), at around 6 a.m., an army patrol arrested Arjun's sister, twenty-two-year-old **Kaushala Pokharel** in Bungamati, Lalitpur, where she was visiting a friend.

A family member inquired at the Maharajgunj, Bhadrakali, Chhauni and Balazu army barracks in Nepal, Kathmandu, as well as at the District police office and police posts in Chabahil. Both army and police denied having Arjun or Kaushala Pokharel. The relative filed a petition with Kathmandu district court and, along with other relatives of "disappeared" persons, signed a petition to the prime minister, but has not received any information of Arjun or Kaushala Pokharel's whereabouts. A year before his arrest Arjun Pokharel was elected the Balazu campus president of a Maoist-associated student group, All-Nepal Free Student Union (Revolutionary). The family did not know whether his sister was also politically involved.¹²

12. Kiran Maharjan

At around 6:30 a.m. on November 11, 2003 (Kartik 25, 2060), five RNA soldiers in civilian clothes came in two vehicles (a red and a white van) to the house of twenty-eight-year-old construction worker **Kiran Maharjan** in Chovar-15, Kirtipur, Kathmandu. His mother saw him being put in one of the cars, and then the soldiers drove the man away.

The family went to the Chhauni army barracks, but the army denied having Maharjan there. For nine months the family had no information of his whereabouts. In late August 2004, a detainee just released from the Bhairabnath Gulm (Maharajgunj) army barracks told the family that Kiran Maharjan was held in this barracks, and was still there as of August 2004.

¹¹ Cited in: "Krishna K.C. in RNA detention: NHRC," *The Kathmandu Post*, November 9, 2004.

¹² Human Rights Watch interview with a relative of Arjun and Kaushala Pokharel, Kathmandu, September 18, 2004.

The family went to Bhairabnath Gulm barracks, but the army denied having Maharjan or any other detainees. The relatives signed the petition to the prime minister together with other relatives of “disappeared” persons submitted on June 21, 2004 (Ashad 7, 2061), and contacted several human rights organizations, but have not received any further information. Maharjan’s family did not know whether he was politically involved.¹³

On November 9, 2004, a NHRC representative claimed that Kiran Maharjan, among others, was still held in the Bhairabnath army barracks.¹⁴

13. Govinda Ghimire



On August 29, 2003 (Bhadra 12, 2060), three plainclothes Nepali security officials, two of them masked, came to the home of **Govinda Ghimire** in Chabahil area of Kathmandu. The security officials surprised Ghimire while he was taking a bath. They blindfolded Ghimire and tied his hands, and then led him away in front of a group of neighbors who had gathered to watch, telling the neighbors not to interfere. Ghimire has not been heard from since.

Ghimire, a twenty-two-year-old commerce student at Chabahil College in Kathmandu, was a district committee member of the Maoist-affiliated All-Nepal Free Students’ Union (Revolutionary), according to newspaper reports. The family initially hoped he would be released, but after receiving no news for several months, went to report the case to the ICRC, NHRC, and local human rights organizations, and filed a habeas corpus petition in the Supreme Court, which has not yet been decided.¹⁵

¹³ Human Rights Watch interview with a relative of Kiran Maharjan, September 18, 2004.

¹⁴ Cited in: “Krishna K.C. in RNA detention: NHRC,” *The Kathmandu Post*, November 9, 2004.

¹⁵ Human Rights Watch interview with a relative of Govinda Ghimire, Kathmandu, September 18, 2004.

14. Bipin Bhandari



15. Dil Bahadur Rai



Twenty-four-year-old **Bipin Bhandari** was the secretary of the All-Nepal Free Students' Union (Revolutionary), a CPN-M-affiliated students' organization. According to well-placed sources, Bhandari's father is a political official in CPN-M. Nepali security forces were actively searching for Bipin Bhandari, so he had left his family home and sought alternative accommodation.

At 5 a.m. on June 17, 2002 (Asadh 3, 2059), Nepali security forces, including police officials, came to the lodgings of Bhandari in Kapan area of Kathmandu and arrested him together with twenty-three-year-old **Dil Bahadur Rai** and one other suspected Maoist. The latter was released after six months in detention, and told the family that he and the others had first been detained at Balazu police station for two days, and then transferred to Shorakutte police station for fifteen days, both located in Kathmandu. The released detainee then lost contact with the two others. Bhandari and Rai remain missing to date.

The family informed various human rights organizations, ICRC, and the NHRC of the "disappearance," but received no information from any source.¹⁶

¹⁶ Human Rights Watch interview with a relative of Bipin Bhandari, Kathmandu, September 18, 2004.

16. Purna Poudel

17. Nabin Kumar Rai

18. Ishower Kumar Lama

Twenty-four-year-old **Purna Poudel** was the secretary-general of the Maoist-affiliated All-Nepal Free Students' Union (Revolutionary), and participated in the dialogue between the Nepali authorities and CPN-M during the first ceasefire in Nepal in June-July 2001. On April 26, 2002 (Baishak 13, 2059), a group of police officers came to a house in Kalmati, Kathmandu, where he was having dinner with two other Maoists, twenty-eight-year-old **Nabin Kumar Rai**, a central committee member of CPN-M, and nineteen-year-old **Ishower Kumar Lama**, the treasurer for CPN-M-affiliated All-Nepal Free Students' Union (Revolutionary) at the Ratna Rajya College campus. The officers arrested the three men.

Since the arrests, the families have received no information about the detainees' fate, and all three men remain missing. The family of Purna Poudel reported his case to the ICRC, NHRC, and various local human rights organizations, and recently filed a habeas corpus petition on his behalf, which remains undecided.¹⁷

Lalitpur

19. Rajendra Thapa



At around 11 p.m. on December 18, 2003 (Poush 3, 2060), five RNA soldiers in civilian clothes came to the house of thirty-five-year-old farmer **Rajendra Thapa** in Imadol-9, Lalitpur. A relative of Thapa's who was accompanying the army called him out "to see some friends," and Thapa went outside with him.

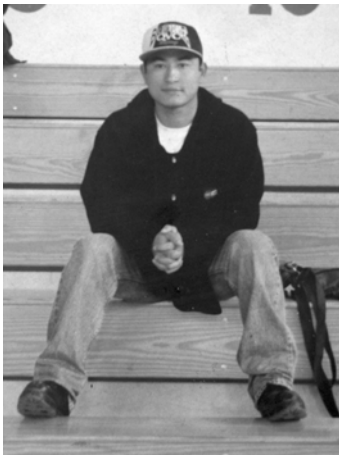
A day after the arrest the relative who had accompanied the army informed the family that Rajendra had been taken for questioning to the Bhairabnath Gulm (Maharajgunj) army barracks, and would be released in a few days. Thapa has not been seen or heard from since then.

¹⁷ Human Rights Watch interview with a relative of Purna Poudel, Kathmandu, September 18, 2004; Habeas Corpus petition filed on behalf of Nabin Kumar Rai and Ishower Kumar Lama.

The family went to the Bhairabnath Gulm (Maharajgunj) and the Rajdal army barracks, but the army denied having Thapa. One of his relatives reported the case to Amnesty International, INSEC, the ICRC and the NHRC. The relative also filed petitions with army headquarters, Kathmandu District Court, and the prime minister, but has not received any information.

According to the family, Thapa was supporting the Nepal Communist Party (Mashal), which now is a part of the Maoist movement.¹⁸

20. Surjeman Maharjan



At about 1:15 a.m., on the night of September 29, 2003 (Ashoj 12, 2060), a group of around thirty-five uniformed RNA soldiers came to the Pulchowk, Lalitpur home of **Surjeman Maharjan**, a thirty-four-year-old music teacher. The soldiers, who were armed, showed the family their army identification. After searching the home, the soldiers took Maharjan with them, promising his pregnant wife to return him the next day. The next morning at 9 a.m., the soldiers returned with Maharjan and searched the home again. They told the family they had come from Bhadra Kali, the RNA's headquarters in Kathmandu. The soldiers then left again with Maharjan. A friend was arrested at the same time as Surjeman Maharjan from Rajdal Gulm, Lalitpur, and released six months later. The released detainee told the family he had been held together with Maharjan for the first two months of their detention, first at Bhadra Kali, the army headquarters, and later at Bhairabnath Gulm (Maharajgunj) army barracks.

The family tried to locate Maharjan and obtain his release through many avenues, registering his "disappearance" with various human rights organizations, the Nepal Bar Association, the ICRC, Amnesty International, the NHRC, the RNA's human rights cell, and the Home Ministry. After filing a habeas corpus petition, the family obtained an order from the Supreme Court ordering the army to reveal the whereabouts of Maharjan, but the army responded by denying Maharjan was in their custody. On September 13, 2004 (Bhadra 28, 2061), the family received a phone call from Maharjan, who tried to reassure his family he was safe, but could not discuss his whereabouts.

¹⁸ Human Rights Watch interview with a relative of Rajendra Thapa, Kathmandu, September 18, 2004

Maharjan was a low-level activist in the Maoists' political front organization, the United Peoples Front (UPF), during the early 1990s, before the Maoists turned to violence. More recently, he was involved in the activities of Mangka Khala, a Newari cultural organization. The founding chair of Mangka Khala, Dilip Maharjan, is also a central committee member of CPN-M, and the Nepali authorities have accused Mangka Khala of being a front organization for the CPN-M.¹⁹

21. Dharma Raj Dangol

On September 23, 2003 (Ashoj 6, 2060), at 6 a.m., a group of fifteen uniformed RNA soldiers, their faces covered with bandanas, came to the parental home of nineteen-year-old **Dharma Raj Dangol** in Khokana area of Lalitpur. Dangol was a student at Shree Rudrayani Secondary School. The soldiers asked for Dangol, who was not at home at the time, but was guarding a nearby club that had been burglarized recently. After the soldiers reassured the family they would not harm Dangol, a relative led the soldiers to the club, and the soldiers promptly arrested Dangol, taking him away blindfolded. He has not been seen since then.

The family reported the “disappearance” to the NHRC, the ICRC, and Amnesty International, but has received no information to date. Dangol was a member of the Nepali Congress political party, and his relatives were not aware of any Maoist involvement.²⁰

On November 9, 2004, a NHRC representative claimed that Dharma Raj Dangol, among others, was still held in the Bhairabnath army barracks.²¹

¹⁹ Human Rights Watch interview with two relatives of Surjeman Maharjan, Lalitpur, September 17, 2004.

²⁰ Human Rights Watch interview with a relative of Dharma Raj Dangol, Kathmandu, September 18, 2004.

²¹ Cited in: “Krishna K.C. in RNA detention: NHRC,” *The Kathmandu Post*, November 9, 2004.

22. Padam Narayan Nakarmi



On the night of September 22, 2003 (Ashoj 5, 2060), at 1 a.m., a group of about twenty uniformed RNA soldiers burst into the Lalitpur home of **Padam Narayan Nakarmi**, surprising the sleeping family in their beds. The soldiers identified themselves as army, and ordered Nakarmi to come with them, reassuring the family they would return him soon.

Nakarmi was never seen after his arrest. He was not a known Maoist, but did participate in a Newari cultural organization, Mangka Khala, which the government accuses of being a Maoist front organization. Nakarmi was also a friend of Ram Shahi (see case below), who was arrested just days prior to Nakarmi in possession of Maoist literature and bomb-making equipment.

When relatives went to inquire at the Rajdal and the Bhairabnath Gulm (Maharajguni) barracks, the soldiers denied any knowledge of the arrest. The family filed a habeas corpus petition with the Supreme Court, which is still pending, and informed the ICRC and NHRC of the arrest and “disappearance.”²² According to credible sources, including a released detainee, Nakarmi was killed in military custody, but there has been no formal acknowledgement of his death.

23. Ram Shahi



Ram Shahi, a twenty-seven-year-old poultry farm owner from Bungmati, Lalitpur, was arrested by RNA troops on the night of September 16, 2003 (Bhadra 30, 2060). Two RNA troops came to his house, and a group of five or six uniformed, masked soldiers came inside to search. During the search of the home, the soldiers discovered Maoist literature and bomb-making equipment. A number of other men were arrested at the same time, but later released.

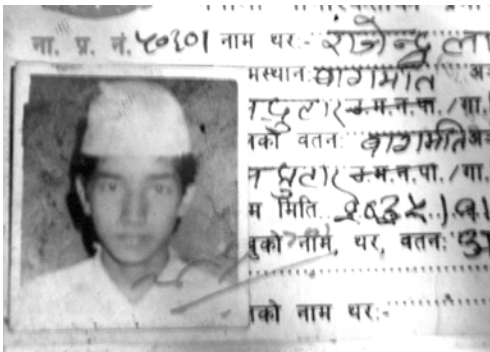
The released men confirmed to the family that they had spent two months together with Ram at the Rajdal army barracks, but that Ram Shahi

²² Human Rights Watch interview with a relative of Padam Narayan Nakarmi, Kathmandu, September 18, 2004.

and two other detainees were then transferred to the Bhairabnath Gulm (Maharajgunj) army barracks. When the relatives visited Maharajgunj barracks, the guards denied Ram Shahi was detained there. The family has filed a habeas corpus petition with the Supreme Court which remains undecided, and reported the “disappearance” to the ICRC, the NHRC, and various human rights organizations.²³

Nuwakot

24. Rajendra Lamichhane



On October 12-14, 2003 (Ashoj 25-27, 2060), a large group of RNA soldiers conducted house-to-house searches throughout Bhadurtar VDC, Nuwakot. On October 14 (Ashoj 27), at around 6 a.m., part of the group arrested twenty-six-year-old farmer **Rajendra Lamichhane** in Bhadrutar VDC-4, where he had gone to buy a buffalo. The soldiers brought along a blindfolded person

in military uniform who said he knew Lamichhane to be a Maoist. After interrogating Lamichhane, the soldiers took him away. They held him overnight in Seule Bazaar in a neighboring village, and later the villagers saw him being taken in the direction of Kathmandu.

The family went to the Kakani army barracks in Kathmandu several times, but the guards did not let them in. The relatives reported the case to a local human rights group, the ICRC, Amnesty International and NHRC, but have not received any information.

According to the family, Lamichhane was never involved with any political or student movement.

Three other people (names unknown) who were arrested along with Rajendra Lamichhane later came back to the village.²⁴

²³ Human Rights Watch interview with a relative of Ram Shahi, September 18, 2004.

²⁴ Human Rights Watch interview with a relative of Rajendra Lamichhane, Kathmandu, September 18, 2004.

Kavre

25. Satya Narayan Prajapati



Thirty-eight-year-old **Satya Narayan Prajapati**, a Kathmandu-based lawyer, was arrested by Nepali security forces at a teashop in Sangachowk, Kavre district, on April 26, 2002 (Baishak 13, 2059). Prajapati was a village-level activist for the United People's Front party, which served as a front-organization for CPN-M, and was likely traveling to Kavre district to meet other political activists.

When his relatives learned of his arrest on April 29, 2002 (Baishak 16, 2059), they immediately went to the Chief District Officer in Bhaktapur, and were informed that Prajapati was being held at Naxal police headquarters. The next day, the CDO office informed the family that Prajapati had been transferred to the Suryabinayak army barracks in Bhaktapur. After multiple efforts to see him, a relative finally succeeded in visiting Prajapati a month after his arrest at Suryabinayak barracks on May 27, 2002 (Jestha 14, 2059).

Prajapati told the relative that he had been severely tortured, and complained of pain in his kidneys and two broken teeth. When the relative tried to see Prajapati again a few days later, the soldiers said he had been transferred to Kathmandu. A guard at the Balazu army camp in Kathmandu later told the family that Prajapati had been held there briefly but had been transferred again. The family has lost all contact with Prajapati.

The “disappearance” was reported to the ICRC, NHRC, Nepal Bar Association, and various local human rights organizations.²⁵

²⁵ Human Rights Watch interview with a relative of Satya Narayan Prajapati, Kathmandu, September 18, 2004.

Dhading

26. Hari Prasad Luintel



At around 1 a.m. on February 28, 2004 (Falgun 16, 2060), a dozen men in civilian clothes came to the house of thirty-five-year-old farmer **Hari Prasad Luintel** in Bhadaure, Naubashie-2, Dharke, Dhading. The family believed the men were RNA soldiers. The soldiers smashed the light bulb above the door, entered and searched the house, and took away Luintel and a visitor who was staying with the family. The visitor, one of Luintel's former workers, was released the same day, but Luintel "disappeared" without a trace.

His wife could not search for her husband because she had to take care of the children and elderly in-laws. According to her, Luintel was suffering from a mental illness, and she did not know if he was ever involved with any political party.²⁶

27. Hari Sharan Thapa



At 9 p.m. on January 30, 2004 (Magh 16, 2060), a group of about twelve to fifteen uniformed RNA soldiers came to the home of **Hari Sharan Thapa**, a thirty-eight-year-old farmer, in Thangre VDC, Dhading district, adjacent to the main Kathmandu-Hetauda highway. The soldiers surrounded the house, and several soldiers then entered the home and ordered

Thapa to come with them. The soldiers explained to Thapa's family that they wanted Thapa to accompany them to the main road to sign a statement, but when they reached the main road, the soldiers bundled Thapa into their car and departed.

Thapa's father, a farmer, went to the Khani Kola army barracks to try to find his son, but received no information. He also went to Kathmandu to search for his son, without result. Unaware of the existence of human rights organizations, he did not seek their

²⁶ Human Rights Watch interview with a relative of Hari Prasad Luintel, Dhading, September 19, 2004.

help or report the case to the ICRC or NHRC. According to the family, Thapa, a father of four, had no known links to CPN-M.²⁷

28. Navaraj Thapa

29. Indra Bahadur Aryal

30. Ram Prasad Acharya



Between midnight and 4 a.m. on November 12, 2003 (Kartik 26, 2060), a large group of RNA troops arrested five people in nearby Thakre and Naubisa VDCs in Dhadhing. Two of the detainees were released, but the other three “disappeared” without a trace.

At about midnight on November 11, 2003 (Kartik 25, 2060), family members of thirty-eight-year-old **Indra Bahadur Aryal** were awakened by knocking at the door of their home in Thakre VDC, Dhadhing district. When they opened the door, they saw a group of fifty to sixty uniformed RNA soldiers outside. The soldiers entered the home and found Aryal’s membership card of the mainstream CPN-UML. They then ordered Aryal to go with them and put him in an RNA truck. They also confiscated Aryal’s motorcycle.

Aryal’s arrest took place one day after the arrest of Indra Thapa from the same village, but Thapa was released immediately. A third villager²⁸ was arrested the same night as Aryal and released about three months later. After his release, the villager informed the family that he and Aryal had been held together at Chaunni Army Barracks in Kathmandu. The released detainee also told the family that the army accused Aryal of allowing a Maoist to use his motorcycle. A relative of Aryal went to the Chaunni barracks on several occasions but was unable to meet with Aryal; however, a guard at the gate of the Chaunni barracks did confirm to the relative that the motorcycle was at the barracks.

The family sought information at the Chaunni army barracks, the Baireni army camp in Dhading, and at the CDO’s office in Dhading, but received no further information.

²⁷ Human Rights Watch interview with a relative of Hari Sharan Prasad, Dhading, September 19, 2004.

²⁸ The name of the villager is on file with Human Rights Watch. His identity is being withheld to protect his safety.

They reported the “disappearance” to the ICRC and various human rights organizations, and petitioned the King, but have received no further official information.²⁹

At around 2 a.m. on November 12, 2003 (Kartik 26, 2060), about twenty armed RNA soldiers in civilian clothes came to Thakre VDC-2, Dhading. They arrested **Navaraj Thapa**, thirty-year-old shop owner, in a small guesthouse in the same village, which they found with the help of the man’s younger brother. They also seized his motorcycle, a Hero Honda Splendor (Ba.9 Pa 4537).

The family went to NHRC and the ICRC, but was unable to obtain any information. The family said that Thapa was never involved in politics, but that other villagers, envying their relative prosperity, falsely accused him of lending his motorcycle to the Maoists for the transportation of weapons.

The family also heard from one of the released detainees that Thapa was held along with them at the Chhauni barracks for the first several days.

Navaraj Thapa had been arrested before, on October 1, 2003 (Ashoj 14, 2060), along with his younger brother. Both men were then brought to the Bhairabnath Gulm (Maharajgunj) army barracks in Kathmandu. The army released Navaraj eight days later, and his younger brother spent another seven months in detention, first in Bhairabnath, and then in the 6 No Bahini Bareni army barracks.³⁰

At 4 a.m. on the morning of November 12, 2003 (Kartik 26, 2060), just hours after Navaraj Thapa’s arrest, a group of eight or nine soldiers, one of them uniformed and the others in plainclothes, came to the home of forty-nine-year-old **Ram Prasad Acharya**, a businessman who lived in Naubise VDC of Dhading district, on the main Kathmandu-Pokhara road. Acharya owned a bus that plied local roads, and was in the process of building a small motel on his property along the main road. The soldiers woke up the workers sleeping in the front of the construction site and ordered them to direct them to Acharya’s room. When the soldiers located Acharya, they locked his wife in the bedroom and took Acharya with them. Acharya’s wife was only freed when villagers came to find out what had happened the next morning.

²⁹ Human Rights Watch interview with a relative of Indra Bahadur Aryal, Kathmandu, October 11, 2004.

³⁰ Human Rights Watch interview with two relatives of Navaraj Thapa, Dhading, September 19, 2004.

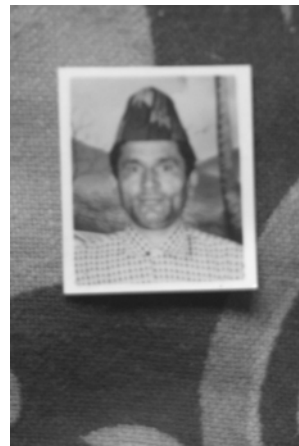
The family informed the ICRC, Amnesty International, and the NHRC of the “disappearance.” They also approached the human rights cell of the RNA and filed a habeas corpus petition in the Supreme Court, which remains undecided. They received no information from official sources, but a released detainee told them in December 2003 that he had spent two months in the same cell with Acharya at the Jagadal army barracks in Kathmandu.

According to the family, Acharya was not involved in politics. Earlier, in 1996, Acharya had been elected as a ward chairman from the CPN-UML party, which has no links to CPN-M.³¹

31. Baikuntha Bhujel



32. Hari Prasad Acharya



On the night of October 29, 2003 (Kartik 12, 2060), a group of about ten men in civilian clothes came to the house of Ram Sharan Thapa in Jivanpur VDC-9, Dharke, Dhading district. The forty-eight-year-old Ram Sharan Thapa had previously served as the CPN-UML ward chairman.

The men did not identify themselves, but the family believes they were army, as they were carrying different types of automatic weapons ordinarily used by the RNA.

The armed men asked him about his cousin Baikuntha Bhujel's whereabouts, and then took him away on foot, ordering the family to turn off the lights in the house and to

³¹ Human Rights Watch interview with a relative of Ram Prasad Acharya, Dhading, September 19, 2004.

stay inside. Just fifteen meters from the home, the soldiers shot Thapa, and then dragged his body into a nearby field. The family found the body the next morning.³²

On November 5, 2003 (Kartik 19, 2060), **Baikuntha Bhujel**, a twenty-five-year-old shop owner, was attending the funeral ceremony at Ram Sharan Thapa's house in Jivanpur VDC-9. At around 1 a.m., three uniformed RNA soldiers came to the house. One of them approached Bhujel asking for his name and, after Bhujel responded, ordered him to go outside. The soldiers then took Bhujel away, locking others present at the ceremony inside the house.

His family went to the Dhading army barracks, petitioned Army headquarters and NHRC, but has not received any information.

Baikuntha Bhujel had been arrested before, on October 14, 2002 (Ashoj 28, 2059), and detained first in the Bahini Baireni barracks and then in the Dhading barracks, from where he was released several months later. The army requested that he should check in with the barracks every month, which he did. According to his family, he was arrested because other people reported that he was a Maoist, but the family denies he was ever politically involved.³³

On the same night of November 5, 2003 (Kartik 19, 2060), also at 1 a.m., a group of RNA soldiers arrived at the home of **Hari Prasad Acharya**, a forty-six-year-old poultry farmer who lived in Naubise VDC of Dhading district, just off the main Kathmandu-Pokhara road. The soldiers arrived in a white minibus and a white van,³⁴ and some were in uniforms while others were in civilian dress. Two soldiers came inside, asked for Acharya by name, and took him away in his sleeping clothes.

The family went to several army barracks over the next few days, but was unable to find Acharya. A relative who worked at the Chaunni army barracks in Kathmandu informed the family that Acharya was being detained there, but the relative was too low-ranking to arrange a meeting with him.

³² Human Rights Watch interview with a relative of Ram Sharan Thapa, Dhading, September 19, 2004. After appealing to the government, the army accepted responsibility for the killing and the family was paid compensation of 150,000 rupees (about U.S.\$2,080).

³³ Human Rights Watch interview with a relative of Baikuntha Bhujel, Dhading, September 19, 2004.

³⁴ In Nepal, minibuses are normally used for public transport. The slightly smaller vans are normally used for private transport and by some government agencies.

A released detainee told the family that he had seen Baikuntha Bhujel at the Chaunni army barracks and that Bhujel had stated that he was being detained there together with Acharya.

The family reported the case to Amnesty International, the NHRC, and the ICRC, and also wrote to the chief of staff of the RNA and the prime minister, but received no further information. The family also filed a habeas corpus petition in the Supreme Court, which remains undecided.

Acharya was not an active member of the CPN-M, but had on several occasions provided Maoists with food and shelter. It is often dangerous for civilians to deny Maoist requests for food and shelter, so such activity cannot be seen as active, voluntary support for CPN-M. He had previously been arrested on July 25, 2002 (Shrawan 9, 2059), for providing food to Maoists, and had spent twenty-two days in RNA custody, followed by four months' imprisonment. After his release, he was required to report monthly to the police.³⁵

Lamjung

33. Lila Khannal

In October-November, 1997 (Kartik 2054), twenty-year-old **Lila Khannal**, who had joined a low-level CPN-M cadre about a year before, was detained following a shoot-out with Nepali security forces in a shop in Deuthapani VDC of Lamjung District.

Witnesses to the incident told her relatives that one Maoist had been killed during the incident, but that Khannal and another Maoist had been detained and taken away unharmed by the security forces. Upon learning of the detention, the family went to the CDO's office and the District police office in Gorkha, but was not given any information. The relatives also went to see police officials in Deuthapnani VDC and in Lamjung's district headquarters, but the police refused to acknowledge that Khannal had been detained.

³⁵ Human Rights Watch interview with a relative of Hari Prasad Acharya, Dhading, September 19, 2004.

Afraid for their own security, the family did not file applications with government officials or the ICRC. The family has not heard any information about the fate of Khannal since her arrest.³⁶

Gorkha

34. Niru Pokhrel

35. Keshar Bahadur Nepali

36. Durga Pokhrel

37. Khadanade Pande

38. Bishnu Marahatta

39. Kalika Poudel

40. Purna Chandra Acharya

41. Kumar Thapa

42. Nabin Shirestha

Niru Pokhrel, a twenty-one-year-old student at Gorkha University, was arrested from her home in the Pritihivi Narayan Municipality of Gorkha district on December 4, 2002 (Mangshir 18, 2059). According to a relative who was at home at the time, several police officers and RNA soldiers in civilian dress came to the home, showed their security force IDs, and said they wanted to take Pokhrel in for questioning and would return her the next morning. Pokhrel was never seen again.

However, relatives brought Pokhrel clean clothes several times over the next few weeks at the District Police Headquarters in Gorkha, and were given her dirty clothes for washing, strongly suggesting that Pokhrel was alive and being held at the District Police Headquarters. On several occasions, police officers extorted money from the family, saying Pokhrel had requested the money. According to her family, Pokhrel was not an active member of CPN-M, but she did like to attend CPN-M cultural events, sing CPN-M songs, and was an outspoken person on campus.³⁷

³⁶ Human Rights Watch phone interview with Rohini Khannal (brother), Gorka, September 20, 2001.

³⁷ Human Rights Watch interview with a relative of Niru Pokhrel, Gorkha, September 20, 2004.

On December 5, 2002 (Mansir 19, 2059), a group of RNA soldiers came to the Choprak VDC, Gorkha district home of **Keshar Bahadur Nepali**, a fifty-year-old teacher who had been appointed to head the local village committee of the Maoists' "People's Government." Nepali was arrested from his home at about 5 p.m., and according to his family was taken to the Lakeside Army Camp, where he was used by the RNA to identify other CPN-M members over the next days.³⁸

A high school teacher who had been held in detention around the same time confirmed to Human Rights Watch that he had seen Niru Pokhrel and nineteen-year-old **Durga Pokhrel**, both of whom had been his students, at the Gorkha District Police office, where he had been detained from December 28, 2002 to January 17, 2003 (Poush 13 to Magh 4, 2059). He also heard the voice of Keshar Bahadur Nepali, who is from his home village, at the police station. Other detainees also pointed out a fourth detainee, forty-seven-year-old **Khadanada Pande** to him. When he was released, he was told by Keshar Bahadur Nepali's brother that all four had been killed.³⁹

About one month after the arrest, local FM radio and newspapers carried a government announcement that Pokhrel and Nepali, together with Durga Pokhrel, a nineteen-year-old student from Choprak VDC-6 in Gorkha district, and Khadanada Pande, identified as a CPN-M, were killed in an "encounter" with security forces.⁴⁰ Given the fact that at least two of the killed persons were known to have been in detention prior to the killings, the "encounter" appears to have been staged, and a more credible conclusion is that the four were killed while in detention. Because the Nepali government has never formally acknowledged the killings or handed over the bodies to the relatives, the four remain "disappeared" to date.

The killing of these four persons in detention is not the only such suspected case in Gorkha. According to local human rights activists, on January 2, 2003 (Poush 18, 2059), just five days later, Nepali security forces executed another five detained Maoists suspects: twenty-one-year-old **Bishnu Marahatta**; twenty-two-year-old **Kalika Poudel**; twenty-two-year-old **Purna Chandra Acharya**; nineteen-year-old **Kumar Thapa**; and twenty-year-old **Nabin Shirestha**. The "disappearance" of all nine persons remains

³⁸ Human Rights Watch interview with a relative of Keshar Bahadur Nepali, Gorkha, September 20, 2004.

³⁹ Human Rights Watch interview, Gorkha, September 20, 2004. The name of the witness is on file with Human Rights Watch. His identity is being withheld to protect his safety.

⁴⁰ Human Rights Watch interview with a relative of Niru Pokhrel, Gorkha, September 20, 2004; Human Rights Watch interview with a relative of Keshar Bahadur Nepali, Gorkha, September 20, 2004; Human Rights Watch interview [name withheld], Gorkha, September 20, 2004; Human Rights Watch interview with INSEC official, Gorkha, September 20, 2004.

unresolved, and the substantiated allegations that they were all killed in custody have not been investigated by the authorities.⁴¹

43. Tul Bahadur Nepali

On January 11, 2002 (Poush 27, 2058), twenty-two-year-old **Tul Bahadur Nepali**, who operated a small medical supplies shop in Gorkha District Headquarters, went to the CDO's office to try to obtain a passport because he intended to seek employment in Malaysia. Nepali never returned from his appointment at the CDO's office.

When an uncle went to find out what had happened to Nepali, he himself was arrested and detained for six months. Another detainee released in January-February, 2002 (Magh 2058), told the family that he had been detained with Nepali at a detention facility in Gorkha district headquarters, but this is the only information the family has been able to obtain about Nepali's fate. The family informed various human rights organizations in Gorkha and Kathmandu, but has received no other news about Nepali.⁴²

44. Sanjaya Dhakal

45. Kumar Dhakal



On February 23, 1999 (Falgun 11, 2055), police officers from Choprak police station in Gorkha detained eighteen-year-old **Kumar Dhakal** and eighteen-year-old **Sanjaya Dhakal**, classmates at Gorkha University. The two men were detained from Choprak VDC while they were walking home after visiting Kumar Dhakal's sister and having lunch at her house.

The villagers and a police officer who knew Kumar Dhakal's family informed them that the two men were kept at least twenty-three days at the Choprak police station, where they were forced to do menial work such as collecting firewood and reinforcing the police post. On at least one occasion, the two men were walked through the village with their hands bound.

⁴¹ Human Rights Watch interview with INSEC activist, Gorkha, September 20, 2001.

⁴² Human Rights Watch interview with a relative of Tul Bahadur Nepali, Gorkha, September 20, 2001.

The family has been informed by several sources that the two men were later executed close to the police post, but have been unable to get official confirmation of the deaths or retrieve the bodies. Convinced that the men were killed, the family did not inform the NHRC or ICRC of the “disappearances.” The family of Kumar Dhakal said they were not aware the two men had any involvement in CPN-M activities.⁴³

46. Geeta Thapa Magar

Nineteen-year-old **Geeta Thapa Magar**, a grade ten student, was arrested on January 1, 1999 (Poush 17, 2055), by Nepali security forces while seeking medical attention for a fever at the Appipal Hospital in Chaprak VDC, Gorkha district. She was a member of a low-level CPN-M cadre at the time, having joined CPN-M in January – February, 1998 (Magh 2054). A second CPN-M member escaped during the arrest operation and informed the family that Magar had been detained.

After learning of her arrest, her relatives filed a habeas corpus petition in the Pokhara Supreme Court in February-March, 1999 (Falgun 2055). After the Gorkha District Police Office replied that they had no information about Magar, the habeas corpus petition was dismissed. The “disappearance” was reported to the NHRC and various human rights organizations, but the family has received no information about Magar’s fate since her detention.⁴⁴

Chitwan

47. Juna Dhakal

Twenty-six-year-old **Juna Dhakal** was the wife of Hari Adhikal, a Maoist commander in Gorkha district. After her marriage, she also joined CPN-M. A month after joining the Maoists, in February-March 2003 (Falgun 2059), Dhakal and another female Maoist were wounded during a gunfire exchange with Nepali security forces at Tandi village in Chitwan district, but local villagers told the family that the two women were taken away alive by the security forces.

Relatives went to enquire about Dhakal at a nearby police post and at the Bharatpur army barracks in Chitwan district, but the security forces denied any knowledge of the incident. Afraid to ask more questions about the fate of a known Maoist, the family

⁴³ Human Rights Watch interview with a relative of Kumar Dhakal, Gorkha, September 20, 2001.

⁴⁴ Human Rights Watch interview with a relative of Geeta Thapa Magar, Gorkha, September 20, 2001.

abandoned their search, reporting the case to local human rights activists, but too afraid to go to the ICRC and NHRC to seek assistance.⁴⁵

Nawalparasi

48. Pushpa Raj Devkota

Twenty-eight-year-old **Pushpa Raj Devkota** was a local Maoist activist responsible for propagandistic work. He was arrested on December 24, 2003 (Poush 9, 2060), in Parasi Bazaar, Nawalparasi district. The family found out about his arrest about a month and a half later from a letter delivered by a messenger. The letter indicated that Devkota was arrested by “security personnel in civilian clothes.”

Several days later the family reported the case to INSEC and the ICRC. On July 11, 2004, after a visit to the Nawalparasi barracks, a respected international organization informed them that the army had admitted they killed Devkota in the barracks on May 20, 2004 (Jestha 7, 2061).

The organization urged the army to inform the family, but the RNA refrained from doing so. The relatives did not dare to contact the barracks themselves, fearing persecution. They contacted the CDO, and were told that nobody was killed inside the barracks, but that one person died while being transported to a hospital from the barracks, and that that might have been Devkota. The death was never formally acknowledged, and Devkota remains “disappeared” to date.⁴⁶

⁴⁵ Human Rights Watch interview with a relative of Juna Dhakal, Gorkha, September 20, 2001.

⁴⁶ Human Rights Watch interview with a relative of Pushpa Raj Devkota, Gorkha, September 20, 2001.

Tanahu

49. *Malati Lamsal*

50. *Narayan Pandit*

51. *Shree Ram Ghimire*



At around 11 a.m. on April 14, 1999 (Baishak 1, 2056), a patrol of the police commander post surrounded a house in Ramgha, Chundhi, Tanahu and arrested thirty-one-year-old **Shree Ram Ghimire**, a messenger for the CPN-M, along with nineteen-year-old **Malati Lamsal** and twenty-three-year-old **Narayan Pandit**. One other person managed to escape, and informed the families of the arrest. The arrest was also reported in the local Maoist newspapers, *Janadesh* and *Janauthan*.

Local villagers saw the patrol taking the men to a temporary police camp in Bhanu VDC, but when the families went there, the police denied having the arrestees.

Members of Ghimire's family inquired at the CDO and with the district superintendent of the police, but have not received any information. The Supreme Court dismissed their habeas corpus petition, saying they would have "to search themselves," because the court "cannot do it."

The family heard that Ghimire had been seen at Bhansar police post in Tanahu district, Bharatpur police post, and Pokhara police post, but was unable to confirm the information.

According to Ghimire's relatives, they searched for the "disappeared" together with the families of Lamsal and Pandit, and the whereabouts of these two people also remain unknown.⁴⁷

⁴⁷ Human Rights Watch interview with a relative of Shree Ram Ghimire, Tanahu, September 21, 2004.

Kaski

52. *Parbati Poudel (right)*

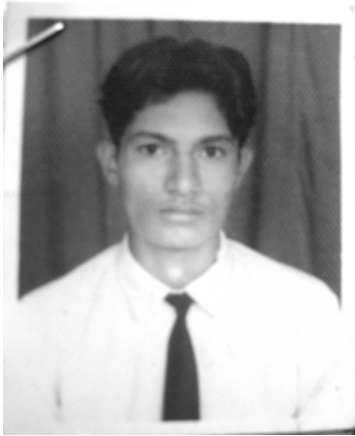


Parbati Poudel, a twenty-year-old president of the district branch of All-Nepal Women's Organization (Revolutionary), was arrested at around 11 p.m. on April 11, 2004 (Chaitra 29, 2060), at the house of Ghan Shyam Dhakal in Simalchour, Pokhara.

Her family learned about the arrest from Poudel's friend, and then heard a local radio report that said that Poudel was arrested by RNA troops. The family heard that one of the detainees released from Fulbari barracks in Kaski had seen Parbati Poudel in detention there, but Poudel's relatives did not go to the barracks themselves, fearing persecution.

The family reported the case to INSEC and the ICRC, but has not received any information.⁴⁸

53. *Netra Prasad Baral (alias Amar)*



54. *Budhi Pande (alias Bigul)*



⁴⁸ Human Rights Watch interview with a relative of Parbati Poudel, Kaski, September 21, 2004.

55. *Tirtha Nath Luitel (alias Sagar)*



56. *Prakash Khanal (alias Sailesh)*



Between November 4 and November 10, 2003 (Kartik 18-24, 2060), Nepali security forces arrested a group of nine persons from the Pokhara area, following a CPN-M attack on a police post in Dadanak, Kaski district. The arrest of the nine persons was announced in local newspapers, and involved mostly students, some of whom were involved in CPN-M or its affiliate, the All-Nepal Free Students' Union (Revolutionary). CPN-M issued its own statement on November 11, 2003, identifying the nine arrested persons as CPN-M activists and “well-wishers,” and giving the CPN-M party names for many of the detainees.⁴⁹

At around 5 a.m. on November 5, 2003 (Kartik 19, 2060), about a dozen armed RNA soldiers in civilian clothes arrested 24-year old **Netra Prasad Baral**, in Bharat Pokhari VDC-7, where he was staying at a friend's house. The army also arrested three other people and the owner of the house they were staying in. The owner of the house was later released, while the other three people remain missing. The next day one of Baral's friends who had witnessed the arrest informed his family.

Through a relative who works in the police the family found out that Baral was first taken to Fulbari barracks. On April 20, 2004, Baral sent his family a letter saying that on December 26, 2003, he was transferred to the Mahendra Gand army barracks in Gorkha. The family did not inquire with the barracks, fearing persecution.

Baral's relatives reported the case to the ICRC and INSEC. The latter announced the “disappearance” in a local newspaper and on the local radio, but the family did not receive any further information on Baral's whereabouts.

⁴⁹ See CPN-M press statement signed by CPN-M party secretary Jeevan, November 11, 2004; newspaper accounts in *Micronews Pokhara* and *Sandhyakalin Daily*, November 12, 2004 (on file at Human Rights Watch).

Baral was a recent school graduate and a member of All-Nepal Free Student Union (Revolutionary), a Maoist-affiliated organization.⁵⁰

About a year before his arrest twenty-year-old **Tirtha Nata Luitel**, from Hemja VDC in Kaski district, was befriended by some CPN-M activists, who convinced him to drop out of school, join CPN-M, and become an underground activist. His family had not heard from Luitel in nearly a year when they learned from the newspaper that he had been arrested on November 8, 2003 (Kartik 23, 2060). The family reported the “disappearance” to INSEC and other human rights organizations, and was visited by ICRC representatives who also documented the case. They did not approach government officials, unsure about what could be done for them. They have had no information about Luitel since reading about his arrest in the newspaper.⁵¹

Two of the arrested men, twenty-six-year-old **Budhi Pande** and twenty-five-year-old **Prakash Khanal**, were from Chitwan district, and had come to Pokhara for their studies. Their families had not had extensive contact with them during their studies, and were thus unaware if they were actively engaged in CPN-M activities.

Budhi Pande was studying at the Prithivi Narayan (PN) campus in Pokhara at the time of his arrest on November 4, 2003 (Kartik 18, 2060). He had been living in Pokhara for nine years, and his family learned of his arrest through the newspaper. The family reported the “disappearance” to the ICRC and Amnesty International, as well as to local human rights groups. On March 15, 2004 (Chaitra 2, 2060), the family received a short phone call from Pande, who confirmed he was still being held in detention but could share few other details, and told his family not to worry.⁵²

Prakash Khanal had failed his high school exit exams, and had been moving from city to city, first living in Birgunj and then moving to Pokhara, where he arrived just weeks before being arrested on November 9, 2003 (Kartik 23, 2060). After learning of the arrest five days later, his relatives went to report the case to the ICRC, INSEC, NHRC, and other human rights organizations. The family has had no information or contact with Khanal since his arrest.⁵³

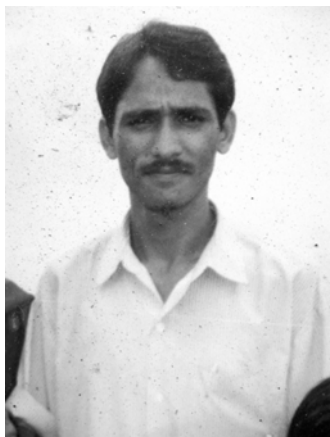
⁵⁰ Human Rights Watch interview with a relative of Netra Prasad Baral, Kaski, September 21, 2004.

⁵¹ Human Rights Watch interview with a relative of Tirtha Nata Luitel, Kaski, September 21, 2004.

⁵² Human Rights Watch interview with a relative of Budhi Pande, Kaski, September 22, 2004.

⁵³ Human Rights Watch interview with a relative of Prakash Khanal, Kaski, September 22, 2004.

57. Raju Chettri



At about midnight on October 18, 2003 (Kartik 1, 2060), a group of fifty to sixty RNA soldiers, some of them in uniform and others in civilian dress, surrounded the home of thirty-one-year-old **Raju Chettri** (also known as Mekh Bahadur Chettri) in Pumdi Bhumdi VDC, Kaski district. Chettri tried to hide, but the army began beating his two brothers, threatening to kill them if Chettri didn't surrender, so he came out of the house and went with the soldiers.

The day after the arrest, Chettri's relatives went to the CDO's office, who confirmed that Chettri was in custody, but told the family not to worry, explaining it was "only for a small interrogation." The family reported the "disappearance" to Amnesty International, the ICRC, INSEC, and the Federation of Journalists, among others. They visited the Fulbari barracks, the Bijayapur barracks, and the Gairapatan Police Post, but everyone they spoke to denied any involvement in the arrest. However, two detainees released from the Fulbari barracks told the relatives that they had been kept together with Chettri, and smuggled a short, two-line letter out from Chettri around March 2004.

Chettri was a journalist for the pro-Maoist newspaper, *Rastriya Shavhiman Weekly*. The newspaper was later shut down by the government because of its pro-Maoist sympathies. When his relatives tried to visit him at Fulbari barracks, the soldiers refused them entry, saying that "a journalist who only writes about army killings is not a true journalist."⁵⁴

⁵⁴ Human Rights Watch interview with a relative of Raju Chettri, Kaski, September 22, 2004.

58. Chaman Lal Baral



For about half a year in 2002, the RNA was looking for **Chaman Lal Baral**, forty-six-year-old president of a local branch of Laborers' Union (Maoist), coming to his family home in Amar Singh Chowk-10, Pokhara, every other day, while Baral was in hiding.

On August 5, 2002 (Shrawan 20, 2059), at around 2 p.m., a large group of uniformed RNA soldiers surrounded a house in Kudahar Path, Pokhara sub-municipality, where Baral was staying. His family believes someone had disclosed his whereabouts to the army. Baral tried to escape, but surrendered when the army opened fire. An eyewitness who told the family about the arrest said he recognized the soldiers from the Fulbari army barracks in Kaski. A local newspaper published a report about the arrest.

Through contacts in the army, the family found out that for at least two months Chaman Lal Baral was held in the Fulbari barracks, although the army at the barracks never confirmed it. The family visited several prisons in Kathmandu, but was unable to locate the man. Police at the district police office in Kathmandu told them that he had been brought there for an interrogation, and then transferred somewhere else, but did not provide any more details. A police officer at the Dillibazar Prison in Kathmandu once told the relatives that she had seen Baral in the district court in Kathmandu.

For two years the family continued to inquire at Fulbari barracks and at the CDO, but has not received any information. They believe Baral has been killed while in custody.⁵⁵

⁵⁵ Human Rights Watch interview with a relative of Chaman Lal Baral, Kaski, September 22, 2004.

59. *Som Bahadur Bishwokarma*



At around 9 a.m. on July 7, 2002 (Ashad 23, 2059), a twenty-nine-year-old carpenter, **Som Bahadur Bishwokarma**, was visiting his aunt in Gandaki regional hospital in Pokhara. Two other visitors called the nearby Fulbari barracks and told the army he was in the hospital. A group of uniformed RNA soldiers from the barracks came some twenty minutes later and took Bishwokarma away. According to the family, Bishwokarma was not involved with any political party, and was arrested on the sole basis of this false denunciation.

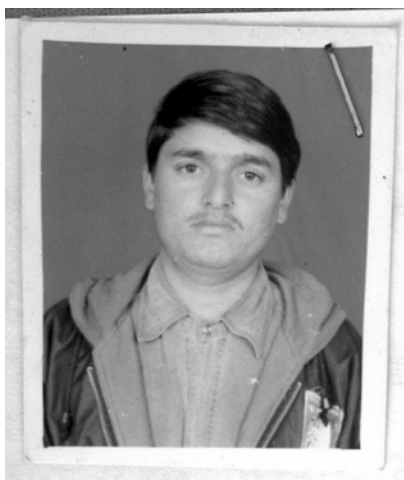
He was taken to the Fulbari barracks, where his family visited him regularly. However, three months later, an army official at the barracks told the family that Bishwokarma had been transferred to a prison, but did not say which one. The family searched every prison in the area, but was unable to find Bishwokarma.

A year later the family inquired at the district police office in Pokhara, where a police official told them that they had received Bishwokarma's case, and were expecting him to be brought there. The police assured Bishwokarma's relatives that he would come home soon, but he never did.

Over the next year the family and INSEC, whom the family informed of the case, kept inquiring at the district police office, local prisons, and at the Fulbari barracks. In July 2004 the army at the barracks told INSEC that Bishwokarma was still alive but would not disclose his whereabouts. The police had no information.⁵⁶

⁵⁶ Human Rights Watch interview with a relative of Som Bahadur Bishwokarma, Kaski, September 21, 2004.

60. Tanka Sharma



At 7 a.m. on January 22, 2002 (Magh 9, 2058), a group of RNA soldiers came to Dulegaunda VDC ward 7, apparently searching for CPN-M cadres who were responsible for the previous month's destruction of a police post located one hour's walk away. The RNA soldiers arrested nine men from the ward that day, of whom eight were released over the next months. However, one of the detainees, thirty-two-year-old **Tanka Sharma**, remains missing. The family denies that Sharma had any CPN-M affiliation.

After their release, the other detainees told the family that they had all been held together at the Fulbari army barracks for the first five days. Sharma complained of severe chest and stomach pains at the time, apparently from beatings he had received, and begged the soldiers to see his six-month old daughter "one more time." After five days, the other eight men were transferred away from the Fulbari army barracks, and lost contact with Sharma, who remained behind. About one month after his detention, the family was informed that Sharma had been seen in the company of army soldiers, presumably being used to point out suspected CPN-M members during army patrols.

Following his arrest, relatives regularly went to the Fulbari army barracks and to the CDO office to seek information about Sharma. Later, the family was directed to the Bijayapur army barracks in Kaski district, and was repeatedly told to come later because Sharma was "out with the army." Then, the army battalion stationed at the Bijayapur army barracks was transferred to Gorkha district. When the family sought information from Gorkha district, the army denied any knowledge of the case. The family informed the ICRC and INSEC of the "disappearance," but has received no news about the fate of Sharma.⁵⁷

⁵⁷ Human Rights Watch interview with a relative of Tanka Sharma, Kaski, September 21, 2004.

61. Shiva Prasad Parajuli

Twenty-two-year-old **Shiva Prasad Parajuli**, a university student at the Prithivi Narayan (PN) campus in Pokhara, was the publisher of a weekly newspaper. According to his relatives, Parajuli was serving as a recruiter for CPN-M, and had been seen handing out CPN-M membership cards in the Nirmal Pokhari VDC of Kaski district.

On January 1, 2002 (Poush 17, 2058), Parajuli and a friend traveled to a *Mela* celebration. On their return the next day, plainclothes RNA soldiers tried to arrest the two men at a teashop in Pumdi Bhumdi VDC ward 2. The friend managed to escape, and later informed the family that Parajuli had been taken into custody. Following the arrest, RNA soldiers and police officers came twice to Parajuli's family home, and confiscated several official documents, including school certificates and a photo album.

After learning of the arrest, the family contacted various RNA officials and the speaker of the House of Representatives, and wrote an application to the Chief District Officer to get information about Parajuli. The family also informed INSEC and the ICRC, but received no information about Parajuli from any source since his arrest.⁵⁸

62. Rita Nepali



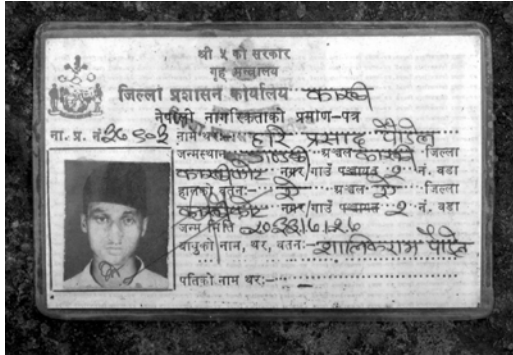
On January 1, 2002 (Poush 17, 2058), RNA soldiers arrested nineteen-year-old **Rita Nepali** and a male unidentified CPN-M member from Pumdi Bumdi VDC of Kaski district. Over the next few days, Nepali was taken several times to her home by RNA soldiers, who searched the home and questioned the family about Maoist activities in the area. The soldiers who came to Nepali's family home gave her relatives the phone number of Fulbari army barracks, where Nepali was being detained at the time, and ordered the family to contact them if any Maoists came to the home. After three RNA visits with Nepali to the family home shortly after the arrest, the family never heard again from Nepali.

Rita Nepali had joined CPN-M about one year prior to her arrest and was underground at the time of her arrest. Because the arrest took place during the state of emergency, the family was too afraid to leave their village and report the "disappearance." The case was

⁵⁸ Human Rights Watch interview with a relative of Shiva Prasad Parajuli, Kaski, September 21, 2001.

later reported to INSEC, who informed the ICRC and NHRC of the “disappearance,” but there has been no further information.⁵⁹

63. Hari Prasad Poudel (alias Tate)



On December 11, 2001 (Mangshir 26, 2058), RNA troops arrested twenty-six-year-old **Hari Prasad Poudel**, together with another CPN-M member, when he was traveling on a bus from Pokhara town to his home village in Kaskikot VDC, Kaski district.

A relative of Poudel was also arrested the same day from a local school where he teaches, and spent three days in detention at an army barracks around Pokhara, most likely the Fulbari army barracks, with Poudel and the other CPN-M member (who was later released). After three days, the relative was transferred to the Kaski district police headquarters, and released from there three days later, but was required to report to the police every fifteen days. Since then, the family has had no contact with Poudel. A released detainee told them he had seen Poudel at the Fulbari army barracks during January-February, 2002 (Margh 2058). The family has heard rumors that Poudel was later killed during a staged “encounter,” but has been unable to confirm this rumor.

Poudel was a Kaski district committee member of the Maoist-affiliated All-Nepal Free Students’ Union (Revolutionary). Because of Poudel’s known status as a Maoist sympathizer, the family was too afraid to approach the RNA or CDO for information. The “disappearance” was reported to INSEC and the ICRC.⁶⁰

Dang

64. Pramila Chowdhury

On the morning of April 8, 2004 (Chaitra 26, 2060), fifteen-year-old student **Pramila Chowdhury** was on her way home to Hadime, Bijaure VDC-6. At around 10 a.m., a large group of uniformed RNA soldiers who arrived in two trucks arrested her near

⁵⁹ Human Rights Watch interview with a relative of Rita Nepali, Kaski, September 22, 2004.

⁶⁰ Human Rights Watch interview with a relative of Hari Prasad Poudel, Kaski, September 22, 2004.

Hapur river. A female relative who was accompanying Chowdhury ran away and informed the family of the arrest. Both women had previously been involved with the Maoists. Chowdhury's family has not heard anything about her whereabouts since her arrest.

A local NGO that learned about the case inquired at the Ghorhai army barracks on behalf of the family, but the army denied having Chowdhury in detention.

65. Dhanbir Chowdhury



Twenty-eight-year-old **Dhanbir Chowdhury** had been a CPN-M activist, but had left the Maoists and returned to civilian life some three months before his arrest. On November 22, 2003 (Mangshir 6, 2060), he left his home in Karmatiya VDC, Dang district to shop in the district's headquarters, Ghorahi. He was arrested at about noon by Nepali security forces, while shopping in the Ghorahi market.

The family was too afraid to approach the authorities for information, but the case was reported to INSEC, who forwarded the information to the ICRC and NHRC. The family has received no information about his fate since the arrest.⁶¹

66. Kodu Lal Chowdhury

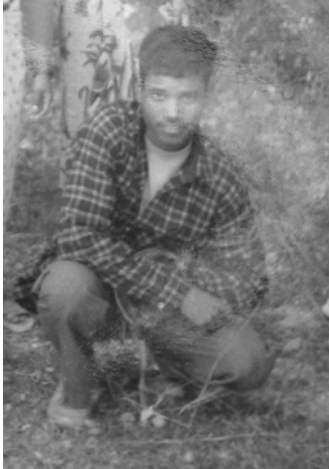
On October 21, 2003 (Kartik 4, 2060), at around 4 a.m., a large group of uniformed RNA soldiers surrounded the house of thirty-five-year-old **Kodu Lal Chowdhury** in Bawsgadhi, Parsewa, Bijauri VDC-8. The soldiers took Chowdhury away, telling the family they would interrogate and then release him in the evening. He has not been seen since then.

One man told the family that he had seen Chowdhury in the Tulsipur army barracks in Dang district wearing an army uniform. The family inquired at the Tulsipur and Ghorahi army barracks, as well as at the CDO. The army denied having Chowdhury, and CDO staff said they had no information and no power to request it from the army.

⁶¹ Human Rights Watch interview with a relative of Dhanbir Chowdhury, Dang, September 26, 2004.

Chowdhury was a carpenter and formerly an active member of CPN-M, but, according to his family, had left the party two years before his arrest.⁶²

67. *Birju Chowdhury*



On April 2, 2003 (Chiatra 19, 2059), twenty-one-year-old **Birju Chowdhury** walked from his home village in Tribuwan VDC, Dang district, to the market of Ghorahi, the district's headquarters, to sell some vegetables his family had grown and to obtain some supplies. After visiting a shopkeeper he knew, Birju Chowdhury was arrested by RNA troops from Ghorahi Army Barracks, who informed the shopkeeper of the arrest. The shopkeeper unsuccessfully tried to convince the soldiers that Birju Chowdhury was merely a farmer and had nothing to do with Maoist activities.

Upon learning of the detention, the family immediately contacted government officials in Ghorahi. An ex-mayor of Ghorahi contacted the Ghorahi army barracks on the family's behalf, and was informed that Birju Chowdhury was undergoing interrogation, but would be released in due time. Over the next few months, released detainees repeatedly informed the family that they had seen Birju Chowdhury in detention at the Ghorahi army barracks. The family reported the case to various human rights organizations, who in turn informed the ICRC and NHRC of the "disappearance." About six months after his arrest, the family stopped receiving new information about the whereabouts of Birju Chowdhury.⁶³

68. *Dil Bahadur Gharti*

69. *Ram Pura Gharti*



At about 7 p.m. on November 30, 2002 (Mansir 14, 2059), a group of approximately fifty uniformed RNA soldiers surrounded the home of twenty-four-year-old **Dil Bahadur Gharti**, in Tribuwan Municipality of Dang district. The soldiers ordered Gharti to get dressed and asked the family about their father, who was working in Saudi Arabia. The soldiers then ordered Gharti to come

⁶² Human Rights Watch interview with a relative of Kodu Lal Chowdhury, Dang, September 24, 2004.

⁶³ Human Rights Watch interviews with two relatives of Birju Chowdhury, Dang, September 24, 2004.

with them, but promised the family they would release him the next day.

Because the arrest and “disappearance” took place during the state of emergency, the relatives were unable to inform INSEC until a year after the event. A young relative tried to bring Gharti clothes at the Tulsipur barracks, after hearing a rumor that he was detained there, but the soldiers denied he was in their custody. Gharti had attended some CPN-M events—according to his relatives, “at that time, there was a lot of pressure on everyone to participate in Maoist meetings, so he went sometimes,”—but the family did not know if he was an active Maoist.⁶⁴

The same day, November 30, 2002 (Mansir 14, 2059), at around 3 a.m., a group of RNA soldiers arrested eighteen-year-old **Ram Pura Gharti** in her parental home in Tribhuwan Municipality, Ward 8. Part of the group surrounded the house, while others entered and brought Gharti, who had been sleeping in her room, downstairs.

The soldiers interrogated and beat her, asking if she was a Maoist. They took her away, threatening to kill her family members should they dare to leave the house. The family later went to the district army headquarters and reported the case to INSEC, but to date has not received any information. Gharti was a student at a local school and, according to her relative, “used to go with the Maoists.”⁶⁵

⁶⁴ Human Rights Watch interview with a relative of Dil Bahadur Gharti, Dang, September 24, 2004.

⁶⁵ Human Rights Watch interview with a relative of Ram Pura Gharti, Dang, September 24, 2004.

70. Sohan Lal Chowdhury



71. Som Raj Chowdhury



72. Kuira Chowdhury



73. Chanak Lal Chowdhury



74. Jagi Ram Chowdhury



75. Khushi Ram Chowdhury



On September 6, 2002 (Bhadra 21, 2059), a group of dozens of RNA soldiers in civilian dress arrived at about noon in the village of Paharwa, Duduwa VDC, Dang district. At the time, the villagers were taking part in the Gurua festival. The soldiers moved through the village, arresting men apparently at random and taking them to the river area where the festival was taking place. Near the river, the soldiers beat the detainees, and then blindfolded and tied the hands of thirteen men, who were taken away. Several of the men were later released, while one of the detained men, Shree Harsa Subedi, was found dead that night near the village. Six of the detained men remain missing.

Forty-one-year-old **Sohan Lal Chowdhury** was at his home being measured by a tailor when the tailor warned him that soldiers were approaching. Sohan Lal Chowdhury told the tailor he had done nothing wrong and had no reason to be concerned. When they reached the home, the soldiers asked for Sohan Lal, who came outside and was ordered to accompany them. He was never seen again by his family. According to his family, Sohan Lal Chowdhury was a farmer who had nothing to do with CPN-M.⁶⁶

Twenty-five-year-old **Som Raj Chowdhury**, a former bonded laborer, was grazing his cows when soldiers asked him to come with them, and was not allowed to go home. His family never saw him again.⁶⁷ His family is adamant that he was not a Maoist.

Three other farmers were similarly arrested: thirty-seven-year-old **Kuira Chowdhury**,⁶⁸ thirty-three-year-old **Chanak Lal Chowdhury**,⁶⁹ twenty-three-year-old **Jagi Chowdhury**⁷⁰, and seventeen-year-old **Khushi Ram Chowdhury**.⁷¹ All of their families deny the men were involved with CPN-M in any way.

Human Rights Watch managed to locate one of the men who had been detained with the others but was later released. The released detainee explained that all of the detainees were taken to the Tulsipur army barracks, where the soldiers photographed them, and then beat them severely with fists, boots, and bamboo sticks. The men were detained together in a single room for four days, after which the three detainees who were later released were taken to the Ghorahi District Police Post and lost touch with the others.⁷²

The families reported the “disappearances” to the ICRC, INSEC, and other human rights organizations.⁷³ The VDC chairman went to see the CDO about the “disappearances” right away, but the army denied that the men were in custody, so he returned home without any news. Nothing has been heard about the “disappeared” men since they were last seen alive at the Tulsipur army barracks by the released detainees.

⁶⁶ Human Rights Watch interview with a relative of Sohan Lal Chowdhury, Dang, September 24, 2004.

⁶⁷ Human Rights Watch interview with a relative of Som Raj Chowdhury, Dang, September 24, 2004.

⁶⁸ Human Rights Watch interview with a relative of Kuira Chowdhury, Dang, September 24, 2004.

⁶⁹ Human Rights Watch interview with a relative of Chanak Lal Chowdhury, Dang, September 24, 2004.

⁷⁰ Human Rights Watch interview with villagers in Paharwa, Duduwa VDC, Dang, September 24, 2004.

⁷¹ Human Rights Watch interview with a relative of Khushi Ram Chowdhury, Dang, September 24, 2004.

⁷² Human Rights Watch interview, Dang, September 26, 2004. The name of the witness is on file with Human Rights Watch. His identity is being withheld to protect his safety.

⁷³ Human Rights Watch interview with a relative of Sohan Lal Chowdhury, Dang, September 24, 2004; Human Rights Watch interview with a relative of Som Raj Chowdhury, Dang, September 24, 2004.

76. Gyani Chowdhury



Fifteen-year-old **Gyani Chowdhury** had joined CPN-M while still in school. She was arrested by Nepali security forces on June 10, 2002 (Jestha 27, 2059), from her home in Gobaddiya VDC, Dang district, while her parents were out of the house feeding their cows. After the arrest, her parents were ordered to report to the Lamahi APF barracks for questioning about their daughter's activities, but did not get to meet their daughter there.

The case was reported to INSEC, who forwarded the information to NHRC and the ICRC. There is no information about Chowdhury's fate since her arrest.⁷⁴

77. Resham Gharti



Just after noon on May 31, 2002 (Jestha 17, 2059), a group of uniformed RNA soldiers arrested thirty-four-year-old **Resham Gharti**, a farmer, from his home in Bijauri VDC, Dang district. Gharti had just finished his lunch, and was carrying 3,000 rupees (about U.S.\$42) to buy an ox in town when soldiers arrested him near his house. His wife managed to get the money back after some efforts; however the soldiers kept Gharti in detention, taking him away in a blue van that had been parked on a nearby road.

Gharti reportedly was not involved in CPN-M activities and worked as a laborer in India for most of the year, returning home only during the farming season. The family was too afraid to approach the army barracks for information, because other villagers told them they might be killed if they went to ask questions. They did inform INSEC and the ICRC, but have received no information about the whereabouts of Gharti.⁷⁵

⁷⁴ Human Rights Watch interview with a relative of Gyani Chowdhury, Dang, September 25, 2004.

⁷⁵ Human Rights Watch interview with a relative of Resham Gharti, Dang, September 24, 2004.

78. Babu Ram Chowdhury



79. Sharad Chowdhury



On May 16, 2002 (Jestha 2, 2059), two students, sixteen-year-old **Babu Ram Chowdhury** and twenty-four-year-old **Sharad Chowdhury**, were attending a religious ceremony in Bijaure, Hapur VDC. At around 4 a.m., a group of about fifty uniformed RNA soldiers burst into the house where the ceremony was taking place and took the two men away. The villagers later informed their families of the arrest.

Sharad Chowdhury's family went to the Ghorahi army barracks, but the army did not provide any information. A local NGO reported the case to INSEC and NHRC.

His relatives believe Sharad Chowdhury was not involved with the Maoists, although a statement published in a local Maoist newspaper several months after the arrest suggested that Sharad Chowdhury was a Maoist activist.⁷⁶

⁷⁶ Human Rights Watch interviews with a relative of Sharad Chowdhury, Dang, September 26, 2004; Human Rights Watch interviews with a relative of Babu Ram Chowdhury, Dang, September 24, 2004.

80. *Bir Bahadur Thapa*



handcuffed.

At about 3 p.m. on April 28, 2002 (Baishak 15, 2059), sixteen-year-old **Bir Bahadur Thapa**, a grade ten student, was arrested by a group of five or six civilian-clothed RNA soldiers from his home in Bijauri VDC, Dang district. The soldiers reassured the family they just wanted to ask Thapa some questions, and that he would return home soon. Villagers in the next village later told the family that the soldiers had ordered Thapa to run away—a common tactic used by RNA soldiers, who then shoot the detainee and claim he was trying to escape—but Thapa refused, and was then blindfolded and

The family was unable to report the case immediately, because the state of emergency was declared soon after the arrest and they were afraid to leave their village. During the ceasefire, relatives went to report the “disappearance” to human rights organizations and the ICRC, and visited all the army barracks in the district, but learned no news. Another relative was arrested in August 2004 (Bhadra 2061), and was told by a subinspector at the regional police station in Ghorahi that Bir Bahadur Thapa had been detained there for three months, but was not told what happened to him afterwards.

The family is adamant that Thapa was a student, and not involved in politics. However, Thapa’s father is active in the political structures of CPN-M, and the family believes Thapa was “disappeared” because of his father’s political activities.⁷⁷

81. *Tej Man Chowdhury*

On April 20, 2002 (Baishak 7, 2059), fifteen-year-old student **Tej Man Chowdhury**, along with several other students, was on his way home from Satbaria VDC, where he was attending a Maoist program. A group of RNA soldiers was waiting on the road and started shooting at the group of approaching students. They wounded Chowdhury in the collar-bone area and detained him, while the others ran away. He has not been seen since then.

⁷⁷ Human Rights Watch interviews with two relatives of Bir Bahadur Thapa, Dang, September 24, 2004.

A local NGO inquired at the Ghorahi barracks on the family's behalf, but the army denied having Tej Man in detention. The NGO also reported the case to INSEC and NHRC, but the family has not received any information on Chowdhury's whereabouts.⁷⁸

82. Dani Ram Chowdhury, 83. Kedarnath Chowdhury, 84. Hari Lal Chowdhury



85. Bhim Bahadur Chowdhury, 86. Udaya Chowdhury, 87. Khim Bahadur Pun



At about noon on April 19, 2002 (Baishak 6, 2059), a large contingent of uniformed RNA soldiers arrived in Katberawa village, Bela VDC, Dang district. The RNA soldiers were supported by military helicopters that landed repeatedly in the area.⁷⁹ Apparently, the RNA operation was in response to a Maoist attack on the nearby Lamahi army barracks four months earlier on November 23, 2001 (Mangshir 8, 2058).

The soldiers rounded up a large number of men from the village and took them to a nearby river for questioning. One person, twenty-seven-year-old Chatak Bahadur

⁷⁸ Human Rights Watch interviews with a relative of Tej Man Chowdhury, Dang, September 26, 2004.

⁷⁹ Rights Watch interview with a relative of Dani Ram Chowdhury, Dang, September 25, 2004; Human Rights Watch interview with a relative of Kim Bahadur Pun, Dang, September 25, 2004.

Chowdhury, was killed by the soldiers as he was working to repair a neighbor's roof (see below). According to the villagers, Chatak Bahadur Chowdhury was not affiliated with the Maoists, and had spent most of the previous eight years working in India.

Twenty-five-year-old **Dani Ram Chowdhury** was arrested by a group of twenty to thirty RNA soldiers while repairing the roof of his home, together with many of the villagers who had come to help him.⁸⁰ Twenty-eight-year-old **Kedarnath Chowdhury**, a carpenter by trade, and thirty-two-year-old **Bhim Bhahadur Chowdhury** were arrested from the same home where Cheilak Bahadur was killed, while also helping to repair the roof.⁸¹ Sixteen-year-old **Hari Lal Chowdhury** was also arrested there, and then brought to his parental home in the same village, where the soldiers then tried to arrest his disabled uncle. However, the man could not walk, and the soldiers only took Hari Lal away. Hari Lal's other uncle, forty-year-old **Udaya Chowdhury**, was also detained that day.⁸²

Fifty-year-old **Khim Bahadur Pun**, a farmer, was working at his rice mill when soldiers came to his home, asked for him by name, and took him away. His young son followed the soldiers to the river, where they gave him his father's watch and money, and told him they were going to kill his father.⁸³

A large group of detained villagers, estimated at about fifty, was taken to the nearby river, where they were interrogated by the soldiers. The soldiers left with the six detainees named above, who were never seen again. The families informed local human rights organizations, the NHRC, and the ICRC of the "disappearances," and visited various detention centers in the district, but were unable to obtain any further information. Several times, relatives were told by officials that the men had been killed in an "encounter," and local newspapers also published rumors to that effect, but there has been no official confirmation. The group of six men "disappeared" after last being seen alive in RNA custody.⁸⁴

⁸⁰ Human Rights Watch interview with a relative of Dani Ram Chowdhury, Dang, September 25, 2004.

⁸¹ Human Rights Watch interview with a relative of Kedarnath Chowdhury, Dang, September 25, 2004.

⁸² Human Rights Watch interview with a relative of Hari Lal Chowdhury, Dang, September 25, 2004.

⁸³ Human Rights Watch interview with a relative of Kim Bahadur Pun, Dang, September 25, 2004.

⁸⁴ Human Rights Watch interview with a relative of Kim Bahadur Pun, Dang, September 25, 2004; Human Rights Watch interview with a relative of Dani Ram Chowdhury, Dang, September 25, 2004.

88. Gita Ghartimagar



89. Nanda Bahadur K.C.



On February 22, 2002 (Falgun 10, 2058), at around 2 p.m., a unified group of armed police and RNA soldiers arrested twenty-year-old student **Gita Ghartimagar** in Chandanpur, Gadawa VDC-9, where she went to work in the field. The group also arrested twenty-five-year-old **Nanda Bahadur K.C.** and the owner of the house they were staying in. They were taken to the Lamahi armed police barracks, from where the owner was released three days later.

Nanda Bahadur K.C. joined CPN-M after Maoists helped him get treatment for an illness in India. Maoists informed his family of his arrest. According to Ghartimagar's family, she was never involved with any political parties. She had been a student, but had left school two months before the arrest to help the family about the house.

About two months after the arrest, Ghartimagar wrote a letter saying she was in Tulsipur prison, and the family visited her there twice. The family of Nanda Bahadur K.C. also had no information about his whereabouts until May-June 2002 (Jestha 2059), when he sent a letter saying he was being held at Tulsipur prison. A relative went to meet him there and brought him some clothes and books.

Three months after the arrest and a few days after the relatives' last visit to the prison, a local newspaper *Naya Yugbodb* reported the release of twenty-one detainees, including Gita Ghartimagar and Nanda Bahadur K.C., but neither detainee returned home.

Officials at the Tulsipur prison told K.C.'s family that they had transferred the detainees to the district police headquarters, but the headquarters told the family they had no knowledge of the detainees. A year later, the prison authorities told the ICRC, which was

inquiring on behalf of Ghartimagar's family, that they had handed Ghartimagar over to municipal authorities.

Ghartimagar's family believed the detainees were rearrested after release. The "disappearances" were reported to the ICRC and to various human rights organizations.⁸⁵

90. Bal Dev Chowdhury

91. Nirmal Raut



92. Roshani Raut



Eighteen-year-old **Nirmal Raut** and eighteen-year-old **Bal Dev Chowdhury**, both from Gobaddiya VDC, Dang district, were active Maoists. On December 17, 2001 (Poush 2, 2058), one month after the end the first ceasefire period, RNA soldiers captured the two men while they were sleeping at the home of a villager in Sohanpur village, Sundevri VDC, Dang district. Upon learning of the arrests, the families went to inform the ICRC as well as local human rights organizations. The families have received no information about the fate of the two men since their arrests.⁸⁶

Nirmal Raut's wife, seventeen-year-old **Roshani Raut**, was detained by Nepali security forces in an area police post in Rajpur VDC, Dang district on January 2, 2002 (Poush 18, 2058). Roshani Raut had joined CPN-M following her marriage to Nirmal Raut, and had become an underground activist.

⁸⁵ Human Rights Watch interview with a relative of Nanda Bahadur K.C., Dang, September 25, 2004.

⁸⁶ Human Rights Watch interview with a relative of Nirmal and Roshani Raut, Dang, September 25, 2004; Human Rights Watch interview with a relative of Bal Dev Chowdhury, Dang, September 25, 2004.

A relative was able to meet with Roshani Raut at Tulsipur prison on May 20, 2002 (Jeshta 6, 2059), and gave her some food and clothes. When the relative returned the next week to see Roshani Raut again, she was told Roshani was no longer there and had been “released.” However, Roshani never came home, and never sent word to her family. Her relatives believe that Roshani was transferred back to RNA detention, and “disappeared” in RNA custody. According to a relative, “if Roshani was released, she would definitely come home.”⁸⁷

93. Maya Kumari Chowdhury

On June 27, 2001 (Ashad 13, 2058), at around 11 a.m., a group of security personnel in civilian clothes arrested nineteen-year-old **Maya Kumari Chowdhury** in Bela, Bela VDC, where she had gone for a Maoist meeting. Chowdhury heard the security personnel coming and tried to escape by running through a corn field. Another Maoist who witnessed the arrest told the family that the security people seized Chowdhury in the field, beat her and took her away.

The family heard that she was taken to Lamahi barracks, but did not go there to inquire, fearing persecution. Armed police came to Maya Kumari’s parental home in Gobaddiya, Gobaddiya VDC-8 several times and had once arrested her father, and another time her father along with her brother, but had released them both times.⁸⁸

Bardia

94. Prakash Tharu



Twenty-five-year-old **Prakash Tharu**, a tractor driver from Suryapatuwa VDC, Bardia district, was detained by RNA soldiers in Nepalgunj on September 17, 2004 (Ashoj 1, 2061), while he was entering a cinema with friends. He had gone to Nepalgunj to buy parts for his tractor. He called his family one week after the arrest, saying he was in detention and asking them to come to Nepalgunj to try to find him, but unable to specify where he was being kept.⁸⁹

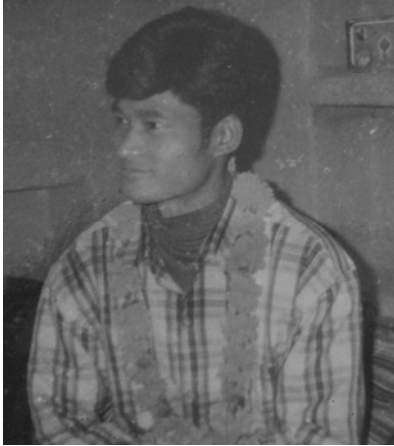
⁸⁷ Human Rights Watch interview with a relative of Nirmal and Roshani Raut, Dang, September 25, 2004.

⁸⁸ Human Rights Watch interview with a relative of Maya Kumari Chowdhury, Dang, September 25, 2004.

⁸⁹ Human Rights Watch interview with a relative of Prakash Tharu, Bardia, September 28, 2004.

The “disappearance” was reported to the ICRC, NHRC, and local human rights organizations. As of this writing, the family has received no information on Tharu’s whereabouts.

95. Jagat Kumar Chowdhury



Twenty-two-year-old **Jagat Kumar Chowdhury** was CPN-M area-in-charge in Motipur VDC, Bardia district. On January 19, 2003 (Magh 5, 2059), he went to Nepalgunj to seek medical assistance for a stomach problem. On his way home from the hospital, he was arrested by a joint group of RNA soldiers and APF in Kohalpur.

The family reported the detention to local human rights organizations and the ICRC. Relatives went repeatedly to the Chisapani army barracks, the RNA office in Nepalgunj, and the APF training camp at Samsergunj, but the officials denied any knowledge of the arrest. In May-June, 2003 (Jestha 2060), a released detainee told the family that he had been detained together with Jagat Kumar Chowdhury at the Chisapani army barracks, and that Jagat Kumar had asked him to inform his family upon his release.⁹⁰

96. Nepali Tharu

97. Ram Karan Tharu



At about 11 p.m. on January 7, 2003 (Poush 23, 2059), a group of RNA soldiers came to the home of thirty-eight-year-old **Ram Karan Tharu**, a farmer living in Bhimapur VDC-7, Bardia district. The soldiers pretended to be Maoists, and told Ram Karan they wanted him to join them in an attack on the nearby Tapara temporary army camp, but Ram Karan knew they were soldiers and did not respond. The soldiers then ordered Ram Karan’s family to go inside the house, and ordered Ram Karan to come with them.⁹¹

⁹⁰ Human Rights Watch interview with a relative of Jagat Kumar Chowdhury, Bardia, September 28, 2004.

⁹¹ Human Rights Watch interview with a relative of Ram Karan Tharu, Bardia, September 29, 2004.

The same night, the soldiers went with Ram Karan to the home of fifteen-year-old **Nepali Tharu**, a student in nearby Rajapur who provided food and shelter for the Maoists, according to her family. The relatives believe that Ram Karan brought the soldiers to their house and told them that Nepali was a Maoist. The soldiers took Nepali Tharu with them, and the two detainees were never seen again.⁹²

The next morning, the families immediately went to the Tapara temporary army camp, the only RNA base in the remote Rajapur area at the time. A helicopter had arrived and departed shortly before they reached the army camp. The soldiers denied arresting the two people. The families reported the case to INSEC and other local human rights groups, but have received no information.⁹³

98. Sita Chowdhury

Twenty-four-year-old **Sita Chowdhury**, an active CPN-M area member, was detained by Nepali police together with another woman from the village of Holdapur, Bardia district on January 4, 2003 (Poush 20, 2059). The second woman was released after eleven days, and informed the family that she and Sita Chowdhury had been held together in detention at the Kohalpur area police post. Relatives immediately went to the Kohalpur police post with some clothes for Sita Chowdhury, but were told that she was not there.

A second released detainee later came to tell the family that he had been detained with Sita Chowdhury at the Thakurdwara army camp in Bardia district, where she was forced to work washing dishes. The family reported the “disappearance” to local human rights organizations and the ICRC, but received no further information.⁹⁴

⁹² Human Rights Watch interview with a relative of Nepali Tharu, Bardia, September 29, 2004.

⁹³ Human Rights Watch interview with a relative of Nepali Tharu, Bardia, September 29, 2004.

⁹⁴ Human Rights Watch interview with a relative of Sita Chowdhury, Bardia, September 28, 2004.

99. Siya Ram Chowdhury



Seventeen-year-old **Siya Ram Chowdhury** was a CPN-M activist from Deudakala VDC, Bardia. He was arrested by RNA soldiers at the checkpoint of the Rambhapur temporary army camp on November 14, 2002 (Kartik 28, 2059). Local villagers who witnessed the arrest informed Chowdhury's relatives.

The next month, in December 2002, a local FM radio station announced that Siya Ram Chowdhury had been killed in an "encounter." The family has informed local human rights organizations of the "disappearance," but has not received any information from the authorities about the fate of Siya Ram.⁹⁵

100. Gita Kumari Chowdhury



Twenty-six-year-old **Gita Kumari Chowdhury** was an area member of CPN-M. On September 4, 2002 (Bhadra 19, 2059) she was detained by RNA soldiers from the Chisapani army barracks at Damauli town in Motipur VDC. A relative was with Gita Kumar Chowdhury at the time of her arrest, and saw the soldiers detain her and take her away.

After her arrest, the family informed local human rights organizations and the ICRC in Nepalgunj. They filed a habeas corpus petition in the Supreme Court, but the petition was dismissed. During the Tihar festival in October 25-27, 2003 (Kartik 8 to 10, 2060), a soldier serving at the Chisapani army barracks, home to visit his family, told Gita Kumar's family that she was being held at the Chisapani army barracks. The family was unable to confirm this, and has received no other information about the whereabouts of Gita Kumar.⁹⁶

⁹⁵ Human Rights Watch interview with a relative of Siya Ram Chowdhury, Bardia, September 28, 2004.

⁹⁶ Human Rights Watch interview with a relative of Gita Kumar Chowdhury, Bardia, September 28, 2004.

101. *Gopal Chowdhury*

102. *Sunawa Tharu*

103. *Fula Ram Tharu,* 104. *Ram Kharan Tharu,* 105. *Runchya Tharu*

106. *Radheshyam Tharu,* 107. *Raj Kumar Tharu,* 108. *Basantu Tharu*

109. *Lautan Tharu,* 110. *Bagale Tharu,* 111. *Pharek Tharu*



112. *Bagi Ram Tharu,*

113. *Patti Ram Tharu,*

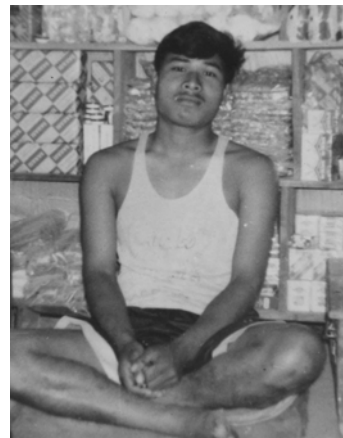
114. *Moti Lal Tharu*



115. Kessar Kumar Chowdhury,



116. Mangru Chowdhury



Between October 20 and 22, 2002 (Kartik 3 and Kartik 5, 2059), RNA soldiers and APF officers based at the Manpur Tapara temporary army camp in the Rajapur area of Bardia, conducted a large-scale operation in the area, arresting and “disappearing” at least sixteen people. The RNA/APF operation came at a time of great tension in the Rajapur area. Maoists had destroyed many government offices in the months before the operation, and had given an ultimatum to the family members of security personnel to coerce their relatives to resign from the security forces or leave Rajapur. According to the relatives of the disappeared, family members of the security forces participated in the operation, pointing out suspected Maoists during the searches.⁹⁷

There is no doubt that the “disappeared” detainees were taken to the Manpur Tapara Secondary School, which the RNA had temporarily occupied as their “Manpur Tapara temporary army camp.” Relatives of the disappeared went daily to the school, where they saw the detainees being held blindfolded in a school room. Many recognized their relatives from the clothes they were wearing at the time of their arrest. Then, around October 24 or 25, the Manpur Tapara temporary army camp was dismantled, and the sixteen detainees were never seen again.

On the night of October 20, 2002 (Kartik 3, 2059), at about 11 a.m., the soldiers arrested three men from Manpur Topara VDC-8, Jamunabachi village. Twenty-six-year-old **Fula Ram Tharu**, a farmer, was sleeping when RNA soldiers surrounded his home and came inside. One soldier said, “He’s a Maoist,” and the soldiers began taking Fula Ram outside. When his wife, holding a baby, tried to stop them, she was roughly pushed to the ground.⁹⁸ The soldiers also went to the home of seventeen-year-old **Ram Karan**

⁹⁷ Human Rights Watch interview with a relative of Raj Kumar Tharu, Bardia, September 30, 2004.

⁹⁸ Human Rights Watch interview with a relative of Fula Ram Tharu, Bardia, September 30, 2004.

Tharu, a grade ten student, and ordered him to get dressed and come with them, threatening to kill him if his mother didn't stop crying. Before leaving with Ram Karan, the soldiers locked the family inside their home. According to his family, Ram Karan was "a student and not involved in politics. He was preparing for his [college] entrance exams."⁹⁹ Also arrested that night was thirty-year-old **Runchya Tharu**, a farmer who shied away from any political involvement, according to his family.¹⁰⁰

For the next four days after the arrest, the relatives of Fula Ram went repeatedly to the Tapara temporary army camp, where soldiers confirmed that Fula Ram was in their custody, once saying: "[Fula Ram] is inside and he has not been killed. Just go home and wait for him." Relatives of Runchya Tharu also went to the Tapara temporary army camp, and spotted all three of the detained villagers standing at a window in the room they were held with other detainees.¹⁰¹

The same night of October 20, at about 2 a.m., a combined group of uniformed RNA soldiers and APF officers also carried out two arrests in a second village in Manpur Topara VDC-8, Vikrampur village. At the home of thirty-year-old **Radheshyam Tharu**, a farmer, soldiers held back his wife while they arrested him. When his wife tried to follow the soldiers, they threatened to shoot her.¹⁰² The soldiers also arrested thirty-three-year-old **Raj Kumar Tharu**, beating back his wife and brother with their guns.¹⁰³

The relatives of Radheshyam saw him in detention in Tapara temporary army camp two days afterwards, but were not allowed to enter. Raj Kumar's relatives also saw him at Tapara five days after the arrest, with his hands tied behind his back and blindfolded, but still wearing the clothes he had been arrested in.¹⁰⁴

Also on October 20, at about 3 a.m., a combined force of RNA and APF soldiers carried out arrests in Badalpur VDC-9, detaining four persons. Twenty-six-year-old **Basantu Tharu**, a mill worker, was arrested after the security forces broke down his door and immediately began beating him.¹⁰⁵ The security forces also broke down the door of

⁹⁹ Human Rights Watch interview with a relative of Ram Karan Tharu, Bardia, September 30, 2004.

¹⁰⁰ Human Rights Watch interview with a relative of Runchya Tharu, Bardia, September 30, 2004.

¹⁰¹ Human Rights Watch interviews with the relatives of Fula Ram Tharu and Runchya Tharu, Bardia, September 30, 2004.

¹⁰² Human Rights Watch interview with a relative of Radheshyam Tharu, Bardia, September 30, 2004.

¹⁰³ Human Rights Watch interview with a relative of Raj Kumar Tharu, Bardia, September 30, 2004.

¹⁰⁴ Human Rights Watch interviews with the relatives of Radheshyam Tharu and Raj Kumar Tharu, Bardia, September 30, 2004.

¹⁰⁵ Human Rights Watch interview with a relative of Basantu Tharu, Bardia, September 30, 2004.

twenty-year-old **Lautan Tharu**'s home and detained him. Lautam had returned from working in India seven days before his arrest and "disappearance."¹⁰⁶ A grade nine student, twenty-year-old **Bagale Tharu**, was also arrested,¹⁰⁷ as was twenty-one-year-old **Pharek Tharu**, a farmer and his family's main breadwinner.¹⁰⁸ The families denied that any of the four were members of CPN-M. Relatives of Basantu went daily to Tapara, and spotted him there in detention on three separate occasions. Lautam was spotted on two separate occasions by his relatives, with his hands tied behind him.¹⁰⁹

RNA soldiers further arrested four people from Harinagar village, Khairi Chandanpur VDC-8 during the day of October 21, 2002. From witnesses' accounts, when the soldiers arrived in the village, a Maoist flag was hanging in a tree near the field of forty-five-year-old **Sunawa Chowdhury**. The soldiers ordered Sunawa to remove the flag, and then took him with them.¹¹⁰ The soldiers also arrested twenty-four-year-old **Bagi Ram Chowdhury** while he was working in his field.¹¹¹ Nineteen-year-old **Kessar Kumar Chowdhury**, a grade six student and thirty-eight-year-old **Pati Ram Chowdhury**, a medical shop owner, were also detained.¹¹² The four men were never seen again.

On October 21, RNA soldiers arrested twenty-eight-year-old **Mangru Chowdhury**, a former tractor driver who had seriously injured his back in a work accident and was operating a small shop at the time of his arrest. The soldiers locked his family into their home in Chapti village, Badalpur VDC-4, and took him away.¹¹³

The soldiers then brought Mangru Chowdhury to the parental home of seventeen-year-old **Gopal Chowdhury**, a grade nine student in the same village. The soldiers searched the house and found some Maoist literature. They accused Chowdhury of being a Maoist, beat him and his three brothers, and walked both men away.

Gopal Chowdhury's family searched for him extensively. At one point, soldiers in Kohalpur barracks in Banke district told them that Chowdhury was there but was at the

¹⁰⁶ Human Rights Watch interview with a relative of Lautan Tharu, Bardia, September 30, 2004.

¹⁰⁷ Human Rights Watch interview with a relative of Bagale Tharu, Bardia, September 30, 2004.

¹⁰⁸ Human Rights Watch interview with a relative of Parek Tharu, Bardia, September 30, 2004.

¹⁰⁹ Human Rights Watch interviews with the relatives of Basantu Tharu and Lautan Tharu, Bardia, September 30, 2004.

¹¹⁰ Human Rights Watch interview with a relative of Sunawa Chowdhury, Bardia, October 1, 2004.

¹¹¹ Human Rights Watch interview with anonymous witness, Bardia, October 1, 2004.

¹¹² Human Rights Watch interview with a relative of Kessar Kumar Chowdhury, Bardia, October 1, 2004; Human Rights Watch interview with a relative of Pati Ram Chowdhury, Bardia, October 1, 2004.

¹¹³ Human Rights Watch interview with a relative of Mangru Chowdhury, Bardia, September 30, 2004.

moment out “in training.” Several months later, a fellow villager told the family that he had seen Chowdhury at the Badalpur temporary army base. A respected international agency told the family later that Mangru Tharu was killed, but that it had no information about Chowdhury.¹¹⁴

On October 22, RNA soldiers came to Pahadipur village, Badalpur VDC-3. The soldiers asked the villagers to point out forty-one-year-old **Moti Lal Tharu**, a farmer and local-level CPN-M activist, who was working in his field at the time. The soldiers ordered Moti Lal to come with them, after which he was never seen again. Soldiers at the Tapara temporary barracks denied he was in detention there, but another detainee who was later released confirmed to the family that Moti Lal had been held at the Tapara barracks.¹¹⁵

On October 25 (Kartik 8), the soldiers left the Manpur Tapara temporary army camp and redeployed to nearby Guleria, the district’s headquarters. Attempts by the relatives to get information about what happened to the disappeared men were unsuccessful. Some families received unofficial confirmation through contacts in the security forces that some of the men had been moved to the Rajdal army barracks at the Nepalgunj airport, but were unable to visit any detainees there.¹¹⁶ The “disappearances” were reported to the ICRC, INSEC, CIVICT, and to other local human rights organizations.

¹¹⁴ Human Rights Watch interview with a relative of Gopal Chowdhury, Bardia, September 28, 2004.

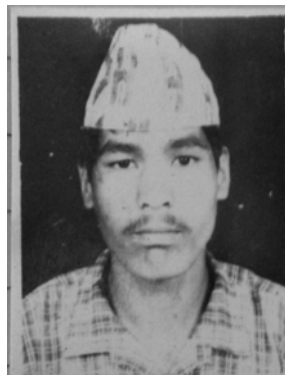
¹¹⁵ Human Rights Watch interview with two relatives of Moti Lal Tharu, Bardia, September 30, 2004.

¹¹⁶ Human Rights Watch interview with a relative of Basantu Tharu, Bardia, September 30, 2004.

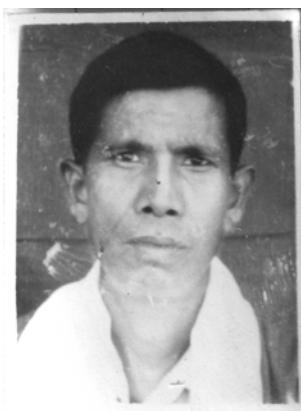
117. Khagga Tharu



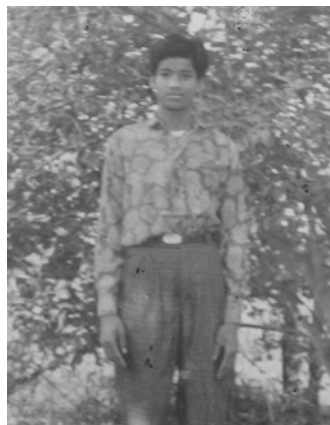
118. Kala Ram Tharu



119. Badhu Tharu



120. Babu Ram Tharu



On the night of October 2, 2002 (Ashoj 16, 2059), about five hundred RNA troops, some uniformed and some in civilian clothes, surrounded the village of Madaha in Motipur VDC-5.

At around 1 a.m., a group of soldiers came to the parental home of thirty-four-year-old **Khagga Tharu** and his twenty-three-year-old brother **Kala Ram Tharu**. Keeping the family at gunpoint, the soldiers first walked Khagga Tharu away from the house, and shortly thereafter the family heard gunshots from across the field. Soon afterward, a group of soldiers brought Khagga Tharu's body back and put it on a wooden bed taken from the house.¹¹⁷

¹¹⁷ Human Rights Watch interview with two relatives of Kala Ram and Khagga Tharu, Bardia, September 28, 2004.

Meanwhile, other groups of soldiers detained four other men from the village – Khaga Tharu’s brother Kala Ram Tharu, forty-nine-year-old **Badhu Tharu**, twenty-six-year-old **Babu Ram Tharu**, and one other man. The soldiers ordered the four detainees to carry the bed with Khaga Tharu’s body and escorted them out of the village.

Kala Ram Tharu, Badhu Tharu, and Babu Ram Tharu have not been seen since then. The body of Khagga Tharu was also never returned to the family, and thus he numbers among the “disappeared.” The fourth detainee was released a week after the arrest and told the families that after the four men brought Khaga Tharu’s body to a military van parked in a neighboring village, they were blindfolded and brought to the Rambhapur army post. He was transferred to Chisapani Army Barracks and released from there, but did not know what happened to the other three.¹¹⁸

The relatives of the “disappeared” men went to the Chisapani barracks, but the soldiers did not let them in. They also inquired at the Ranja army barracks, but army officials told them the detainees were not there. The case was reported to INSEC and NHRC.

Badhu Tharu was a farmer and a member of CPN-UML, a party not affiliated with the Maoists. Babu Ram Tharu was not involved with CPN-M, but had a sister who was an active CPN-M member. Both Kala Ram and Khagga Tharu were Maoist activists for about a year before their arrest.

¹¹⁸ Human Rights Watch interviews with the relatives of Kala Ram and Khagga Tharu, Badhu Tharu, and Babu Ram Tharu, Bardia, September 28, 2004.

121. *Raj Dev Mandal,*



122. *Ram Kishan Tharu,*



123. *Nar Bagar Rana*



At about 1 a.m. on September 30, 2002 (Ashoj 14, 2059), a group of uniformed RNA soldiers arrived at Magaraghadi VDC-8, Bardia district. They first went to the home of forty-year-old **Raj Dev Mandal**, a teacher at the local secondary school, and after questioning him ordered him to accompany them to the home of the headmaster of the school, promising to send him home afterwards.¹¹⁹

The soldiers also arrested twenty-four-year-old **Ram Kishan Tharu**, a carpenter and farmer, from his home, saying they just had a “little business” with him and ordering his family to remain inside.¹²⁰

Forty-year-old **Nar Bahadur Rana**, who had worked most of his life in India and who had organized a forestry group to protect the nearby forest, was also taken from his home by the soldiers, who told his relatives that they only wanted him to point out another home in the village.¹²¹ The three men were never seen again.

The relatives went to the Rambhapur army barracks the next day, but the soldiers there denied arresting the men. Soldiers at the Chisapani army barracks also denied having any knowledge of the arrests. The relatives reported the “disappearances” to local human rights organizations in Nepalgunj.¹²²

¹¹⁹ Human Rights Watch interview with a relative of Raj Dev Mandal, Bardia, September 29, 2004.

¹²⁰ Human Rights Watch interview with a relative of Ram Kishan Tharu, Bardia, September 29, 2004.

¹²¹ Human Rights Watch interview with a relative of Nar Bagar Rana, Bardia, September 29, 2004.

¹²² Human Rights Watch interview with a relative of Ram Kishan Tharu (father), Bardia, September 29, 2004; Human Rights Watch interview with a relative of Nar Bagar Rana, Bardia, September 29, 2004.

124. Ram Prasad Tharu



On September 2, 2002 (Bhadra 17, 2059), at around 3 a.m., about a dozen uniformed RNA soldiers came to the house of twenty-seven-year-old teacher **Ram Prasad Tharu** in Magaragadi VDC-9, Magaragadi. Two soldiers entered the house and ordered Tharu to follow them, telling his family they would let him go soon. The family has not seen him since then.

An acquaintance from the military inquired on behalf of the family at the Rambhapur army post. Army officials said that Tharu was not there, but that he would return home in a few days, although they could not disclose his location. Two months later, the family inquired at the Chisapani barracks, where they found out that Tharu was held there for a month and then transferred. The army did not say to which location he was transferred. The family reported the case to INSEC and the ICRC, but has not received any further information.

According to his relatives, Tharu was a teacher for young children and was not politically involved, but the Maoists had come to his house twice, and on those two occasions he had given them food.¹²³

¹²³ Human Rights Watch interview with a relative of Ram Prasad Tharu, Bardia, September 29, 2004.

125. Pati Ram Tharu

126. Sher Bahadur Tharu, 127. Buddi Ram Tharu, 128. Lahanu Chowdhury



129. Bhava Kumar Chowdhury,

130. Bhook Lal Chowdhury



On the afternoon of September 1, 2002 (Bhadra 16, 2059), soldiers at the Rambhapur army checkpoint in Magragadi VDC stopped a bus and ordered the passengers to get out. They wrote down the passengers' names and checked their hands and shoulders for marks from holding weapons. From the bus, the soldiers detained seven men from Dangpur village in Motipur VDC, Bardia district: twenty-four-year-old **Sher Bahadur Tharu**, twenty-one-year-old **Bhava Kumar Chowdhury**, eighteen-year-old **Buddi Ram Tharu**, twenty-five-year-old **Pati Ram Tharu**, twenty-three-year-old **Bhook Lal Chowdhury**, twenty-three-year-old **Lahanu Chowdhury**, and another man from the village who was later released.¹²⁴

The next day, Radio Nepal reported the arrest of “seven Maoists” from their village.”¹²⁵

¹²⁴ Human Rights Watch is withholding the identity of the released man to protect his security.

¹²⁵ Human Rights Watch interview with a relative of Bhook Lal Chowdhury, Bardia, September 27, 2004.

All of the men were farmers, on their way to India for work after the cultivation season had ended in Nepal; the relatives of the men strongly deny that any of the men had links to CPN-M and say that they spent the majority of their time as laborers in India.

The seventh detainee was released after about a month in detention, and confirmed that he was held with the six “disappeared” men at the Chisapani army barracks in Nepalgunj. Three or four days after their arrival at the Chisapani army barracks, the released detainee was separated from the six “disappeared” detainees, and never saw them again.

The families reported the “disappearance” to INSEC, to other human rights organizations and to the ICRC. There has been no news about the fate of the six men.¹²⁶

131. Jilla Sandesh Tharu, 132. Shree Ram Tharu, 133. Chuluwa Tharu



On August 17, 2002 (Bhadra 1, 2059), at around 6.30 a.m., a group of RNA soldiers detained six people in the village of Magaragadi, Magaragadi VDC-9, including twenty-six-year-old teacher **Jilla Sandesh Tharu**, thirty-eight-year-old **Chuluwa Tharu**, and nineteen-year-old **Shree Ram Tharu**. The army brought all six to the market place in the village, and asked the ward’s ex-chairman to identify them. The ex-chairman did not identify Jilla Sandesh, Chuluwa, and Shree Ram—although, according to their relatives, he knew them well—and the soldiers drove these three away in a van. The three others were released.¹²⁷

¹²⁶ Human Rights Watch interviews with the relatives of Sher Bahadur Tharu, Bhava Kumar Chowdhury, Buddi Ram Tharu, Pati Ram Tharu, Bhok Lal Chowdhury, and Lahanu Chowdhury, Bardia, September 27, 2004.

¹²⁷ Human Rights Watch interview with a relative of Jilla Sandesh Tharu, Bardia, September 29, 2004; Human Rights Watch interview with a relative of Shreeram Tharu, Bardia, September 29, 2004; Human Rights Watch interview with a relative of Chulluwa Tharu, September 29, 2004.

A relative of Jilla Sandesh Tharu immediately went to the Rambhapur army post because she had recognized an officer from there—Jamdar Mahendra Thapa—in the group that had come to the village. She found out that the van with detainees had arrived at the Rambhapur post, but a soldier near the post told her that Jilla Sandesh was not inside.

A week later, the family visited the Chisapani and Ranja army barracks. At the latter, an officer told them to bring Jilla Sandesh Tharu's photo. When they did, the officer said that the man "was taken from this barrack" to the Thakurdwara barracks to do some electricity work, and that he would be returned to the Ranja barracks three months later. The family has been unable to obtain any information regarding his whereabouts since then. The case was reported to INSEC and the ICRC.¹²⁸

Chulluwa Tharu's relatives paid 5,000 Nepali rupees (about U.S.\$70) to a government official who promised to seek his release from the army, but there was no result. Soldiers at the Chisapani army barracks denied any knowledge of the arrests. The family reported the case to local human rights organizations and the ICRC. Two years after the arrest, a Nepali working for an international organization told the family that Chulluwa Tharu had been killed in army custody, but there has been no official confirmation of his death.¹²⁹

The relatives of all three men say they were never involved with the Maoists.

¹²⁸ Human Rights Watch interview with a relative of Jilla Sandesh Tharu, Bardia, September 29, 2004.

¹²⁹ Human Rights Watch interview with a relative of Chulluwa Tharu, Bardia, September 29, 2004.

134. Basant Prasad Chowdhury



135. Raju Tharu



On August 17, 2002 (Bhadra 1, 2059), at around 7 p.m., a group of uniformed RNA soldiers came to the village of Manpur in Magaragadi VDC-4. They detained thirty-three-year-old **Basant Prasad Chowdhury** in the shop he owned and brought him to his home to look for his brother, who was not there at the time.

The soldiers then took Chowdhury to the house of twenty-five-year-old **Raju Tharu**, who had worked as a laborer in India for the previous five years. The soldiers ordered Raju Tharu to accompany them, saying they had “a little business” with him, and walked both men away.¹³⁰

A relative of Chowdhury, who took a side street and followed the soldiers, saw them putting him in a white van and driving away.

Chowdhury’s family inquired at the Rambhapur army barracks, but the army denied having him in their custody. The case was reported INSEC and the ICRC.

Chowdhury’s relatives say that the Maoists once came to his house and beat him, but do not know if he was ever involved with them.¹³¹

¹³⁰ Human Rights Watch interview with a relative of Raju Tharu, Bardia, September 29, 2004.

¹³¹ Human Rights Watch interview with a relative of Basant Prasad Chowdhury, Bardia, September 29, 2004

136. Raj Kumar Tharu

Twenty-four-year-old **Raj Kumar Tharu**, a farmer from Magargadi VDC-4, Bardia district, with no known Maoist connections, was arrested by Nepali security forces at Kataliya village, near Bansgadhi town, on August 16, 2002 (Shrawan 31, 2059). He was returning home after getting his CD-player repaired in Bansgadhi town. His family only discovered a week later what had happened, when a villager who had witnessed the arrest came to inform them that Raj Kumar had been arrested by soldiers from Rambhapur Army Barracks.

The family was too afraid to go to the Rambhapur army barracks, because they had been told by other villagers that the soldiers there would arrest and kill them. They did go to the Chisapani army barracks, but were told Raj Kumar was not there. The family later approached a top leader in the RPP, Nepal's largest Royalist party, who again contacted the Chisapani army barracks and confirmed that Raj Kumar had been held there until the Dashain festival (October 7-15, 2002). The case was reported to local human rights organizations, but no information has been obtained.¹³²

137. Sita Chowdhury

On August 13, 2002 (Shrawan 28, 2059), at around 2 a.m., about a dozen uniformed soldiers from the Rambhapur army post came to the parental home of twenty-three-year-old student **Sita Chowdhury** in Machaghar, Deudakala VDC-3. She recognized some of the soldiers because she used to work near the post for an organization providing training for “backward people.” Chowdhury told her parents—whom the soldiers held at gunpoint inside the house—that she would go with the soldiers because she knew them.

The next day, the parents heard a report on Radio Nepal saying that a “Maoist called Sita Chowdhury was killed in an encounter,” along with three other persons.

The family has not found Chowdhury or her body. They went to the Rambhapur army post once, hoping to see Sita, but did not dare to go in or ask about their daughter.

The family reported the “disappearance” to INSEC and to other human rights organizations.¹³³

¹³² Human Rights Watch interview with a relative of Raj Kumar Tharu, Bardia, September 29, 2004.

¹³³ Human Rights Watch interview with a relative of Sita Chowdhury, Bardia, September 28, 2004.

138. Jangu Tharu



139. Ram Bharose Tharu



140. Jagana Tharu



141. Jagat Ram Tharu



On August 11, 2002 (Shrawan 26, 2059), at around 9 p.m., a large group of RNA troops arrived at the village of Sonpur in Magragadi VDC-5. They searched several houses and took away forty-eight-year-old farmer **Jangu Tharu**, thirty-one-year-old farmer **Ram Bharose Tharu**, thirty-four-year-old farmer **Jagana Tharu**, and thirty-six-year-old farmer **Jagat Ram Tharu**. The soldiers had a list with them and called each of the detainees out by name during the arrest. In each house the soldiers held the families at gunpoint to prevent them from following their arrested relatives.

Villagers saw the soldiers taking the detainees to a van parked on the edge of the village, and an hour later they heard two long rounds of gunshots from the same location. After the vehicle had left, the villagers came to the spot, but did not find anything there.

An ex-chairman of the village inquired at the Rambhapur army post, where an officer asked him to bring a petition to release the detainees signed by the acting chairman, which the latter refused to do. The officer then suggested that the men had been abducted by the Maoists, and finally said they had been taken to the Chisapani army barracks. The army officials at the Chisapani barracks denied having any information. The families reported the case to INSEC and the ICRC, but have not received any further information.

The families of all four detainees deny their having any involvement with CPN-M. All of the men were farmers, and Jangu Tharu was a member of CPN-UML, a party not affiliated with the Maoists.¹³⁴

142. Hari Ram Chowdhury



143. Tate Ram Tharu

On August 9, 2002 (Shrawan 24, 2059), at 4 a.m., a large group of uniformed RNA soldiers came to Magargadhi VDC-5, Bardia district. The soldiers fanned out across the village, looking for certain men by name. Five men were arrested from the village, of whom three were released and two remain missing.

About fifty uniformed RNA soldiers came to the home of twenty-four-year-old **Hari Ram Chowdhury**, who had just returned from work in India two days before. The soldiers asked for Hari Ram by name, tied his hands behind his back, and ordered him to go with them.¹³⁵ The soldiers also surrounded the house of forty-year-old **Tate Ram Tharu**, a village shopkeeper, and told him to come with them, telling his worried family he would be released in a few hours.¹³⁶ The two men remain missing to date.

¹³⁴ Human Rights Watch interview with a relative of Jangu Tharu, Bardia, September 29, 2004; Human Rights Watch interview with a relative of Ram Bharose Tharu, September 29, 2004; Human Rights Watch interview with a relative of Jagana Tharu, September 29, 2004; Human Rights Watch interview with a relative of Jagat Ram Tharu, September 29, 2004.

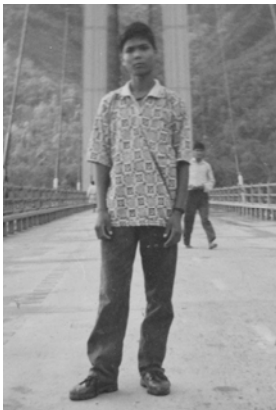
¹³⁵ Human Rights Watch interview with a relative of Hari Ram Chowdhury, Bardia, September 29, 2004.

¹³⁶ Human Rights Watch interview with Ram Dulari Tharu (wife), Bardia, September 29, 2004.

Human Rights Watch spoke to one of the three detainees who had been arrested with the two missing men, but was released the next day. The forty-six-year-old farmer explained how the soldiers had beaten his whole family before taking him and his son away, blindfolded. The soldiers beat the men so badly on the way to their vehicle that the farmer fainted. When they arrived at the security post—the released detainee was blindfolded throughout the incident, but he and the relatives of the missing believe they were taken to the Rambhapur army barracks—each of the men was individually beaten and questioned. The men were then left tied up outside in the cold rain for hours. The next afternoon, the soldiers took the farmer to a nearby jungle, and left him, still blindfolded, telling him not to remove the blindfold for thirty minutes. When he finally managed to make it home, he learned his son had been released earlier.¹³⁷

When the relatives of the two “disappeared” men went to the Rambhapur army barracks, they met with a senior officer who told them that if they could bring a recommendation from village leaders certifying the men had nothing to do with the Maoists, they might be released—strongly indicating that the men were indeed in his custody. However, when the families went back again to Rambhapur, the officials said they knew nothing about the case. Officials at the Chisapani army barracks also denied all knowledge of the case. The “disappearances” were reported to the ICRC, INSEC, and other local human rights organizations, but there has been no news about the two men, “not even rumors.”¹³⁸

144. *Likha Ram Tharu*



Twenty-three-year-old **Likha Ram Tharu**, from Mohamadpur VDC, Bardia district, went to work at the Chisapani army barracks as a cook for an RNA captain. On visits home, he frequently complained about the behavior of the captain, saying that the officer acted erratically, would demand food in the middle of the night when he arrived home intoxicated, and would frequently beat his staff. In July 12, 2002 (Ashad 28, 2059), Likha Ram Tharu went to Chisapani barracks with two of his friends who wanted to join the RNA and did not return.

After searching for him for nearly two months, his relatives were finally contacted by Tharu’s friend who said he had spent three days in detention at the Chisapani barracks

¹³⁷ Human Rights Watch interview [name withheld], Bardia, September 29, 2004.

¹³⁸ Rights Watch interview with a relative of Hari Ram Chowdhury, Bardia, September 29, 2004; Human Rights Watch interview with a relative of Tate Ram Tharu, Bardia, September 29, 2004.

with Likha Ram Tharu, who had been arrested by the captain he worked for. The family went to the Chisapani army barracks, where the captain involved met with them, told them Likha Ram was not at the base, and ordered them to go home. The “disappearance” was reported to the ICRC, NHRC, and INSEC. A habeas corpus petition was filed in the Supreme Court, but was dismissed three months later for lack of evidence. No further information has been obtained about the fate of Likha Ram Tharu.¹³⁹

145. Bali Ram Tharu

On the afternoon of June 22, 2002 (Ashad 8, 2059), twenty-year-old farmer **Bali Ram Tharu**, who had just joined CPN-M, was meeting with other Maoists near a rice mill in Dudha, Mohamadpur VDC. A group of about twenty-five policemen in civilian clothing, all armed, arrived on bicycles and detained Tharu, together with eighteen-year-old Tate Ram Tharu and nineteen-year-old Rabindra Tharu. The latter two were released on March 16, 2004 (Chaitra 3, 2060).

A villager who works with the police informed the families that the detainees were brought to the Guleria district police office, held there overnight and during the following day, and then handed over to the army. He did not know to which location they were transferred.

The head of the village inquired on behalf of the family at the police station and at nearby army barracks, but has not received any information. The case was also reported to the ICRC.¹⁴⁰

146. Janak Prasad Upadhaya

A group of about thirty uniformed RNA soldiers came to the Deudakala VDC, Bardia district home of twenty-seven-year-old **Janak Prasad Upadhaya**, a farmer, during the night of June 18, 2002 (Ashad 4, 2059). The soldiers broke down the door of the home, and demanded to know which person was Janak Prasad. Prasad identified himself, and the soldiers ordered him to get dressed and come with them. He has not been seen or heard from since.

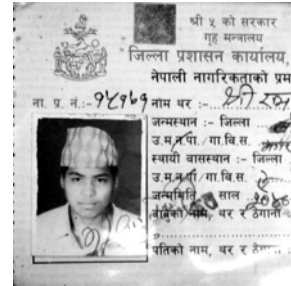
Three months after the “disappearance,” a relative went to Chisapani Army Barracks to seek information, but the officials told her they knew nothing about the case. The family

¹³⁹ Human Rights Watch interview with a relative of Likha Ram Tharu (father), Bardia, September 27, 2004.

¹⁴⁰ Human Rights Watch interview with a relative of Bali Ram Tharu, Bardia, September 27, 2004.

reported the case to local human rights organizations. According to the family, Janak Prasad was not involved with the Maoists.¹⁴¹

147. Shree Ram Chowdhury 148. Bom Bahadur Shahi 149. Shree Ram Tharu



150. Tirtha Bahadur Thapa

151. Hira Singh Bathamagar



On the night of May 23, 2002 (Jestha 9, 2059), the RNA conducted a large-scale operation in the village of Machaghar, Deudakala VDC-3, and detained five men, all of whom were taken from their homes and beaten during the arrest.

Twenty-five-year-old **Tirtha Bahadur Thapa** used to work in India, and had recently returned home to build a house, intending to return to India afterwards. The soldiers came inside his family's home, initially trying to fool the family into thinking they were Maoists by saying such things as, "We've sent ten comrades to your house, why didn't you feed them?," but Thapa and his family were not fooled, repeatedly telling the soldiers they didn't know what they were talking about. The soldiers then kicked Thapa

¹⁴¹ Human Rights Watch interview with a relative of Janak Prasad Upadhaya, Bardia, September 28, 2004.

repeatedly, ordered him to get dressed, and took him with them. Soon after the soldiers left, several gunshots rang out in the village.¹⁴²

Twenty-six-year-old **Shree Ram Tharu** was also roused from his bed by the soldiers, who, after beating and kicking him in the courtyard, led him away.¹⁴³

Twenty-seven-year-old **Hira Sing Bathamagar**, who worked as a laborer in India, was sleeping when the soldiers entered his home and called him by his name, saying, “Hira Sing, get up.” Before he could get up, however, a soldier punched him three times in his face. He was taken to a corner of the courtyard, where the soldiers severely beat and interrogated him for about thirty minutes before leading him away.¹⁴⁴

The soldiers then brought Bathamagar to the house of twenty-six-year-old **Bom Bahadur Shahi**, whom he used to work with in India. The soldiers searched Shahi’s house, telling the family “not to tell anyone that the patrol was there.” Then they walked both men away.¹⁴⁵

Twenty-five-year-old **Siya Ram Chowdhury** was also arrested the same night at his home. The soldiers called him out by name, dragged him into the street and beat him there, and then took him away. Chowdhury’s relative heard a gun shot about an hour after the soldiers left with Chowdhury.¹⁴⁶

Early in the morning, Bom Bahadur Shahi’s relative saw four vehicles leaving the village: a van and a jeep proceeded toward the Rambhapur army post, and a green truck and another jeep went in the direction of the Chisapani barracks.¹⁴⁷

Four months after the arrests, a detainee released from the Chisapani barracks told the family of Bom Bahadur Shahi that he had seen a man who looked like him in the barracks.¹⁴⁸

¹⁴² Human Rights Watch interview with a relative of Tirtha Bahadur Thapa, Bardia, September 28, 2004.

¹⁴³ Human Rights Watch interview with a relative of Shree Ram Tharu, Bardia, September 28, 2004.

¹⁴⁴ Human Rights Watch interview with a relative of Hira Singh Bathamagar, Bardia, September 28, 2004.

¹⁴⁵ Human Rights Watch interview with a relative of Bom Bahadur Shahi, Bardia, September 28, 2004.

¹⁴⁶ Human Rights Watch interview with a relative of Siya Ram Chowdhury, Bardia, September 28, 2004.

¹⁴⁷ Human Rights Watch interview with a relative of Bom Bahadur Shahi, Bardia, September 28, 2004.

¹⁴⁸ Human Rights Watch interview with a relative of Bom Bahadur Shahi, Bardia, September 28, 2004.

The families continuously inquired at the Chisapani barracks and with RNA officials at Nepalgunj, but but the authorities denied any knowledge of the case. The cases were reported to INSEC and the ICRC.

The relatives of Shree Ram Chowdhury and Bom Bahdur Shahi said the two men were not Maoists, but did attend a Maoist meeting once, like most other villagers. The families of the other three men deny that the men had any links to the Maoists, explaining that most worked in India as laborers.¹⁴⁹

152. Janaki Chowdhury

153. Krishna Prasad Tharu



On April 23, 2002 (Baishak 10, 2059), the Maoist-affiliated All-Nepal Free Students' Union (Revolutionary) held a meeting in Motipur VDC, Bardia district. An APF unit at Thappua Bridge detained two members of the group after the meeting, as they were returning to their village: twenty-seven-year-old **Krishna Prasad Tharu**, and **Janaki Chowdhury** (age unknown), who was a central committee member of the All-Nepal Free Students' Union (Revolutionary). Both remain missing to date.

A released detainee informed Tharu's family that he had been in detention with Tharu at the Chisapani army barracks. Thereafter, the relatives went repeatedly to the Chisapani army barracks to obtain information, but the soldiers denied any knowledge. The case was reported to the ICRC and local human rights organizations.¹⁵⁰

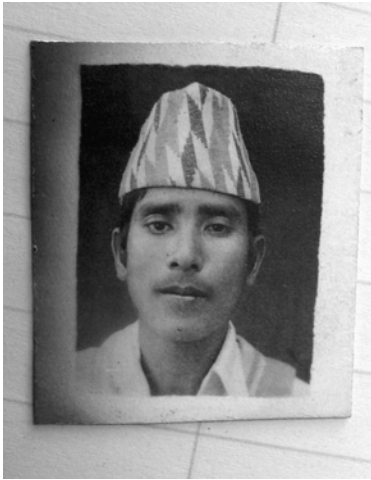
¹⁴⁹ Human Rights Watch interviews with the relatives of Tirtha Bahadur Thapa, Shree Ram Tharu, Hira Singh Bathamagar, Bom Bahadur Shahi and Siya Ram Chowdhury, Bardia, September 28, 2004.

¹⁵⁰ Human Rights Watch interview with a relative of Krishna Prasad Tharu, Bardia, September 28, 2004.

154. Keshav Kumar Chowdhury

155. Pati Ram Chowdury

156. Bagauti Chowdhury



Forty-three-year-old **Bagauti Chowdhury**, nineteen-year-old **Keshav Kumar Chowdhury** and thirty-eight-year-old **Pati Ram Chowdhury**, all farmers in Mangalpur village, Khairi Chandanpur VDC-2, Bardia district, were arrested by uniformed RNA soldiers at 3 a.m. on April 11, 2002 (Chaitra 29, 2058).

The next day, relatives of the three men went to Rajapur police headquarters, but were told the men were not there, and ordered to go away. The family members have received no further information about their missing relatives.¹⁵¹ They reported the

“disappearances” to the ICRC, NHRC, and local human rights organizations.

157. Ghanashyam Chowdhury

Thirty-two-year-old **Ghanashyam Chowdhury**, from Manau VDC-8, Bardia district, never returned from a wedding ceremony for his landlord that he had gone to attend on March 3, 2002 (Falgun 19, 2058).

According to three other villagers who accompanied him to the wedding, he was arrested by RNA soldiers at the landlord’s home. The landlord told the family he would do what he could to seek the release of Chowdhury without result. The family informed local human rights organizations in Nepalgunj of the arrest.¹⁵²

¹⁵¹ Human Rights Watch interview with a relative of Bagauti Chowdhury, Bardia, October 1, 2004.

¹⁵² Human Rights Watch interview with a relative of Ganashyam Chowdhury, Bardia, October 1, 2004.

158. *Chillu Tharu*

159. *Dhani Ram Tharu*

160. *Sani Ram Tharu*

161. *Nirmal Chowdhury*



162. *Kamali Tharu*



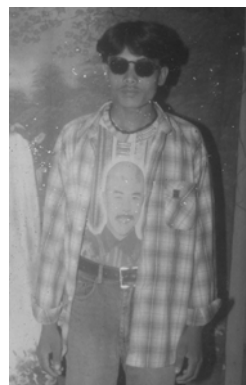
163. *Lauti Tharu*



164. *Radhu Lal Chowdhury*



165. *Prem Bahadur Tharu*



166. *Mohan Chowdhury*



167. *Jagat Prasad Chowdhury*

At about 4 a.m. on February 25, 2002 (Falgun 13, 2058), a group of about fifty RNA soldiers came to the house of twenty-two-year-old **Nirmal Chowdhury** in Baspur village, Manau VDC-9, Bardia district. The soldiers accused Nirmal of involvement in the killing of Amrit Man Shreshtra, a landlord from a nearby village who had been murdered by Maoists just weeks before (see below), tied his hands and blindfolded him, and took him away. Soldiers remained in the village until 9 a.m.¹⁵³ During the night, they also arrested thirty-eight-year-old **Jagat Prasad Chowdhury**, beating him in a courtyard and asking him what he knew about Amrit Man's killing.¹⁵⁴

Two other villagers were arrested that same night, but released after six days. They told the relatives of the two missing detainees that they all had been taken to the Thakurdwara army barracks, where they were kept together and severely beaten. In response to the relatives' inquiries, officials at the Thakurdwara army barracks denied that the two missing men were in their custody. The families reported the "disappearances" to local human rights organizations and to the ICRC.¹⁵⁵

On April 11, 2002 (Chaitra 29, 2058), a large group of RNA soldiers carried out a major sweep of Nauranga village in Manau VDC-8, Rajapur, Bardia. It is believed that the RNA raid was also in response to the Maoist killing of Amrit Man Shreshtra, a large landowner in the village, about two months before the sweep.

According to the witnesses, relatives of the late Amrit Man accompanied the RNA soldiers, pointing out people to arrest.¹⁵⁶ At many of the homes the soldiers visited, they initially tried to fool the villagers into thinking they were Maoists, and asked the villagers to join them in blowing up a local bridge. The RNA soldiers arrested eight people from the village, none of whom were seen alive again.

Many of the families affected by the incident were bonded laborers, and, after being later released from their bonded labor contracts, resettled in different areas of Nepal, making it difficult to locate all the families of the "disappeared."

The soldiers came to the home of thirty-year-old **Prem Bahadur Tharu**, a tractor driver who was not involved in politics. The soldiers and Amrit Man's relatives called out to

¹⁵³ Human Rights Watch interview with a relative of Nirmal Chowdhury, Bardia, October 1, 2004.

¹⁵⁴ Human Rights Watch interview with a relative of Jagat Prasad Chowdhury, Bardia, October 1, 2004.

¹⁵⁵ Human Rights Watch interview with a relative of Nirmal Chowdhury, Bardia, October 1, 2004.

¹⁵⁶ Human Rights Watch interview with a relative of Prem Bahadur Tharu, Bardia, September 28, 2004; Human Rights Watch interview with a relative of Dhani Ram and Sani Ram Tharu, Bardia, October 1, 2004.

him, impersonating Maoists and saying they were going to blow up a local bridge. The family realized the men were actually RNA soldiers and tried to stop the men from taking Prem Bahadur, but the soldiers reassured them, saying they just wanted to ask some questions and would release him soon.¹⁵⁷

Nineteen-year-old **Dhani Ram** and his seventeen-year-old brother **Sani Ram Tharu**, both farmers who, according to their family, were not involved with CPN-M, were sleeping at their home when a group of RNA soldiers arrived at about midnight. Three soldiers entered the home and, pretending to be Maoists, told the brothers to join them in blowing up a local bridge, but the family realized they were actually RNA soldiers. The soldiers told the two brothers to get dressed and took them away. They were never seen again.¹⁵⁸

The soldiers came to the house of twenty-year-old **Radhu Lal Chowdhury**, a carpenter who according to his family was not involved with CPN-M, and ordered the other villagers already detained to call him out of his home. Again, the soldiers pretended to be Maoists, saying they were going to blow up the bridge. The family tried to stop the soldiers from taking Radhu Lal—they knew immediately the men were soldiers, not Maoists—but the soldiers promised to bring him back soon, and threatened to shoot his mother if she did not stop crying.¹⁵⁹

The soldiers similarly arrested twenty-one-year-old **Mohan Chowdhury**, a farmer and occasional laborer, from his home. He was not involved with CPN-M, according to his family.¹⁶⁰ Soldiers came to the home of sixteen-year-old **Lauti Tharu**, ordered her to come with them and told her relatives to stay inside, saying they wanted to ask the girl some questions. Like many young people, Lauti Tharu occasionally attended CPN-M cultural events, but she was not an active Maoist.¹⁶¹ Soldiers arrested nineteen-year-old **Kamali Tharu**, a student in grade seven, from her home, while a son and a cousin of the late Amrit Man Shrestha, the murdered landlord, called out, “This is the girl.”¹⁶² An eighth villager, **Chillu Tharu** (age unknown) was also arrested and “disappeared.”

¹⁵⁷ Human Rights Watch interview with a relative of Prem Bahadur Tharu, Bardia, September 28, 2004.

¹⁵⁸ Human Rights Watch interview with a relative of Dhani Ram and Sani Ram Tharu, Bardia, October 1, 2004.

¹⁵⁹ Human Rights Watch interview with a relative of Radhu Lal Chowdhury, Bardia, October 1, 2004.

¹⁶⁰ Human Rights Watch interview with a relative of Mohan Chowdhury, Bardia, October 1, 2004.

¹⁶¹ Human Rights Watch interview with a relative of Lauti Tharu, Bardia, September 28, 2004.

¹⁶² Human Rights Watch interview with a relative of Kamali Tharu, Bardia, September 28, 2004.

The relatives of the disappeared tried to obtain information from various security and government officials based in Tikapur Kaili District, Guleria, Thakurdwara, and Rajapur, but did not succeed. The relatives also reported the case to the ICRC and various local human rights organizations.¹⁶³ Nothing has been heard of the eight persons since they were taken from the village.

168. Tulsi Ram Tharu

169. Lachi Ram Tharu

170. Darbari Tharu

On January 24, 2002 (Magh 11, 2058), a group of dozens of uniformed police officers came to Madaha village in Motipur VDC, Bardia district. The police arrested three men from the village.

Twenty-four-year-old **Tulsi Ram Tharu**, a farmer, was feeding his family's cattle when he saw the police approach, and went to hide under his bed. The police found and arrested him and searched his home, demanding that the family hand over their weapons, which the family denied having in its possession. The police then blindfolded Tulsi Ram and led him away.¹⁶⁴

The police also arrested thirty-six-year-old **Lachi Ram**, a carpenter, from his home and beat him severely.¹⁶⁵ Twenty-eight-year-old **Darbari Tharu** was arrested by the police while he was walking to his job at a nearby brick factory.¹⁶⁶ The families of all three men denied any links to CPN-M.

The families immediately searched for the three missing men at police stations in the area, and soon established they were being held at the Banshghadi police post, but were not allowed to visit them. The men were then transferred to the detention center at the Guleria district police office, where the families were allowed to visit them for a period of about two and a half months. Suddenly, on April 25, 2002 (Baishak 12, 2059), the prison authorities told the families that the men were no longer at the prison, but provided no explanation for what had happened to them.

¹⁶³ Human Rights Watch interviews with the relatives of Dhani Ram and Sani Ram Thar, Bardia, October 1, 2004; Human Rights Watch interview with a relative of Prem Bahadur Tharu, Bardia, September 28, 2004.

¹⁶⁴ Human Rights Watch interviews with two relatives of Tulsi Ram Tharu, Bardia, September 28, 2004.

¹⁶⁵ Human Rights Watch interview with a relative of Lachi Ram Tharu, Bardia, September 28, 2004.

¹⁶⁶ Human Rights Watch interview with a relative of Darbari Tharu, Bardia, September 28, 2004.

Kantipur newspaper announced the release of the three men on July 31, 2003, but they never arrived home. The families informed the ICRC, INSEC, and other human rights groups of the “disappearances,” but have received no further news.¹⁶⁷

171. Tribhuwan Giri

In December 2001, twenty-two-year-old farmer **Tribhuwan Giri** was receiving technical training in a shop run by his relative in Khohalpur, Pipalchautara. On December 18, 2001 (Poush 3, 2058), at around 8 a.m., police arrived at the shop in a van, and a policeman named Ramu called out and arrested Giri.

The police took him to the Khohalpur police station, then to the Bansghari police station, and then transferred him to the Guleria police office, where Giri stayed for over two months. He was then transferred to Guleria prison on February 13, 2002 (Falgun 1, 2058).

His family had been visiting him regularly both in the Guleria police office and in prison. Giri told them that he was accused of being a Maoist, but assured them that he was innocent and that he would come home soon.

The family last met him on May 2, 2002 (Baisakh 19, 2059). When they came on May 7, prison authorities told the family that he was not there anymore and showed them a paper stating that nine people, including Giri, were released on May 2. A detainee released from the prison later told the family that on that day, the nine people had been taken away from the prison in an RNA truck. Prison officials told the family that Giri “might have been taken” for interrogation to the Guleria district police office. A police inspector there, however, confirmed that Giri had been taken from the prison by the army, although he did not know where exactly he was being held.

The family reported the case to the ICRC, NHRC and INSEC, but has not received any further information on Giri’s whereabouts.¹⁶⁸

172. Sita Ram Tharu

¹⁶⁷ Human Rights Watch interviews with the relatives of Tulsi Ram Tharu, Lachi Ram Tharu, and Darbari Tharu, Bardia, September 28, 2004.

¹⁶⁸ Human Rights Watch interview with a relative of Tribhuwan Giri, September 28, 2004.

Thirty-five-year-old **Sita Ram Tharu**, a villager from Magarghadi VDC-4, Bardia district, was detained by RNA soldiers who arrived in his village at about 4 p.m. on December 16, 2001 (Poush 1, 2058). The soldiers also arrested three other villagers, including two relatives of Tharu, all of whom were later released. The arrests were likely sparked by the recent detainment of a Maoist who had spent the night several times in Tharu's home.

According to one of the released detainees, all of them were taken to the Chisapani army barracks. At the barracks, the released detainee witnessed what appears to have been the execution of Sita Ram Tharu. He said that after interrogating Tharu, the soldiers took him away into the forest, blindfolded and with his hands tied, and several minutes later, the witness heard two gunshots.¹⁶⁹

The execution has not been confirmed by the authorities, and the body was not handed over to the family. The family reported the case to INSEC, but has not received any further information.

173. Raj Kumar Chowdhury

174. Asha Ram Chowdhury

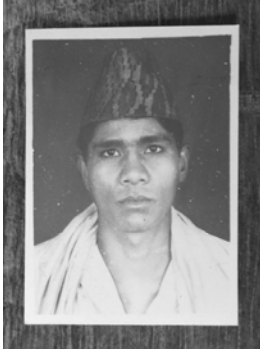


Twenty-six-year-old **Raj Kumar Chowdhury** and seventeen-year-old **Asha Ram Chowdhury**, a grade six student, both from Belbariya village, Manau VDC-5, Bardia district, were arrested by RNA soldiers on November 8, 2001 (Kartik 23, 2058). They were on their way to a picnic organized by friends to celebrate the Dipawali festival. Others who had attended the picnic returned afterward and reported the event to the families.

¹⁶⁹ Human Rights Watch interview with a relative of Sita Ram Tharu, Bardia, September 29, 2004.

The detainees' relatives contacted the Chisapani army barracks, the Thakurdwara army barracks, and Guleria district headquarters after the arrests, but were told the men were not there. Local human rights organizations in Nepalgunj were informed, but there has been no further information about the fate of the men. The men were not associated with CPN-M, according to their relatives.¹⁷⁰

175. Kali Ram Chowdhury



176. Bhag Ram Chowdhury



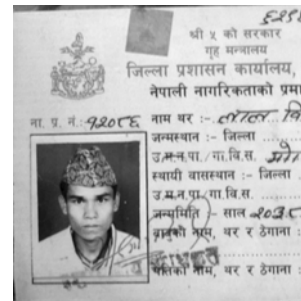
177. Hari Charam Tharu,



178. Kalpalti Tharu,



179. Lal Bihari Tharu



During the night of August 23, 2001 (Bhadra 7, 2058), a large group of uniformed RNA soldiers with backpacks came to the village of Pipal Tandi, Motipur VDC, Bardia district. The soldiers arrested a total of five persons from the village, and the five detainees were never seen again.

The family members of thirty-year-old **Kali Ram Chowdhury** were awakened in the night by soldiers shining their flashlights into the home, and were ordered to come outside. The soldiers initially detained Kali Ram's sister, but released her when Kali Ram surrendered to them. The soldiers then left with Kali Ram and his father and continued

¹⁷⁰ Human Rights Watch interview with relative of Raj Kumar Chowdhury, Bardia, October 1, 2004; Human Rights Watch interview with relative of Asha Ram Chowdhury, Bardia, October 1, 2004.

to surround houses, detaining four others from the village. Then they ordered Kali Ram's father to go back home, telling him they would not hurt Kali Ram and would release him soon. Shortly after he was released, Kali Ram's father heard gunshots from nearby the village's school, but nothing was found there the next day.¹⁷¹

Kali Ram Chowdhury had been involved with CPN-M, and regularly attended CPN-M events. However, according to his family, he had left the CPN-M and returned to civilian life prior to his arrest.

The soldiers also came to the home of twenty-two-year-old **Bhag Ram Tharu**, a farmer with no Maoist links. The family initially refused to open the door, as the soldiers did not identify themselves, whereupon the soldiers broke it down. The soldiers asked, "Who is Bhag Ram?" and then ordered him to come with them. The soldiers told his relatives to go back inside the home, saying they would shoot them if they tried to follow them.¹⁷²

The soldiers also arrested forty-five-year-old **Hari Charan Tharu**, a farmer with no Maoist connections. His family was ordered to stay inside their home, and Hari Charan was taken away.¹⁷³

Around 3 a.m., two groups of soldiers surrounded the houses of thirty-seven-year-old housewife **Kalpalti Tharu** and twenty-six-year-old farmer **Lal Bihari Tharu**. Keeping their relatives at gunpoint, the soldiers took the two away, saying they would release them soon. The relatives of both Kalpalti and Lal Bihari Tharu are adamant that the two were never involved with the Maoists, and do not know why they were arrested.

About fifteen minutes after the arrest, both families heard gunshots in the forest near the village school, yet in the morning they did not find any signs of execution there.¹⁷⁴

Following the arrests, the relatives went to the Rambapur army barracks, to the chief district officer in Guleria, to the Thakurdwara army barracks, the Chisapani army

¹⁷¹ Human Rights Watch interview with a relative of Kali Ram Chowdhury, Bardia, September 28, 2004.

¹⁷² Human Rights Watch interview with a relative of Bhag Ram Tharu, Bardia, September 28, 2004.

¹⁷³ Human Rights Watch interview with a relative of Hari Charan Tharu September 28, 2004.

¹⁷⁴ Human Rights Watch interview with a relative of Kalpalti Tharu, Barida, September 28, 2004; Human Rights Watch interview with a relative of Lal Bihari Tharu, Barida, September 28, 2004.

barracks, and to officials in Nepalgunj, but received no information. The “disappearances” were reported to the ICRC and local human rights organizations.¹⁷⁵



180. Firu Tharu

At about 2 a.m. on May 20, 2001 (Jestha 7, 2058), a group of fifty to sixty uniformed RNA soldiers came to Kakaura village, Deuda Kala VDC, Bardia district. The soldiers first went to the home of Jaga Ram Tharu, a twenty-seven-year-old farmer, and immediately began beating him, accusing him of providing food to the Maoists. They then asked him to lead them to the home of thirty-six-year-old **Firu Tharu**, a teacher at the boarding school in the village.

When the soldiers arrived at Firu Tharu’s house, they entered the home, brought Firu Tharu out to the courtyard, and began beating him. The soldiers then blindfolded Firu Tharu and ordered both men to walk with them. When they arrived at the main road, two vehicles were waiting. The soldiers released Jaga Ram Tharu, taking Firu Tharu with them. Firu Tharu was never seen again.

Firu Tharu’s family traveled to Chisapani Army Barracks and to the RNA office in Nepalgunj four days after the detention, but the officials denied any knowledge of the arrest. They then reported the case to local human rights organizations, but have not received any information about the fate of Firu Tharu.¹⁷⁶

¹⁷⁵ Human Rights Watch interview with a relative of Hari Charan Tharu, Bardia, September 28, 2004; Human Rights Watch interview with a relative of Kali Ram Tharu, Bardia, September 28, 2004.

¹⁷⁶ Human Rights Watch interview with a relative of Firu Tharu, Bardia, September 27, 2004; Human Rights Watch interview with Jaga Ram Tharu (released detainee), Bardia, September 27, 2004.

181. *Kaliya Ram Tharu,*



182. *Shiva Prasad Tharu,*



183. *Prem Kumar Tharu*

On the afternoon of April 25, 2001 (Baishak 12, 2058), three young men—nineteen-year-old **Kaliya Ram Tharu**, twenty-year-old **Shiva Prasad Tharu**, and twenty-year-old **Prem Kumar Tharu**, all farmers—were busy killing rats in the rice fields around Maishahi village, Mohamadpur VDC, Bardia district. A mixed group of police and RNA soldiers, some uniformed but most in civilian clothes, came from the direction of the Guleria district police headquarters, surrounded the men in the field, and detained them. Three others were detained, bringing the total number of detainees to six.

The six detained men were brought to the village, where they were interrogated for approximately one half hour about a recent Maoist attack on a nearby government office, the Cotton Development Committee.¹⁷⁷ The security forces released two of the men and brought the other four to Guleria District police office.

One of the detainees was released four days later, after the ex-chairman of the village came to the police office and vouched for him. According to the released detainee, the ex-chairman also asked about the other three men, but the police said that they “had handed them over.”¹⁷⁸

Kaliya Ram Tharu, Shiva Prasad Tharu, and Prem Kumar Tharu were last seen by the released detainee in the Guleria district police office. None of the men had any ties to the CPN-M, according to their families.

¹⁷⁷ Human Rights Watch interview with a relative of Shiva Prasad Tharu, Bardia, September 27, 2004.

¹⁷⁸ Human Rights Watch interview, Bardia, Spetmebr 27, 2004. The name of the released detainee is on file with Human Rights Watch. His identity is being withheld to protect his safety.

The day after the arrests, a local FM radio station announced that the three men had been killed in an “encounter” with the security forces, although the broadcast did not give the men’s names.

The families of the “disappeared” have reported the “disappearance” to the ICRC and to various human rights organizations, and visited army and police barracks throughout the district, but have not obtained any information about the fate of the three men.¹⁷⁹

Banke

184. Bhupendra Upreti

Thirty-eight-year-old **Bhupendra Upreti**, a hardware-shop owner in the Birendra Chowk Bazaar of Nepalgunj, was detained together with a friend by RNA soldiers on December 9, 2003 (Monsir 23, 2060), while walking to a barbershop after closing his shop. According to his relatives, Bhupendra Upreti had been drinking at the time, and may have argued with the soldiers.

Three days after the arrest, Upreti sent a message to his family through a vegetable seller, saying he was being held at Rajha Airport Barracks near Nepalgunj, and saying he would probably be released in a few days. A relative went to Rajha Airport Barracks, where soldiers confirmed that he was being detained, telling the relative: “Don’t worry; if he is not guilty he will be released.” Two weeks later, the friend who was detained with Upreti was released, and informed the family that he had been kept together with Upreti for the first four days at Rajha Airport Barracks, but had then been separated from him when soldiers took Upreti out of the room.

The family again began searching for Upreti and managed to see the commander of Rajha Airport Barracks. The commander denied that Upreti had been arrested by his soldiers or that he was being held at the base. When the family informed him that the fellow detainee had confirmed he and Upreti had been kept there, the commander asked for the family’s phone number and said he would call them. The family has not been able to get any more information about the fate of Upreti. The case was reported to the ICRC, NHRC, and various human rights organizations. The family also petitioned the king and filed a habeas corpus petition, which remains undecided.¹⁸⁰

¹⁷⁹ Human Rights Watch interviews with the relatives of Shiva Prasad Tharu, Kaliya Ram Tharu and Prem Kumar Tharu, Bardia, September 27, 2004.

¹⁸⁰ Human Rights Watch interview with Chandra Kala Upreti (wife), Banke district, October 4, 2004.

185. Raj Bahadur Tharu

186. Fula Raj Tharu

At 3 a.m. on the morning of September 9, 2002 (Bhadra 24, 2059), a group of uniformed RNA soldiers came to Banaibar village in Naubasta VDC-8, Banke province. The soldiers went to many homes in the village, rounding up men as they progressed through the village and taking them to a large courtyard. After questioning the villagers, the soldiers took two of the detainees with them: thirty-year-old **Fula Raj Tharu**, a shopkeeper who had recently returned to the village after working for years in Kathmandu, and twenty-one-year-old **Raj Bahadur Tharu**, a farmer. Both families deny that the men were involved with CPN-M. The families do, however, state that a large group of Maoists had come to their village four months before the arrests, and that most of the villagers including themselves had been forced to feed and house two Maoists each for the night.

The families of the two men repeatedly went to Chisapani Barracks for information about the detained men. For the first several days, the soldiers at the entrance gate admitted the two men were detained there, but refused the relatives entry. After three days, the soldiers told the families the army had not detained the men, and told them to go away. The families reported the case to the ICRC, INSEC, and other local human rights organizations.¹⁸¹

187. Karna Bahadur Chowdhury

Karna Bahadur Chowdhury (age unknown), an unskilled laborer who had no links to CPN-M, was walking around Baniyabar Market with two village friends when he was arrested by uniformed RNA soldiers at about 4 p.m. on August 14, 2002 (Shrawan 29, 2059). According to his two friends, the soldiers simply stopped Karna Bahadur, blindfolded him, and took him with them in a convoy of two army trucks, not even asking for his name.

The family immediately went to Chisapani army barracks, but the soldiers there denied any knowledge of the arrest. However, a released detainee later came to inform the family that he had spent almost two months in detention at Chisapani army barracks

¹⁸¹ Human Rights Watch interview with Dhaniya Tharu (sister), Banke district, October 3, 2004; Human Rights Watch interview with Gaumati Tharu (stepmother), Banke district, October 3, 2004.

with Karna Bahadur Chowdhury. The family reported the case to the ICRC and local human rights organizations, but has received no news about their missing relative.¹⁸²

188. Sita Ram Tharu

On 21 Shrawan 2059, twenty-one-year-old **Sita Ram Tharu**, a farmer, left his village home in Boding Basti, Naubasta VDC-8, Banke district, to buy rice in the district capital of Kohalpur. He never returned home. The next day, the family was informed by other villagers that he had been arrested by RNA soldiers on his way back. According to the family, Sita Ram Tharu had no affiliation to CPN-M, but had the same name as another man from the same village who was a known Maoist.

The family tried to locate Sita Ram Tharu without success. They gave money to a corrupt local official who promised to help them, but received no information. At Chisapani barracks, the soldiers said they had not arrested him, and told the relative to go away. The case was reported to local human rights organizations, which passed on the case information to NHRC and ICRC.¹⁸³

189. Yagya Budha

190. Nar Bahadur Budha

191. Narda Ram Gharti

192. Gagan Bahadur Gharti

On June 10, 2002 (Jestha 27, 2059), a large group of police officers, some uniformed and others in civilian dress, conducted a large arrest operation in Jammunitole village, Kohalpur VDC-6, Banke district. The police operation apparently was in response to a CPN-M arson attack on a nearby forestry ranger station that had occurred on May 12, 2002 (Baishak 29, 2059). The police arrested a total of fourteen people from the village. Three villagers remain missing to date: thirty-year-old **Yagya Buddi** and his twenty-eight-year-old brother **Nar Bahadur Buddi**, and twenty-year-old **Gagan Bahadur Gharti**, all of whom worked as seasonal laborers in India. A fourth detainee, fourteen-year-old **Narda Ram Gharti**, died from torture injuries while in detention.

One of the released detainees, who was a sixteen-year-old boy at the time of the events, told Human Rights Watch that the detainees were blindfolded by the police and taken to the Kohalpur district police station. At the police station, the men were questioned

¹⁸² Human Rights Watch interview with Drupati Chowdhury (mother), Banke district, October 3, 2004.

¹⁸³ Human Rights Watch interview with Anjana Tharu (mother), Banke district, October 3, 2004.

about the destruction of the forestry ranger post, but were not beaten or tortured. The men were then taken to Chisapani barracks, where they repeatedly suffered severe beatings. The detainee, aged sixteen at the time of the beatings, recalled:

We were kept in the yard of the barracks and then were called one by one for questioning. Inside [the interrogation room], they asked us about the attack on the forestry range post and beat us with heavy bamboo sticks. I couldn't even breathe for five minutes after one beating. I was blindfolded, so I couldn't see how many they were. They hit me with the bamboo stick four or five times, and then they ordered me to stay out in the sun all day. In the evening, I was called back to the same room and beaten again with the stick, four or five times.¹⁸⁴

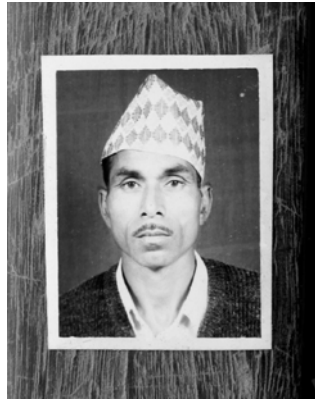
After eleven days of beatings and interrogation at Chisapani Army Barracks, most of the men were shifted back to Kohalpur district police station. However, the three men who remain missing to date stayed behind at Chisapani Army Barracks: "The soldiers called out all of our names except three." By the time of the transfer back to Kohalpur district police station, fourteen-year-old Narda Ram Gharti was close to death from the beatings he had faced: "He was with us, but he was very sick. When I last saw him, he was swollen all over his body." The ailing boy was soon transferred to Nepalgunj, where he died from his injuries.

The remaining men were soon released from Kohalpur police station, but the three detainees who remained behind at Chisapani Army Barracks remain "disappeared" to date. The relatives of the "disappeared" informed ICRC and various human rights organizations, but have received no information of their fate.¹⁸⁵

¹⁸⁴ Human Rights Watch interview with Dhambir Gharti (brother), Banke district, October 3, 2004.

¹⁸⁵ Human Rights Watch interview with Dhambir Gharti, Banke district, October 3, 2004; Human Rights Watch interview with Manka Singh Buddi, Banke district, October 3, 2004.

193. *Dhan Bahadur B.K.*



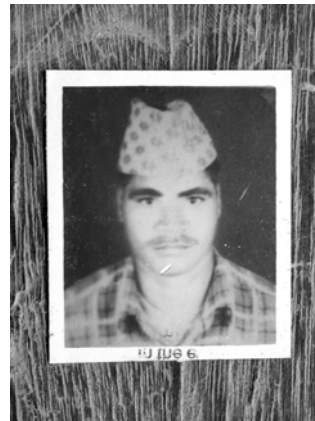
194. *Hikmat Bista*



195. *Yek Bahadur Kami*



196. *Ram Milan Balmiki*



The arrest spree in Kohalpur VDC began at about 11 a.m. on April 26, 2002 (Baishak 13, 2059), when police arrested eighteen-year-old **Yek Bahadur Kami**, a laborer who suffered from serious mental illness, at the market in Kohalpur. He was among the five men who disappeared, and the families believe the delusional man may have “informed” on the other arrested persons.¹⁸⁶

One of those arrested in the night was **Ram Milan Balmiki**, a twenty-seven-year-old man, who worked in a milk marketing company. He and his mother had been beaten in his house before he was taken away by the soldiers.¹⁸⁷ Forty-seven-year-old **Dhan Bahadur B.K.**, owner of a furniture shop, was arrested after police came to his house, called out his name, and said the chief of the police station wanted to talk to him.¹⁸⁸

¹⁸⁶ Human Rights Watch interview with a relative of Yek Bahadur Kami, Banke, October 2, 2004.

¹⁸⁷ Human Rights Watch interview with a relative of Ram Milan Balmiki, Banke, October 2, 2004.

¹⁸⁸ Human Rights Watch interview with a relative of Dhan Bahadur B.K., Banke, October 2, 2004.

Twenty-three-year-old **Hikmat Bista**, a small shopkeeper who avoided political involvement, was also arrested at his home by police. The family recognized one of the officers as an assistant subinspector from the Kohalpur police station nearby. The police officer promised the family that they would return Hikmat before 11 a.m. the next morning.¹⁸⁹

On the night of April 26, the soldiers also broke into the house of Goma Devi Shahi, who has been an active member of the left-of-center Majdoor Kisan Party since her student days.¹⁹⁰ Goma Shahi's husband was not at home; she was there with her four young daughters. The soldiers asked for her by name, and when she identified herself, one of the soldiers threw her against the door. She was put into a van where she found five other people who had been arrested.

The soldiers drove these six detainees to a field in front of the police administration headquarters in Kohalpur, where they were taken inside one by one. According to Goma Shahi, she was severely beaten and heard other detainees being beaten as well. She was put in a cell and, from sounds she heard, realized that the other detainees were in a separate cell for men at the other end of the corridor. At around 4:00 a.m., she heard the sound of a car in the driveway, and then heard the detainees in the other room being taken away. The five men have not been seen or heard from since then.

Goma Shahi was transferred the next day to district administration offices for further questioning and released fifteen days later.¹⁹¹

Ram Milan Balmiki's parents were informally told by the police the morning after his arrest that he had been taken into army custody. His relatives searched for him in different army barracks, but the army everywhere denied having him in detention. The courts have issued three habeas corpus orders to the army to produce Ram Milan Balmiki, but the army has not responded.¹⁹²

197. NAME UNKNOWN

¹⁸⁹ Human Rights Watch interview with a relative of Hikmat Bista, Banke, October 2, 2004.

¹⁹⁰ Majdoor Kisan Party is a left-of-center party whose insignia includes the sickle and hammer common to most communist parties.

¹⁹¹ Human Rights Watch interview with Goma Devi Shahi, Banke, March 17, 2004.

¹⁹² Human Rights Watch interview with S.L. Balmiki and Maili Balmiki, Banke, March 17, 2004.

198. Bhagwati Prasad Tharu

199. Pahadi Tharu

200. Raj Kumar Tharu

On April 17, 2002 (Baishak 4, 2059), a large group of uniformed RNA soldiers came to Channawa village in Samserung VDC-4, Banke district. The soldiers asked for the location of the home of thirty-four-year-old **Bhagawati Prasad Tharu**. When they reached Bhagawati Prasad Tharu's home, they woke him, took him outside, and began kicking him with their boots. They then tied him up and took him away. Bhagwati Tharu had previously served as the village chairman of the royalist RPP party; his family is adamant that he had no CPN-M connections, although they and the families of the other two men "disappeared" that night admit to providing food and shelter to a group of Maoists about five months prior to the "disappearances." The family explained that they had no choice: "If we didn't provide food to the Maoists, they would have killed us."¹⁹³

The same group of soldiers also arrested thirty-five-year-old **Pahadi Tharu**, a farmer who was feeding his buffalos that morning. During the arrest, the soldiers began kicking Pahadi Tharu with their boots and accused him of being a Maoist. Thirty-two-year-old **Raj Kumar Tharu**, a social worker implementing a children's education project in the village for an international NGO, was also arrested from his home.

None of the three men were ever seen again. The families believed the men were taken to the nearby Chisapani Army Barracks and tried to gain information there soon after the arrests, but they were told that the army didn't arrest people and ordered to go away. The families reported the case to the ICRC, NHRC, and to local human rights organizations.¹⁹⁴

201. Dayamanti Pun

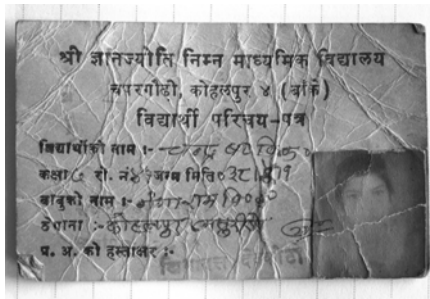
Twenty-year-old **Dayamanti Pun** was an active district member of the Maoist-affiliated All-Nepal Women's Organization (Revolutionary). She was detained on February 23, 2002 (Falgun 11, 2058), from Dhageri village, VDC, Banke District by Nepali security forces, together with three other suspected Maoists whose names are unknown to Human Rights Watch.

¹⁹³ Human Rights Watch interview with Kalu Tharu, (brother), Banke district, October 2, 2004.

¹⁹⁴ Human Rights Watch interview with Hinderiya Tharu (wife), Banke district, October 2, 2004; Human Rights Watch interview with Kumali Tharu (wife), Banke district, October 2, 2004.

The following day, relatives went to the Chisapani army barracks, where the guards at the gate denied the girl was there, but a local worker told the family he had seen her in detention. Five days after her arrest, guards at the Chisapani army barracks confirmed to the family that she had been transferred to Thakurdwara Army Barracks. There has been no further information regarding Pun's whereabouts. The case has been reported to the ICRC and local human rights organizations.¹⁹⁵

202. Chandra Bahadur B.K.



203. Jit Bahadur Pun



Twenty-two-year-old **Jit Bahadur Pun**, a CPN-M activist, and twenty-four-year-old **Chandra Bahadur B.K.**, a CPN-M platoon commander also known as “Ranjit,” were arrested by a group of about forty to fifty plainclothes officers from the Criminal Investigation Division (CID) of the police from their home village of Masurikheta, Kohalpur VDC, Banke district, on May 12, 2001 (Baishak 29, 2058). The families were too afraid to visit the police barracks to find out about the men's fate, because other villagers warned them that they too might be arrested. The case was reported to the ICRC and various local human rights organizations, but nothing has been heard about the two men since their arrest.¹⁹⁶

204. Jog Bir Pun

205. Prem Bahadur B.K.

On February 13, 1999 (Falgun 1, 2055), a group of uniformed police officers arrested **Jog Bir Pun**, a CPN-M commander,¹⁹⁷ and eighteen-year-old **Prem Bahadur K.C.**, a student who was not affiliated with CPN-M, from nearby Prem Bahadur K.C.'s school at Nibuwa village, Kohalpur VDC, Banke district. Prem Bahadur K.C.'s family believes

¹⁹⁵ Human Rights Watch interview with Gaumati Pun, Banke (mother), October 2, 2004.

¹⁹⁶ Human Rights Watch interview with Devi Pun (mother), Banke district, October 2, 2004; Human Rights Watch interview with Dhansari B.K. (mother), Banke district, October 2, 2004.

¹⁹⁷ Jog Bir Pun is the elder brother of Jit Bahadur Pun, who was arrested on Baishak 29, 2058 and has also “disappeared.”

that the only reason he was arrested is because he was walking with a known Maoist at the time the police arrived. The family of Jog Bir Pun went to the Kohalpur police station to obtain information about their son, but the police officials claimed they knew nothing about the arrest. Nothing has been heard of the two men since their detainment. Because of heavy police operations in their area after the arrests, the families were not able to take further steps to locate the missing men.¹⁹⁸

206. Karan Singh Pun

Twenty-four-year-old **Karan Singh Pun**, a student, was arrested by two Criminal Investigation Department (CID) police officials at 4 p.m. on September 5, 1998 (Bhadra 20, 2055), from the house of a neighbor in Masurikhet village, Kohalpur VDC-4, Banke.

His relatives went to the CDO and the Kolahpur police station, but authorities claimed they had no information about his detention. The case was reported to the ICRC and local human rights organizations.

The family is unaware of any CPN-M involvement by Karan Singh, but suspects he was detained because the family had moved to Kohalpur-VDC from Rukum, a district which is a CPN-M stronghold. A sister of Karan Singh, Dayamanti Pun, was an active Maoist who also “disappeared” in February, 2002 (Falgun 2058).¹⁹⁹

¹⁹⁸ Human Rights Watch interview with Devi Pun (mother), Banke district, October 2, 2004; Human Rights Watch interview with Dhansari K.C. (mother), Banke district, October 2, 2004.

¹⁹⁹ Human Rights Watch interview with a relative of Karan Singh and Dayamanti Pun, Banke, October 2, 2004.