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Nepal: Break the Suspended Animation

(The 1st weekly briefing paper on the key human rights concerns in Nepal
from 2-10 February 2005)

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1. Introduction

Human rights activists are scheduled to hold a protest demonstration at 1:00 pm on 10 February 2005 at Putali Sadak, Kathmandu. The participants will carry black banners without any slogan to symbolise the complete collapse of democracy and human rights in the country. Earlier, a demonstration by students of Prithivi Narayan University on 1 February 2005 was violently crushed by the Royal Nepal Army (RNA). The security forces arrested Krishna Pahari of Society of Human Rights and Peace on 9 February 2005 and Sukharam Maharjan, Vice President of HURON Kirtipur Chapter, Kathmandu on 8 February 2005.

*Nepal: Break the Suspended Animation*¹ summarises the key human rights concerns in Nepal during the period from 1 to 9 February 2005 after King Gyanendra overtook executive powers for three years and declared State of emergency.

The Asian Centre for Human Rights (ACHR) in its weekly [ACHR REVIEW](#) of 2 February 2005 stated, “Desperate King Gyanendra may as well immediately launch a military offensive against the Maoists to create a dilemma for the international community whether to support his authoritarian moves or the Maoists.”²

On 7 February 2005, the Royal Nepal Army (RNA) launched air strikes against the alleged Maoists in Nepalgunj area after the Maoists spurned King Gyanendra’s offer for dialogue. Dozens of Maoists have been reportedly killed but with complete gag on the press, the claims cannot be verified.³ The use of helicopters in the past resulted in the loss of lives of mainly civilians.

On 7 February 2005, Chief of Army Staff, General Pyar Jung Thapa met Indian Ambassador Shiv Shankar Mukherjee to request continuation of Indian military aid. Under the agreement, India has to bear 70% of the military assistance amounting to Rs 3740 millions, apart from training the RNA in counter-insurgency.⁴

International community must effectively intervene by immediately cutting off military aid to restore democracy and democratic freedoms in Nepal. The continuation of military aid to Nepal at this critical juncture would mean supporting the *coup d’état* of King Gyanendra on 1 February 2005 and the subsequent draconian and repressive measures as documented in this Briefing Paper. While a few political leaders have managed to flee to India, if the current repression by the RNA continues and they are unable to flee, the

¹ . Asian Centre for Human Rights wishes to thank human rights defenders, journalists and political activists and International Commission of Jurist, Amnesty International, Human Rights Watch, International Nepal Solidarity Network, Asian Human Rights Commission and many other individuals and organizations for sharing information on the latest situations in Nepal. The name of some of the sources of information from Nepal has been kept confidential given the security situations.

² . <http://www.achrweb.org/Review/2005/58-05.htm>

³ . Nepal army launches air strikes, The Times of India, 8 February 2005

⁴ . King meets envoy as Delhi heat gets to Kathmandu, The Indian Express, 7 February 2005

democratic forces will have no other option but to join the Communist Party of Nepal (Maoists).

2. Suppression of the political leaders

The Royal government banned political activities by public servants and all “direct or indirect” criticism of security forces engaged in fighting Maoist insurgency.⁵ No meeting, conference, workshop or interaction programme which “undermine the Kingdom’s sovereignty and integrity, disturb the law and order of the country or cause any adverse effect on the current state of emergency” can be held in Nepal. Other meetings in the specified location require “taking a compulsory, prior approval from the Regional Administrator” i.e. the military commanders.⁶ The ban on right to association and freedom of assembly is complete.

The RNA has reportedly prepared a list of 1,000 people to arrest. They are divided into three categories. The persons in “Category A” are people with the capacity to lead the masses – spokespersons and very well-known leaders. Persons in Category B are members of the Central Committee or Executive Committee, and persons in Category C are active party workers.

All the well-known political leaders from all the political parties have been arrested. However, due to the complete shutting down of telephone connections, it is difficult to state as to the exact number of political leaders arrested so far.

While a few political leaders managed to flee to India, the RNA admitted arresting 54 political leaders out of which 41 are in security custody and 13 are under house arrest. These are basically well-known leaders who fall into “Category A or Category B”.

The leaders who have been put under house arrest are:

1. Girija Prasad Koirala
2. Madhav Kumar Nepal
3. Surya Bahadur Thapa
4. Sher Bahadur Deuba
5. C.P. Mainali
6. Pashupati Shamsheer Rana
7. Badri Mandal
8. Bharat Mohan Adhikari
9. Amrit Bohara
10. Astalaxmi Shakya
11. Nanda Kumar Prasai
12. Nona Koirala

⁵. Nepal bans criticism of armed forces, *The Tribune*, 8 February 2005

⁶. King lifts curbs on meetings, *The Economic Times*, 8 February 2005

13. Purna Bahadur Khadka⁷

Those detained under the Public Security Act include Bamdev Gautam, Amick Sherchan, Leelamani Pokharel, Narhari Acharya, Homnath Dahal, Prakashman Singh, Bimalendra Nidhi, Rajendra Pandey and Krishna Gopal Shrestha including several other party cadres.⁸ Anyone who is arrested under the Public Security Act is detained at least for three months.

Chronology of arrests:

On 1 February 2005, senior Nepali Congress leader and former Deputy Prime Minister Ramchandra Poudel was arrested from Tanahu.⁹

On 1 February 2004, 35 pro-democracy protestors including Amod Upadhyaya and Ashok Koirala, Nepali Congress leaders, and Guru Baral and Naresh Pokharel, CPN (UML) leaders, were reportedly arrested from Biratnagar. They were reportedly moved to prison on 4 February 2005 having been charged under the Public Security Act.¹⁰

On 1 February 2004, 15-20 students were arrested and were reportedly hit with the butts of guns during a protest against the state of emergency. At 10 pm, security forces went to the Prithivi Narayan University hostel and took 150-200 students into custody. When 59 students were released in the afternoon of 2 February 2005 after the university's campus chief intervened on their behalf, they claimed they had suffered "extreme torture" during their detention.¹¹

On 2 February 2005, the General Secretary of Nepali Congress, Sushil Koirala, along with over a dozen political activists, was arrested from Nepalgunj.¹²

On 4 February 2005, 21 pro-democracy protestors including the Nepali Congress leader Ganga Dutta Joshi, who were arrested earlier from Mahendra Nagar, were reportedly moved to the Kanchanpur prison. They were also slapped with the Public Security Act.¹³

On 4 February 2005, former Works and Physical Planning Minister Mr Prakash Man Singh, former Agriculture Minister Mr Homnath Dahal, former Education Minister Mr Bimalendra Nidhi and former Minister of State for Foreign Affairs Mr Prakash Mahat and spokesman of Nepali Congress (Democratic) Mr Minendra Rijal were arrested on alleged corruption charges. They were holding a meeting at the party office in Maharajgunj area of Kathmandu.¹⁴

⁷ . <http://www.kantipuronline.com/kolnews.php?&nid=30758>

⁸ . <http://www.kantipuronline.com/kolnews.php?&nid=30758>

⁹ . Email message from Nepal, 5 February 2005

¹⁰ . ibid

¹¹ . Tales of torture, abuse in Nepal, The Times of India, 7 February 2005

¹² . Email message from Nepal, 5 February 2005

¹³ . Tales of torture, abuse in Nepal, The Times of India, 7 February 2005

¹⁴ . 4 ex-ministers held for corruption, The Asian Age, 6 February 2005

On 5 February 2005, unspecified number of school teachers and political activists from Chitwan district were also reportedly arrested by the RNA.¹⁵

On 5 February 2005, student leaders Kalyan Gurung, Rajendra Rai, Kundun Kafle, Roop Narayan Shrestha and Guru Ghimire were arrested.¹⁶

The conditions of the detainees are not known. A few dozen political leaders who had been detained at the Armed Police Headquarters, Halchowk, Kathmandu were reportedly blind-folded, put into army vehicles with opaque glass windows, taken to Tribhuvan airport, and from there flown to Kakani and Panchkhal barracks in a helicopter.¹⁷ Most of the detainees are being held incommunicado. British Ambassador to Nepal was allegedly refused permission to visit Pashupati S.J.B. Rana. Ms Sujata Koirala, daughter of Girija Koirala (Nepali Congress), who went to visit her father under house arrest, was detained along with her father.

3. Gagging the freedom of expression

Although landline phone services, local as well as ISD links and internet connections were restored on 7 February 2005,¹⁸ complete censorship continues unabated. On 3 February 2004, the King “has banned for six months any interview, article, news, notice, view or personal opinion that goes against the letter and spirit of the Royal Proclamation on 1 February 2005 and that directly or indirectly supports destruction and terrorism”.¹⁹

Earlier on 2 February 2005, the editors of several papers including *The Kathmandu Post* and *The Kantipur* daily were summoned by the Principal Press Secretary of the King and told that “the country is under martial law” and warned that the editors may face military consequences. All the media – print or electronic are being censored by the Royal Nepal Army.²⁰

The FM radio stations have been directed not to broadcast news. Of total 56 FM stations that had acquired licenses, 41 were engaged in broadcasting news bulletins.²¹ Most Indian Television channels are off the air in Kathmandu valley.²²

On 6 February 2005, BBC representative in Nepal, Netra KC had “disappeared” after being called to the Army barracks in Nepalgunj.²³ According to *The Statesman* of India, following the coup, BBC Radio’s World Service broadcasted an interview with Maoist

¹⁵ . Email message from Nepal.

¹⁶ . Email message from Nepal.

¹⁷ . Email message from Nepal, 5 February 2005

¹⁸ Nepal reconnected to the world, *The Times of India*, 8 February 2005

¹⁹ . <http://www.nepalitimes.com/issue233/headline.htm>

²⁰ . <http://www.insn.org>

²¹ . <http://www.kantipuronline.com/kolnews.php?&nid=30678>

²² . Schools reopen in Kathmandu, *The Hindustan Times*, 7 February 2005

²³ . BBC stringer just vanishes in Nepal, *The Asian Age*, 7 February 2005

leader Krishna Bahadur Mahara. Speaking from an undisclosed location, Mahara, who carries a price on his head, said the King had closed all doors for negotiations with his action. The programme aired around 11 p.m. in Nepal was reportedly heard by numerous people, including government and army officials. The anchor mentioned its Nepal stringer, Netra KC, by name. He also mentioned the fact that since telephone lines were disconnected in Nepal, KC was nipping across the border into India and making calls from there. The report raises questions about the BBC's ethics in disclosing the name and mode of operation of its representative in a country where emergency has been imposed and press freedom curtailed.²⁴

Tara Nath Dahal, President of the Federation of Nepalese Journalists has gone underground to escape arrest. Bishnu Nisthuri, FNJ general secretary, was reportedly arrested on 4 February 2005 from his residence.²⁵

4. Targeting the Human Rights Defenders

There have been reports that the RNA personnel have visited the homes and offices of many human rights activists. In Nepalganj, the army reportedly instructed eight human rights activists including members of the Bar Association and Nepal Federation of Journalists to report to army barracks.²⁶

On 9 February 2005, Mr Krishna Pahadi of Society of Human Rights and Peace, Kathmandu was arrested by the security forces.

At 10 pm on 8 February 2005, Sukharam Maharjan, Vice President of HURON Kirtipur Chapter and resident of Kirtipur municipality ward no 6, Kathmandu district was taken away by 5 security personnel in civil dress from his residence. His whereabouts are presently unknown. Three persons, who identified themselves as security personnel, came inside the house, as other two stood outside. After asking his identity, they took him away without explaining the reasons for his arrest.²⁷

Mr Shyam Shrestha, Secretary of Civic Solidarity for Peace, Kathmandu, has gone underground due to fear of arrest. The security forces came to his home to arrest him but he reportedly managed to escape. The security forces also compelled his wife to give them a photograph of Shrestha so that they could search for and arrest him.²⁸

One human rights attorney of the Advocacy Forum was reportedly arrested in Biratnagar.²⁹

²⁴ . BBC's coverage of Nepal raises questions, The Statesman, 7 February 2005

²⁵ . BBC stringer just vanishes in Nepal, The Asian Age, 7 February 2005

²⁶ . Tales of torture, abuse in Nepal, The Times of India, 7 February 2005

²⁷ . Source, email from International Commission of Jurist, Geneva, on 9 February 2005 quoting informed sources of Amnesty International.

²⁸ . Email from Nepal, 6 February 2005

²⁹ . Ibid

5. Judiciary under the thump

Only on 8 February 2004, the Supreme Court accepted a writ petition seeking release of former President of Nepal Bar Association and Senior Advocate Sindhu Nath Pyakurel. He was arrested on 1 February 2005. The Supreme Court had refused to accept the petition on 7 February 2004 due to the dilemma following the announcement of emergency. The authorities reportedly allowed Pyakurel's wife to meet him on 8 February 2005.³⁰ It remains to be seen what judgement is given by the Supreme Court and whether the RNA respects the verdict if the Court orders Pyakurel's release. However, if the Supreme Court hesitates to entertain habeas corpus, the appellate courts are unlikely to hear the petitions. There have been reports that the King is considering to reduce the number of courts that hear appeals against detention from 16 to five.³¹

Mukunda Banskota, General Secretary of Nepal Bar Association, was also reportedly arrested.³²

6. Conclusions and recommendations

The proposal to set up a Royal Commission within 15 days to hold investigations and seize and nationalise the property of those guilty of abuse of authority, smuggling, tax evasion and bribe is a ploy to divert attention from the murder of democracy in Nepal.

The King offered dialogue to the Maoists, which they rejected.³³ The RNA's threat to launch tougher action against the Maoists if they ignore His Majesty's call to "lay down their arms, join the mainstream and if they continue their violence,"³⁴ is a childish outbursts of Army Chief General Pyar Jung Thapa. The RNA comprising of 78,000 troops have failed to make any dent in the Maoist held areas.

"A military offensive against the Maoists at present will spell dooms for Nepal. It will intensify the conflict and further eschew the democratic space already destroyed by the King and the Maoists. Further repression by the Royal Nepal Army at the behest of the King will compel the democratic forces to align with the Maoists".³⁵ While a few political leaders have managed to flee to India, if the current repression by the RNA continues and they are unable to flee, the democratic forces will have no other option but join the Communist Party of Nepal (Maoists).

Embargo on military aid to Nepal is a must for restoration of democracy and democratic freedoms. Indian military aid to Nepal totals Rs 3740 millions, apart from training the RNA in counter-insurgency. Kathamandu was reportedly on the verge of signing

³⁰ . <http://www.kantipuronline.com/kolnews.php?nid=30779>

³¹ . Tales of torture, abuse in Nepal, The Times of India, 7 February 2005

³² . Email from Nepal, 6 February 2005

³³ . Kathmandu offers to renew peace talks with Maoists, The Hindu, 3 February 2005

³⁴ . Nepal Army to step up offensive, The Indian Express, 5 February 2005

³⁵ . <http://www.achrweb.org/Review/2005/58-05.htm>

agreement pertaining to the supply of the thermal imagers - the heat seeking gadgets can detect human movement from a kilometre away. India was supposed to supply 125 such high-tech equipments.³⁶

Though New Delhi has refused to participate in the 13th summit of the South Asia Association for Regional Cooperation, New Delhi appears to be concerned that China and Pakistan may provide military assistance to Nepal. On 8 February 2004, Minister for Foreign Affairs Ramesh Nath Pandey held meetings with Pakistani ambassador Zamir Akram, ambassador of Bangladesh Humayun Kabir and Ambassador of Israel Dan Ben-Eliezer.³⁷

It is essential that international community especially representatives of donor countries and agencies hold an emergency meeting in Kathmandu to take joint action to stop Nepal from descending into further anarchy, chaos and loss of lives and consider imposing embargo on military aid to Nepal and withholding all bilateral and multilateral aid until King Gyanendra:

- Lifts emergency and restores all democratic freedoms and institutions including the immediate release of all those who are detained following the dismissal of the Deuba government and lifts ban on press freedoms and freedom of association and assembly;
- Creates a national consensus process involving all the major democratic forces for holding direct talks between the King and the Maoists or between the Prime Minister (to be appointed yet) or any other Minister and the Maoists through third party mediation;
- Takes immediate measures for implementation of the Memorandum of Understanding signed with the Office of the United Nations High Commissioner for Human Rights on 13 December 2004; and
- Extends the term of the present members of the National Human Rights Commission.

³⁶ . King meets envoy as Delhi heat gets to Kathmandu, The Indian Express, 7 February 2005

³⁷ . <http://www.kantipuronline.com/kolnews.php?nid=30783>