

## 100 Days of Tyranny in Nepal

Embargoed for: 10 May 2005



Police Inspector providing various weapons to the Village Security Committee Coordinator, Katahari VDC, Morang on 28 March 2005

Photo: Courtesy, INSEC, Nepal

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## Contents

1. Overview .....	3
2. Repression on the political parties .....	4
A. MISERABLE CONDITIONS OF THE DETAINEES.....	7
B. INCOMMUNICADO DETENTION.....	8
3. Restrictions on press freedom.....	10
A. ARREST AND DETENTION .....	10
B. SUMMONS TO EDITORS/ PUBLISHERS/REPORTERS.....	12
C. ASSAULT ON THE JOURNALISTS .....	14
4. Repression on the human rights defenders .....	15
5. Restriction on freedom of movement .....	16
6. Judiciary: under the King's thumb.....	19
7. The collapse of the NHRC .....	20
8. The conflict and its consequences.....	21
8.1 ATROCITIES BY THE SECURITY FORCES .....	21
<i>a. Extrajudicial killings.....</i>	<i>21</i>
8.2 ATROCITIES BY MAOISTS .....	23
A. ARBITRARY KILLINGS .....	23
<i>b. Abduction.....</i>	<i>25</i>
<i>c. Economic blockade.....</i>	<i>25</i>
<i>d. Attacks on schools.....</i>	<i>27</i>
<i>d. Destruction of public properties.....</i>	<i>28</i>
9. Conclusions and recommendations.....	29

## 1. Overview

On 29 April 2005, King Gyanendra withdrew the emergency imposed on 1 February 2005. But, the arrest of deposed Prime Minister Sher Bahadur Deuba on 27 April 2005 and continued repression left no doubt about King Gyanendra's intention to directly rule Nepal.

King Gyanendra has abysmally failed on all fronts. He failed to contain the Maoists, alienated the democratic political parties and drew unprecedented censure from the international community.

He has only been successful in breeding further lawlessness in Kathmandu valley; the peripheries seldom had any law and order since the conflict with the Maoists began in 1996. On 5 May 2005, police re-arrested student leader Gagan Kumar Thapa from inside Kathmandu District Police Office soon after the Supreme Court ordered his release. When police can hold the Supreme Court with such contempt, it is the law of the jungle that prevails. King Gyanendra is the law of the land in Nepal.

During 100 days of tyranny by King Gyanendra, the number of people killed has crossed 12,000 with the killings of 535 persons by the security forces and 131 persons by the Maoists from 1 February to 9 May 2005. Majority of the people killed by the security forces and Maoists are civilians. Prior to the imposition of emergency, a total of 11,358 i.e 3.44 persons per day were killed from 13 February 1996 to 28 February 2005. About 6.72 persons were

killed each day from 1 February to 9 May 2005.

King Gyanendra's administration detained an estimated 3,284 political activists. The political detainees have been kept in deplorable conditions. The NHRC of Nepal stated that the detainees had been kept in same rooms irrespective of their age, status and physical conditions. They are forced to bear their medical expense themselves and deprived of check-ups from expert medical practitioners. The detainees do not have access to clean drinking water. There is not enough water for washing and bathing. The detainees are denied access to radio and legally published newspapers except *Gorakhapatra*, a government mouthpiece.<sup>1</sup> In early May 2005, Morang district jail had 611 prisoners against the total capacity of 200 inmates. A former parliamentarian, Lal Babu Pandit who spent 16 days in the same prison says, "One must wait for a turn to stand up inside the prison." At least 80 prisoners have been made to sleep in one room, which lacked proper ventilation. The detainees reportedly have to wait for at least two hours in queue to get their turn to take bath or to go to the toilet.<sup>2</sup>

Although emergency has been lifted, there is no end to repression on political party activists and student leaders. King Gyanendra releases a few senior political leaders but detains more young leaders with a view to cripple the democratic movement. While senior political leaders continue to be targeted by the Royal Commission for Corruption Control

<sup>1</sup>. Improve detention centers: NHRC, The Kathmandu Post, 23 April 2005

<sup>2</sup>. Congested prisons, Kantipur Online, 2 May 2005

(RCCC), middle ranking political leaders have been detained under the Public Safety Act.<sup>3</sup>

On 1 May 2005, Communist Party of Nepal-Unified Marxist Leninist (CPN-UML) general secretary Madhav Kumar Nepal and politburo member Amrit Vohra were freed but the detention of 175 others including Ex-Deputy Prime Minister Ram Chandra Poudyal was extended.<sup>4</sup>

On 2 May 2005, the government resumed the post-paid mobile service but many prominent citizens including Himal publications' Kanak Dixit, President of the Nepal Bar Association Shambhu Thapa, President of the Federation of Journalists Taranath Dahal, human rights activists Subodh Pyakurel<sup>5</sup> and political leaders including RPP Chairman Pashupati Shumsher Rana, former ministers Dr. Prakash Chandra Lohani continued to be denied mobile phone facilities.<sup>6</sup>

An estimated 27 journalists have been arrested while 20 editors and reporters of different newspapers have been summoned by the authorities. Over 2,000 journalists have lost their jobs due to ban on broadcast of news by 41 out of 56 FM radio stations, withdrawal of advertisement and ban on many newspapers.

A total of 50 human rights defenders, former members of parliament and judges, academics, lawyers, members of the National Human Rights Commission etc have been denied permission to leave Kathmandu valley. The restriction on freedom of movement continues. Since the lifting of emergency, prominent journalist Kanak Mani Dixit<sup>7</sup>, Nepali Congress leader, Leela Koirala<sup>8</sup> and former Deputy Speaker, Chitra Lekha Yadav, former lawmaker Urmila Aryal and Srijana Pokhrel<sup>9</sup> have been prevented from leaving Kathmandu valley.

The Maoists have been responsible for violations of international humanitarian laws and specifically targeted the schools. They have burnt down 23 schools and deprived thousands of students from the right to education.

## 2. Repression on the political parties

Soon after imposition of emergency on 1 February 2005, King Gynendra arrested hundreds of political activists and put dozens of senior political leaders under house arrest. The government also banned all political activities by public servants and all "direct or indirect" criticism of security forces engaged in fighting Maoist insurgency.<sup>10</sup> No meeting, conference, workshop or interaction programme which

3. HM King lifts the state of emergency, Nepal News.com, 30 April 2005

4. King frees two, detains others, The Hindustan Times, 3 May 2005

5. Journalists, HR activists, professionals deprived of mobile service, Nepal News.com, 3 May 2005

6. Leaders, editors denied mobile phone service, Kantipur Online, 3 May 2005

7. Dixit stopped from boarding a Delhi flight, Kantipur Online, 6 May 2005

8. NC leader returned from the airport, Kantipur Online, 7 May 2005

9. Dy Speaker, former minister barred from leaving Kathmandu, Nepal News.com, 8 May 2005

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

“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” could be held in Nepal. Other meetings in the specified location required “taking a compulsory, prior approval from the Regional Administrator” i.e. the military commanders.<sup>11</sup>

About 3,284 political activists have been arrested by the government as on 7 May 2005<sup>12</sup>. Majority of them remain under detention and there is no let up on repression.

On 29 April 2005, King Gyanendra officially lifted the state of emergency two days before the expiry of the emergency imposed on February 1 as per Article 115 (1) of the Constitution.<sup>13</sup> But in reality, the repression continues unabated. While senior political leaders continue to be targeted by the Royal Commission for Corruption Control (RCCC), middle ranking political leaders have been arrested under the Public Safety Act.<sup>14</sup>

On 1 May 2005, Communist Party of Nepal-Unified Marxist Leninist (CPN-UML) general secretary Madhav Kumar Nepal and politburo member Amrit Vohra were freed but the detention of 175 others was extended. The detention of ailing Nepali Congress leader and ex-deputy Prime Minister Ram Chandra Poudyal was also extended by another

six months. The detention of NC central committee member Narhari Acharya and scores of leaders and activists from various parties was extended by three months.<sup>15</sup>

On 1 May 2005, Morang district administration reportedly handed over detention warrants for an additional six months to 13 political leaders including the Central Committee Members of Nepali Congress (NC) - Amod Prasad Upadhaya, Morang district president Ashok Koirala, district secretary Gopal Rajmansingh Bhandari, regional secretaries Dilip Sapkota and Amrit Aryal, and Nepal Tarun Dal president Damodar Koirala, who have been in police detention since the royal takeover.<sup>16</sup>

Police disrupted rallies taken out by industrial workers in various parts of the country on the occasion of May Day on 1 May 2005. In Gorkha, police reportedly arrested three district level leaders - Yadav Basnet, Prem Gurung and Hari Kafle of the CPN-UML while they were celebrating the May Day.<sup>17</sup>

On 2 May 2005, the government resumed the post-paid mobile service. Yet, many political leaders, journalists, lawyers and human rights activists continued to be denied mobile phone services. Those deprived of mobile services are Himal publications’ Kanak Dixit, Kunda Dixit and Rajendra Dahal, Samay weekly’s Yubraj Ghimire and other senior journalists, senior staffs of

<sup>11</sup>. King lifts curbs on meetings, The Economic Times, 8 February 2005

<sup>12</sup>. Information provided by Informal Sector Service based in Kathmandu.

<sup>13</sup>. HM King lifts the state of emergency, Nepal News.com, 30 April 2005

<sup>14</sup>. HM King lifts the state of emergency, Nepal News.com, 30 April 2005

<sup>15</sup>. King frees two, detains others, The Hindustan Times, 3 May 2005

<sup>16</sup>. Additional 6-month detention for leaders, The Kathmandu Post, 2 May 2005

<sup>17</sup>. Police disrupt May Day rallies, The Kathmandu Post, 2 May 2005

Kantipur Publications, president of the Nepal Bar Association Shambhu Thapa, secretary Madhav Baskota, president of the Federation of Journalists Taranath Dahal, human rights activists Subodh Pyakurel, Gauri Pradhan and Sudip Pathak,<sup>18</sup> and political leaders including RPP Chairman Pashupati Shumsher Rana, former ministers Dr. Prakash Chandra Lohani.<sup>19</sup>

On 4 May 2005, RCCC extended Sher Bahadur Deuba's detention by seven more days.<sup>20</sup> Deuba was arrested on 27 April 2005 on alleged corruption charges. On 5 May 2005, RCCC decided that charges would be taken if he were found guilty of having misappropriated government funds. The RCCC has set Rs 3.86 million as bail bond for the release of Deuba.<sup>21</sup>

On 4 May 2005, two student leaders - Maya Rai, a central committee member of NSU and Santosh Bhatta, president of Free Students' Union of Biswa Bhasa Campus unit were arrested in Kathmandu. Kalyan Gurung, joint-secretary of NSU was injured when the police baton charged students.<sup>22</sup>

On 5 May 2005, student leader Gagan Kumar Thapa was re-arrested by police from inside Kathmandu District Police Office soon after his release at the order

of the Supreme Court. DSP Ganesh KC reportedly defended the move saying that the court order had not mentioned that the police could not re-arrest Thapa.<sup>23</sup> On 6 May 2005, the Kathmandu District Administration extended his detention by three months and kept at Kharipati, Bhaktapur.<sup>24</sup> Earlier on 27 April 2005, police re-arrested Pradip Paudel, Vice President of Nepal Students' Union (NSU) soon after he was released following a Supreme Court order. On 26 April 2005, the apex court ruled that his detention was illegal.<sup>25</sup>

On 5 May 2005, the Kathmandu District Administration extended the detention order by six months for central member of Nepali Congress (Democratic) Bimalendra Nidhi, who was taken into custody after the Royal takeover of February 1. He has been detained at Naxal.<sup>26</sup>

On 6 May 2005, the Royal Commission on Control of Corruption (RCC) extended custody of former Minister Prakash Man Singh for another seven days.<sup>27</sup> On 29 April 2005, the RCCC extended his custody by seven days for refusing to respond to RCCC's queries.<sup>28</sup>

<sup>18</sup>. Journalists, HR activists, professionals deprived of mobile service, Nepal News.com, 3 May 2005

<sup>19</sup>. Leaders, editors denied mobile phone service, Kantipur Online, 3 May 2005

<sup>20</sup>. Deuba to be detained for 7 more days, Kantipur Online, 5 May 2005

<sup>21</sup>. Royal commission to take action against Deuba, Kantipur Online, 6 May 2005

<sup>22</sup>. 2 students arrested, one injured, The Kathmandu Post, 5 May 2005

<sup>23</sup>. SC defied again, Gagan re-arrested, The Kathmandu Post, 6 May 2005

<sup>24</sup>. Gagan's detention order extended by 3 months, Kantipur Online, 7 May 2005

<sup>25</sup>. Police rearrest after SC release order, The Kathmandu Post, 28 April 2005

<sup>26</sup>. Gagan's detention order extended by 3 months, Kantipur Online, 7 May 2005

<sup>27</sup>. Singh's detention extended by 7 days, Kantipur Online, 7 May 2005

<sup>28</sup>. Prakash Man's custody extended, The Kathmandu Post, 30 April 2005

### a. Miserable conditions of the detainees

The detainees have been kept in deplorable conditions. The detention centres lack basic amenities. They have been denied proper healthcare, sanitation facilities and proper food.<sup>29</sup> Many of them are suffering from several diseases but the authorities have been indifferent towards their plights.

After visiting the Nepal Electricity Authority Training Center in Kharipati and Agriculture Training Center in Bhaktapur on 22 April 2005, National Human Rights Commission of Nepal found that the government had not implemented any of its four suggestions for improving the conditions of the detention centers. The NHRC stated that the detainees had been kept in same rooms irrespective of their age, status and physical conditions. They are forced to bear their medical expense themselves and deprived of check-ups from expert medical practitioners. The detainees do not have access to clean drinking water. There is not enough water for washing and bathing. The detainees are denied access to radio and legally published newspapers except *Gorakhapatra*, a government mouthpiece.<sup>30</sup>

Senior communist party leader Bishnu Bahadur Manandhar after his release from Mahendra Yuvalaya in Caliper on 11 March 2005 stated that 28 other political detainees including former minister Tek Bahadur Chokhyal, Vidya Bhandari and Bhim Kumari Budha

Magar being held in that detention centre had been confined to a chamber-like hall where they were deprived of even sunlight.<sup>31</sup>

National Assembly member and Morang district president of the Nepali Congress, Ashok Koirala, who was in the custody of the security forces had to be admitted to the ICU section of the Kosi Zonal Hospital on 13 March 2005. Former Minister Amod Prasad Upadhyaya, Dilip Sapkota, Gopal Man Singh Rajbhandari and Amrit Aryal were also ill.<sup>32</sup>

Nepali Congress leader Ram Chandra Paudel, who has been kept under custody at District Police Office in Damauli since February 1, has been critically ill. He was suffering from diseases such as chest, teeth and urine bladder problems.<sup>33</sup> On 3 April 2005, he was reportedly admitted to Western Regional Hospital in Pokhara.<sup>34</sup>

Vice Chairman of the People's Front Nepal (PFN) Lila Mani Pokharel was reportedly suffering from serious ailments, including kidney problems. He has lost sensation in some parts of his body, which according to the doctors could be symptom of paralysis. But he has been denied proper treatment in detention. The authorities haven't also allowed Pokhrel's family to get him treated even on their own expense. The family members alleged that Pokhrel has been mentally tortured and the police

<sup>29</sup>. Detainees start hunger strike, NWPP joins movement, The Kathmandu Post, 1 April 2005

<sup>30</sup>. Improve detention centers: NHRC, The Kathmandu Post, 23 April 2005

<sup>31</sup>. The Kathmandu Post, 12 March 2005

<sup>32</sup>. Detained leader hospitalized, The Himalayan Times, 16 March 2005

<sup>33</sup>. NC leader Paudel in critical condition, Kantipur Online, 31 March 2005

<sup>34</sup>. NC leader Poudel hospitalized, Kantipur Online, 4 April 2005

had once threatened to lock up Pokhrel in the toilet.<sup>35</sup>

Nine political detainees including Nepali Congress leader Nara Hari Acharya, former MPs Ram Nath Adhikari and Gopal Rai, Kavre district chief of NC, Madhu Acharya and student leader Kundan Kafle had reportedly been kept in a single room in detention center at Kakani that lacked even minimum facilities such as water supply and toilet. Nine people had to share a single toilet and they were forced to drink water, directly extracted from underground sources. Deep Narayan Shah, a CPN-UML cadre who was arrested during March 14<sup>th</sup> protest programme in Jaleswor, reportedly fainted while in detention. He was rushed to hospital in an ambulance but taken back to the detention center again. Shah was suffering from respiratory and heart problems.<sup>36</sup>

The prisoners of Morang jail were deprived of basic facilities. As many as 611 prisoners of Morang and Sunsari were reportedly being kept in the jail against the total capacity of 200 inmates. A former parliamentarian, Lal Babu Pandit who spent 16 days in the same prison says, “One must wait for a turn to stand up inside the prison.” There are 14 rooms inside the prison, including rooms for internal administration, sick people and prisoners to sleep in. At least 80 prisoners have been made to sleep in one room, which lacked proper ventilation. The captives reportedly have to wait for

at least two hours in queue to get their turn to take bath or to go to the toilet.<sup>37</sup>

The condition of Prasi jail is reportedly much the same as the prisoners have started sleeping turn by turn due to lack of space for all to sleep at the same time. 57 prisoners have been kept in the prison although it has a capacity to accommodate only 35 inmates.<sup>38</sup>

There have been reports of ill-treatment and torture of political detainees.

The Nepali Congress accused the security forces of manhandling political detainees of the Saptari district jail on 3 May 2005.<sup>39</sup>

On 6 May 2005, Nepali Congress alleged that its workers, Rajbiraj district president Ram Kumar Chaudhary, Brij Kirshore, Umesh Mishara, Bikeshwar Yadav and Shusil Seva were beaten by the security personnel in Rajbiraj jail on the night of 5 May 2005.<sup>40</sup>

## **b. Incommunicado detention**

On 6 April 2005, the Royal Nepal Army in a statement stated that its doors were always open for the national and international human rights activists to meet detainees held in the barracks across the country. The statement clarified that “security forces have not restricted free movement of national and

<sup>35</sup>. PFN leader's health worsening, The Kathmandu Post, 28 April 2005

<sup>36</sup>. Some detainees released, others facing harrowing time, The Kathmandu Post, 31 March 2005

<sup>37</sup>. Congested prisons, Kantipur Online, 2 May 2005

<sup>38</sup>. Ibid

<sup>39</sup>. Forces accused of abusing detainees, The Himalayan Times, 4 May 2005

<sup>40</sup>. NC condemns Rajbiraj jail incident, Kantipur Online, 7 May 2005



human rights workers” nor will there be “restriction in the future as well.”<sup>41</sup>

But on 8 April 2005, police denied access to the National Human Rights Commission team to meet detainees at ward police office at Tinkune in Kathmandu.<sup>42</sup> Earlier on 6 April 2005, the local administration reportedly barred National Assembly members from meeting their colleagues who have been kept under preventive detention at Mahendra Yuvalaya at Jawalakhel since February 1. Five members of the National Assembly, Kashinath Adhikari, Bachaspati Devkota, Beduram Bhusal, Ranga Nath Chaudhary and Laxmi Das Shrestha had gone to the detention centre to meet three detained lawmakers, Bir Bahadur Singh, Lal Bahadur Bishwokarma and Akkal Bahadur Bista. But the police told them that they had no permission to meet the detainees.<sup>43</sup>

On 12 April 2005, security personnel barred former Prime Minister Sher Bahadur Deuba from meeting Bamdev Gautam of the CPN-UML and members of his own party Bimalendra Nidhi and Bal Krishna Khand being held at separate detention centers in Kathmandu.<sup>44</sup>

On 26 April 2005, security personnel barred a National Human Rights Commission (NHRC) team from meeting political detainees at Pahara Battalion at Tripureshwor in

Kathmandu. NHRC officials said the team of observers had gone to the detention centre to take stock of the condition of political leaders and cadres detained after February 1. Security officers refused to let the team in saying they had orders ‘from above’ not to allow human rights observers. Dozens of political leaders and cadres including Nepali Congress (Democratic) leader and former minister Prakash Man Singh have been kept at the Pahara Battalion.<sup>45</sup>

On 3 May 2005, the government denied permission to senior CPN-UML leaders to meet their party leaders who have been detained after February 1. According to UML, a high-level delegation comprising UML general secretary Madhav Kumar Nepal and other senior leaders visited the Police Training Centre at Maharajgunj to meet UML leaders Bamdev Gautam, Rajendra Pande, Krishna Gopal Shrestha and Mahendra Pandey, among others but security personnel did not grant permission to meet them. Permission was also denied to the UML delegation to meet former Prime Minister Sher Bahadur Deuba, who had been detained there.<sup>46</sup>

On 9 May 2005, security personnel prevented Nepali Congress President Girija Prasad Koirala from meeting ailing party leader Ram Chandra Poudel in Gandaki Hospital and other political prisoners detained since February 1 in Pokhara. On the same day, Madhav Kumar Nepal, General Secretary of CPN-UML, was also reportedly denied

<sup>41</sup>. Doors are open for rights observers: RNA, Nepal News.com, 7 April 2005

<sup>42</sup>. NHRC denied access at detention center, Kantipur Online, 9 April 2005

<sup>43</sup>. Parliamentarians barred from meeting detained colleagues, The Himalayan Times, 7 April 2005

<sup>44</sup>. Deuba barred from meeting detained leaders, Kantipur Online, 13 April 2005

<sup>45</sup>. NHRC team barred from meeting detainees, Nepal News.com, 27 April 2005

<sup>46</sup>. UML leaders denied meeting their comrades, Nepal News.com, 3 May 2005

access to meeting detainees in Kharipati jail in Bhaktapur district.<sup>47</sup>

### 3. Restrictions on Press Freedom

A total of 27 journalists were arrested and 20 editors, publishers and reporters were summoned by the authorities and many journalists were assaulted. Over 2,000 journalists have lost their jobs due to censorship on the broadcast of news by 41 out of 56 FM radio stations<sup>48</sup>, withdrawal of advertisement<sup>49</sup> and ban on many newspapers.

Unfortunately, on 28 April 2005, Supreme Court justified the ban imposed on 2 February 2005 on the broadcast of news by all FM radios.<sup>50</sup> The news transmissions of BBC World Service and many Indian TV channels also remain blocked.

Immediately following the coup, on 3 February 2005 the King “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 February 1 and that directly or indirectly supports destruction and terrorism”.<sup>51</sup> The RNA personnel were posted in the editorial offices of print and visual media to monitor and censor every news report

before it went public.<sup>52</sup> On 17 March 2005, the Home Ministry re-issued a public notice that action would be taken as per the Press and Publication Act 2048 BS if anyone published prohibited interviews, articles, news, information, reading materials, opinions or personal views that directly or indirectly abet terrorism against the intent and the spirit of the Royal proclamation on February 1.<sup>53</sup> Following the directions of the Home Ministry, the District Administration Offices (DAO) issued various directives.<sup>54</sup>

#### a. Arrest and detention

As many as 27 journalists have been arrested and detained for alleged dissemination of news, writing articles critical of the King or simply covering the protests by political parties and student groups.

The following journalists have been arrested:

1. Nava Raj Pahadi, editor at *Antaranga Weekly* was arrested in Lamjung district on 4 February 2005;<sup>55</sup>
2. Bishnu Nisthuri, general secretary of Federation of Nepalese Journalists was arrested on 4 February 2005;<sup>56</sup>
3. Taranath Dahal, president of the Federation of Nepalese

<sup>47</sup>. Koirala, Nepal barred from meeting detainees, The Kathmandu Post, 10 May 2005

<sup>48</sup>. <http://www.kantipuronline.com/kolnews.php?&nid=30678>

<sup>49</sup>. No more govt ads to private media, Kantipur Online, 7 April 2005

<sup>50</sup>. Bar on FM news broadcast to stay, The Himalayan Times, 29 April 2005

<sup>51</sup>. <http://www.nepalitimes.com/issue233/headline.htm>

<sup>52</sup>. Army officials posted in Nepalese print, visual media offices, The Tribune, 14 February 2005

<sup>53</sup>. Govt. alerts on prohibited publication, Kantipur Online, 18 March 2005

<sup>54</sup>. Directives for media, The Kathmandu Post, 29 March 2005

<sup>55</sup>. [www.omct.org](http://www.omct.org)

<sup>56</sup>. Nepal detains media rights activists, The Hindu, 6 February 2005

- Journalists, was arrested on 5 February 2005;<sup>57</sup>
4. BBC representative in Nepal, Netra KC was arrested by the Army from their barracks in Nepalgunj on 6 February 2005;<sup>58</sup>
  5. Basanta Parajuli, correspondent of the state owned *Gorkhapatra* was arrested in Chitwan district on 13 February 2005;<sup>59</sup>
  6. Narayan Adhikari, correspondent of *Rashtriya Samachar Samiti* was arrested in Chitwan district on 13 February 2005;<sup>60</sup>
  7. D R Panta, correspondent of *Kantipur* at Dadeldhura was arrested at the district headquarters of Dadeldhura on 15 February 2005;<sup>61</sup>
  8. Anil Tiwari, editor of the local *Ankush* daily was arrested at Parsa on 21 February 2005. The security forces also threatened the daily's publisher Dependra Chauhan over a cartoon and "other news";
  9. Khem Bhandari, editor of *Abhiyan* daily published from Mahendranagar was arrested on 16 February 2005. He was picked up for covering protest rallies by political parties in his daily on 15 February 2005;<sup>62</sup>
  10. Swaagat Nepal, reporter of *Nepal Samacharpatra* was held for over 14 hours overnight on 21 February 2005.<sup>63</sup>
  11. Manohar Pokhrel, editor of *Batabaran* weekly was arrested in Rajbiraj on 22 February 2005 and served with a three-month detention order;<sup>64</sup>
  12. Arjun Sah, an executive editor of *Jana Aakrosh* daily was arrested in Rajbiraj on 22 February 2005, and detained for three months;<sup>65</sup>
  13. Sujiv Bajracharya, publisher and editor of *Sandhyakalin City Times* was arrested 3 March 2005;
  14. Lavadev Dhungana, president of the Panchthar district unit of the Federation of Nepalese Journalists (FNJ) was arrested on 3 March 2005 for reporting the arrest of the student leaders.<sup>66</sup> Although he was served three-month detention under Public Security Act,<sup>67</sup> he was released on 21 April 2005;<sup>68</sup>
  15. Kanak Mani Dixit, editor of *Himal Southasian* and publisher of *Himal Khabarpatrika* was arrested by plainclothes policemen from his home at Patandhokaon on 7 March 2005. He was released at around midnight of the same day.<sup>69</sup>

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<sup>57</sup>. Nepal detains media rights activists, *The Hindu*, 6 February 2005

<sup>58</sup>. BBC stringer just vanishes in Nepal, *The Asian Age*, 7 February 2005

<sup>59</sup>. Journalists arrested in Chitwan, *Nepal News.com*, 15 February 2005

<sup>60</sup>. *Ibid*

<sup>61</sup>. Kantipur correspondent and 3 others under arrest, *Kantipur Online*, 16 February 2005

<sup>62</sup>. Editor detained, *Kantipuronline*, 17 February 2005

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<sup>63</sup>. <http://www.ifj.org/default.asp?index=2978&Language=EN>

<sup>64</sup>. <http://www.ifj.org/default.asp?index=2978&Language=EN>

<sup>65</sup>. <http://www.ifj.org/default.asp?index=2978&Language=EN>

<sup>66</sup>. Journo detained, *The Himalayan times*, 5 March 2005

<sup>67</sup>. *Kantipur Online*, 14 March 2005

<sup>68</sup>. FNJ man freed after 50 days, *The Kathmandu Post*, 22 April 2005

<sup>69</sup>. Editor Dixit released, *The Nepal News.com*, 8 March 2005

16. Rishiram Pokhrel, editor of local weekly bulletin *Tanahu Aawaj*, was arrested from the district headquarters of Damauli on 8 March 2005.<sup>70</sup>
17. Ashish Sarraf 'Nikki,' a photojournalist was arrested while he was taking pictures of the demonstration in Janakpur.<sup>71</sup>
18. Ganash Lama, reporter for *Jaana Prahara Weekly*, was arrested in Kathmandu while reporting demonstrations against King Gyanendra on 12 March 2005.<sup>72</sup>
19. Suryaa Thapa, senior reporter of the weekly *Haank*, was arrested and detained by police in Mahendra Police Club, Kathmandu.<sup>73</sup>
20. Sarad Adhikari, Dang district correspondent for *Channel Nepal* and *Mechi-Kali* daily was arrested from Damodar Chowk in Ghorahi on 14 March 2005;<sup>74</sup> He was served three-month detention order under Public Safety Act.<sup>75</sup>
21. Kushal Babu Basnet of *Nepal Samacharpatra* daily was arrested while covering protest rally in Gaighat in Udaypur district on 21 March 2005.<sup>76</sup>
22. Biswamitra Khanal, FNJ Nuwakot district branch president was arrested during peaceful rally in Nuwakot on 29 March 2005;<sup>77</sup>
23. Krishna Prajapati, a correspondent of *Sandhya Times* daily published from Kathmandu, was detained at Banepa on 7 April 2005;<sup>78</sup>
24. Kashinath Yadav, the editor of *Brahmastra* daily was arrested in Birgunj on 8 April 2005;<sup>79</sup>
25. Rabindra Singh, correspondent of *Kalaiya* weekly was arrested in Birgunj on 8 April 2005;<sup>80</sup>
26. Robin Poudel, sub-editor of *Tanahun Aawaj* weekly was arrested from Damauli on 8 April 2005. Although he was handed a warrant for 3-month detention under the Public Security Act,<sup>81</sup> he was released on 13 April 2005;<sup>82</sup>
27. Dwarika Uprety, publisher of the Nepali weekly *Roadmap*, was arrested in Kathmandu by plainclothes policemen on 26 April 2005;<sup>83</sup>

#### b. Summons to editors/publishers/reporters

As many as 20 editors and reporters of different newspapers were summoned by

<sup>70</sup>. Journalist arrested, The Kathmandu Post, 9 March 2005

<sup>71</sup>. Over 200 protesters held, The Nepal News.com, 9 March 2005

<sup>72</sup>. <http://www.ifj.org/default.asp?index=3032&Language=EN>

<sup>73</sup>. Ibid

<sup>74</sup>. Channel Nepal scribe arrested, The Kathmandu Post, 15 March 2005

<sup>75</sup>. Scribe, four others sent to jail, The Himalayan Times, 16 March 2005

<sup>76</sup>. Dozens of political activists detained, Kantipur Online, 22 March 2005

<sup>77</sup>. Journos take out rally demanding full press freedom, Nepal News.com, 29 March 2005

<sup>78</sup>. 3 journalists detained, Kantipur Online, 9 April 2005

<sup>79</sup>. <http://www.cpj.org/news/2005/Nepal08apr05na.html>

<sup>80</sup>. Ibid

<sup>81</sup>. Arrest warrant against journo, The Kathmandu Post, 11 April 2005

<sup>82</sup>. Journo Poudel released, The Kathmandu Post, 14 April 2005

<sup>83</sup>. Publisher of Roadmap weekly arrested, Kantipur Online, 27 April 2005

the authorities for allegedly carrying articles against the royal takeover of 1 February 2005.

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.<sup>84</sup>

On 23 February 2005, the Kathmandu District Administration Office reportedly summoned the editors of four weekly newspapers- Navaraj Timilsinha, editor of *Prakash*; Gopal Budhathoki, editor of *Sanghu*; Kabir Rana, editor of *Deshanter*; and Rajendra Baidha, editor of *Bimarsh*.<sup>85</sup> Earlier, Kathmandu District Administration Office had summoned Kapil Kafle, Editor of *Rajdhani* daily, Ujwal Sharma, Editor and Kiran Pokharel, News Editor of *Himalaya Times* daily.<sup>86</sup>

On 4 March 2005, editor of *Budhabar* weekly, Surya Thapa was summoned by the Chief District Officer of Kathmandu to seek explanation regarding a news item, “Five parties unite against authoritarianism,” published in the weekly on 2 March 2005.<sup>87</sup>

On 17 March 2005, Kathmandu District Police Office summoned and interrogated Narayan Wagle, editor of the *Kantipur daily*, for about 45 minutes

about the news that reported arrest of 750 political leaders and activists in the March 15 issue of *Kantipur*.<sup>88</sup>

On 4 April 2005, Chitwan District Administration Office (DAO) and the Police quizzed three district reporters of *Kantipur* Publications - Prabhakar Ghimire, Narayan Sharma and Khuman Singh Tamang separately. They were reportedly interrogated about the news item published in the *Kantipur* daily regarding the seven trucks torched by the Maoists. The acting Chief District Officer Top Narayan Sharma and Deputy Superintendent of Police Surendra Bahadur Shah interrogated them for about two hours. During the interrogation, they were asked why the news source was not mentioned while reporting. Sharma also asked the journalists to verify the news from district administration or security source before reporting.<sup>89</sup>

On 8 April 2005, the Area Police Office in Dharan summoned Kishor Kumar Karki and Keshav Ghimire, editor and news coordinator of the *Blast Times* daily; Bimal Shakya and Rajesh Bidrohi of *Morning Post* daily; Pradeep Meyangbo local reporter of the *Morning Post* and Robin Giri of *Annapurna Post* and warned them against publishing any news or photographs related to anti-King protests by political parties.<sup>90</sup>

On 9 April 2005, police reportedly questioned *Kathmandu Post* reporter, Ghanashyam Khadka regarding the news

<sup>84</sup>. <http://www.insn.org>

<sup>85</sup>. 4 weekly editors summoned, The Kantipuronline, 23 February 2005

<sup>86</sup>. End arbitrary arrests: Reporters' Club, The Kathmandu Post, 20 February 2005

<sup>87</sup>. Budhabar editor faces up to a year in jail, The Nepal News.com, 7 March 2005

<sup>88</sup>. Police interrogate *Kantipur* editor Wagle, The Kathmandu Post, 18 March 2005

<sup>89</sup>. *Kantipur* journos questioned, *Kantipur Online*, 5 April 2005

<sup>90</sup>. Journos warned, The Kathmandu Post, 9 April 2005

on political parties' demonstration and police intervention, which was published on the edition of the same day. Armed security personnel reportedly arrived at his residence in Tanahun in a van around 3.15 pm and took him to District Police Office. DSP Devlal Khanal and Inspector Himalaya Kumar Shrestha reportedly interrogated him and used force to retract the report in writing, which he refused to do.<sup>91</sup>

On 15 April 2005, Kathmandu District Administration Office reportedly summoned editor of *Budhabar* weekly, Surya Thapa for interrogation regarding news items published in the weekly recently. Both Surya Thapa and Bishnu Rimal, assistant editor of the weekly who accompanied Thapa during the interrogation, were asked to meet the District Administration Officer with March 30, April 6 and April 13 issues of the weekly on April 18.<sup>92</sup> On 18 April 2005, Kathmandu District Administration Office (DAO) summoned Surya Thapa for clarification on a cartoon published in the March 30<sup>th</sup> issue. Thapa also had to present a written statement to the chief district officer. This was reportedly the third time that he has been summoned by the DAO since February 1. In previous notifications, the DAO had warned Thapa to slap a penalty up to Rs.10,000 or one-year jail or both.<sup>93</sup>

### c. Assault on the journalists

Many of the journalists were also physically assaulted.

On 18 February 2005, security forces reportedly snatched cameras from photojournalists Suman Dahal of *Annapurna Daily* and Tribhubhan Poudel of a local *Hotline Daily* while they were taking pictures of the protest march of the political parties in Pokhara.<sup>94</sup>

On 14 March 2005, Indian journalists covering the protests that followed the visit by Nepal's crown prince Paras to a sports stadium in Mechi were reportedly detained and beaten up by the Royal Nepal Army in Kakarbhitta, eastern Nepal.<sup>95</sup>

On 14 March 2005, security personnel allegedly manhandled Reuters photojournalist Rupak De Chaudhary in Damak in Kakarbhitta district. He suffered bruise in the head after security personnel beat him as he was taking photographs of a demonstration by political parties. According to Chaudhary, security personnel had beaten him even as he was showing his identity card. He was detained at area police office at Kakarbhitta and released three hours later.<sup>96</sup>

On 22 March 2005, police seized photographs of protest rallies from Krishna KC, president of Federation of Nepalese Journalists (FNJ) Lamjung

<sup>91</sup>. Police grill Post reporter, The Kathmandu Post, 10 April 2005

<sup>92</sup>. DAO summons Budhabar editor, The Kathmandu Post, 16 April 2005

<sup>93</sup>. Kathmandu DAO quizzes Budhabar editor, Nepal News.com, 19 April 2005

<sup>94</sup>. Forces snatch cameras, The Kathmandu Post, 19 February 2005

<sup>95</sup>. Paras men hit Indian scribes, The Times of India, 15 March 2005

<sup>96</sup>. Reuters lensman manhandled, The Kathmandu Post, 16 March 2005

branch, when he was covering the protest rally of Nepali Congress in Lamjung. Police also allegedly warned KC against taking photographs of rallies in future.<sup>97</sup>

On 4 April 2005, security personnel guarding the residence of the UML general secretary Madhav Kumar Nepal under house arrest reportedly manhandled journalists who were covering Sher Bahadur Deuba's visit. The security forces reportedly snatched away note pads, cameras and cassettes and forced the photojournalists to destroy the snaps they had taken. They even forced TV cameras to destroy their footage.<sup>98</sup>

#### 4. Repression on the Human Rights Defenders

Human Rights activists have also been targeted. Immediately after the imposition of emergency on February 1, the security personnel reportedly conducted raids at the houses of human rights defenders and political activists and arrested them. Many had to go underground to evade arrest. A number of them fled to India.

At least 20 human rights defenders were arrested.

1. Nanda Bhandari, lawyer and member of the Centre for Victims of Torture (CVICT) was arrested on 1 February 2005 and

detained in Surkhet district under the Public Security Act (PSA).<sup>99</sup>

2. Lok Prasad Pant, lawyer and Chairman of the Civil Society Network was arrested on 1 February 2005 and detained at the Birendranagar jail, Surkhet district.<sup>100</sup>
3. Bal Krishna Poudel, Secretary of the Human Rights Organization of Nepal (HURON) in Chitwan district was arrested on 1 February 2005.<sup>101</sup>
4. Bam Dev Adhikari, Vice-Person of the Society for Protection of Human Rights and Rural Environment (SOPHRE) was arrested on 4 February 2005 in Lamjung district.<sup>102</sup>
5. Krishna Pahadi of Society of Human Rights and Peace, Kathmandu was arrested on 9 February 2005.
6. Sukharam Maharjan, Vice President of HURON Kirtipur Chapter was arrested by plainclothes security personnel from his residence in Kirtipur municipality ward no 6, Kathmandu district at 10 pm on 8 February 2005;
7. Mukunda Banskota, General Secretary of Nepal Bar Association;
8. One dozen human rights activists were arrested in Kathmandu on 10 February 2005. They included Suresh Chandra Pokharel, journalist and vice president of Human Rights and Peace Society (HURPES), its treasurer Balaram Aryal, HURPES members

<sup>97</sup>. Dozens of NC protesters arrested, The Kathmandu Post, 23 March 2005

<sup>98</sup>. Deuba denied meeting with Nepal, journals manhandled, Nepal News.com, 5 April 2005

<sup>99</sup>. www.omct.org

<sup>100</sup>. Ibid

<sup>101</sup>. Ibid

<sup>102</sup>. Ibid

Narayan Dutta Kandel, Laxmi Acharya, Suman Shrestha, Jayram Basnet, Jivlal Kharel, Laxman Acharya, Hiralal Acharya, Balram Neupane and Basudev Devkota.<sup>103</sup> They were released on 14 February 2005.<sup>104</sup>

9. Gauri Pradhan, founder president of Child Workers in Nepal Concerned Centre was arrested by the police upon his arrival at Tribhuvan International Airport, Kathmandu on 17 February 2005. He was returning home after taking part in meetings related to child rights held in the Netherlands and Geneva.<sup>105</sup> He was released on February 28 after the Supreme Court's intervention.<sup>106</sup>

## 5. Restriction on freedom of movement

The government restricted the right to freedom of movement and confined prominent citizens of Nepal inside Kathmandu valley.

A total of 52 human rights defenders, former members of parliament and judges, academics, lawyers, members of the National Human Rights Commission etc have been denied permission to leave Kathmandu valley. Even after so-called

lifting of the emergency, valley detention remains in force.<sup>107</sup>

On the morning of 10 May 2005, security personnel stationed at the domestic wing of the Tribhuvan International Airport reportedly barred former Vice Chairman of the National Planning Commission and leader of the Nepali Congress (Democratic) party, Dr. Narayan Khadka, from flying to Biratnagar. Security personnel told Khadka that they had orders not to let him leave the capital. But no reasons were given for the restriction.<sup>108</sup>

On 9 May 2005, security personnel at Tribhuvan International Airport (TIA) reportedly barred Nepali Congress leader Ram Krishna Tamrakar from boarding a flight to Pokhara, saying they had orders from above to stop him from leaving Kathmandu.<sup>109</sup>

On 7 May 2005, security personnel barred Deputy Speaker, Chitra Lekha Yadav, former lawmaker Urmila Aryal and Srijana Pokhrel affiliated to Population Watch from flying to Delhi. They were on their way to take part in a regional workshop in Delhi. Similarly, security personnel also barred Nepali Congress (NC) leader and former minister Surendra Chaudhary from flying to southern town of Janakpur. No reasons were given. He was on his way to take part in the regional meeting of NC workers.<sup>110</sup>

<sup>103</sup>. Rights activists, journalist arrested, The Kathmandu Post, 11 February 2005

<sup>104</sup>. Govt frees more leaders, human rights activists, The Nepalnews, 15 February 2005

<sup>105</sup>. CWIN chief arrested, The Kathmandu Post, 18 February 2005

<sup>106</sup>. SC releases Pradhan, The Kathmandu Post, 1 March 2005

<sup>107</sup>. Rights observers free to travel: Govt, Kantipur Online, 7 April 2005

<sup>108</sup>. Dr. Khadka barred from flying to Biratnagar, Nepal News.com, 10 May 2005

<sup>109</sup>. NC's Tamrakar stopped at airport, The Kathmandu Post, 10 May 2005

<sup>110</sup>. Dy Speaker, former minister barred from leaving Kathmandu, Nepal News.com, 8 May 2005



On 6 May 2005, Kanak Mani Dixit, a prominent journalist, was stopped in Kathmandu from boarding a Jet Airways flight to New Delhi. He was on his way to Colombo to attend a regional conference.<sup>111</sup>

On 6 May 2005, Nepali Congress leader, Leela Koirala was stopped from boarding a Janakpur-bound flight at Kathmandu. She was on her way to Janakpur to attend a party rally.<sup>112</sup>

On 29 April 2005, security personnel reportedly stopped former Member of Parliament Hari Bhakta Adhikari at the domestic terminal of Tribhuvan International Airport without assigning any reason shortly before boarding a Sita Air craft bound for Dhangadhi. Adhikari was reportedly going to meet his sick wife who has been living at his daughter's home in Dhangadhi for the past three months.<sup>113</sup>

Prior to the so-called lifting of emergency, many people were detained in Kathmandu valley.

On 21 February 2005, former Supreme Court Justice Laxman Aryal was stopped at the Airport at the eleventh hour. He was about to fly to Mumbai to attend a regional conference on women's rights

and anti-trafficking organized by South Asian Regional Equity Program.<sup>114</sup>

On 24 February 2005, security officials at the immigration department in Kathmandu did not allow Dr Om Gurung, general secretary of the Nepal Federation of Indigenous Nationalities to fly to Kolkata from Tribhuvan International Airport. Dr Gurung was scheduled to participate in regional preparatory meetings of the 4th session of the United Nations Permanent Forum on Indigenous Issues being held in India. Gurung was leading a 25-member delegation representing about 25 organisations of indigenous communities in Nepal. All delegates had to cancel their flights due to the uncalled-for action of the security forces.<sup>115</sup>

On 26 February 2005, human rights defender Subodh Raj Pyakurel, Chairperson of Informal Sector Service Center (INSEC) was prevented from traveling to Nepalgunj where he was supposed to conduct a training workshop on humanitarian laws for security persons located in the Mid-Western Development Region. This is despite the fact that it was the security forces who requested to hold the training workshop.

On 5 March 2005, security forces barred a team of the National Human Rights Commission (NHRC) comprising of Sushil Pyakurel, Dr Gauri Shankar Lal Das and head of NHRC's Protection Division Yagya Prasad Adhikari from flying to Bhairahawa to investigate the killings in Kapilavastu. The NHRC team returned from the Tribhuvan

<sup>111</sup>. Dixit stopped from boarding a Delhi flight, Kantipur Online, 6 May 2005

<sup>112</sup>. NC leader returned from the airport, Kantipur Online, 7 May 2005

<sup>113</sup>. Haribhakta stopped at TIA, The Kathmandu Post, 30 April 2005

<sup>114</sup>. Travel restriction troubles those on the list, The Kathmandu Post, 25 February 2005

<sup>115</sup>. Janajatis' top leader barred from flying to India, The Himalayan Times, 25 February 2005

International Airport after the security personnel prevented Pyakurel stating that he was not allowed to go out of the Kathmandu valley. The team was scheduled to visit Kapilvastu district to investigate the clashes between the locals and Maoists in the district where a group of alleged anti-Maoist villagers had torched about 200 houses of alleged Maoists in February 2005. The NHRC team was prevented despite the fact that it had already informed the Home Ministry and all concerned authorities about the team's visit to Kapilvastu.<sup>116</sup>

On 10 March 2005, security personnel at the Tribhuvan International Airport barred former Speaker Daman Nath Dhungana from boarding a flight for USA. Dhungana had been invited by the University of California-Berkeley to speak on "Democracy, Maoist insurgency and Constitutional Solution" on 12 March 2005.<sup>117</sup> Although on 7 April 2005, the Supreme Court issued directions to the government not to restrict Dhungana's freedom of movement,<sup>118</sup> he was again barred from flying to Pokhara on 14 April 2005.<sup>119</sup>

On 19 March 2005, security personnel reportedly prevented Thakur Prasad Sharma, former state minister for Water Resources, from going to his home district, Dhading from Kathmandu. Sharma who was traveling on a private vehicle with five others was stopped at

Nagdhunga security checkpoint and asked to return to Kathmandu after an hour of interrogation. The security personnel deployed at the checkpoint cited travel restriction on Sharma as the reason behind their action.<sup>120</sup>

On 25 March 2005, security personnel at the Tribhuvan International Airport in Kathmandu barred Prof. Dr. Lok Raj Baral, Prof. Krishna Khanal and Dr. Krishna Hachhethu from taking their Jet Airways flight to Delhi on the way to Goa saying that they had 'orders from the above' not to let them leave Kathmandu. However, according to Dr. Hachhethu, the security personnel refused to give "any reason in writing" for stopping them. They were going to take part in the latest round of seminar entitled "Democracy in South Asia" due to be held in Goa.<sup>121</sup> Prof. Lok Raj Baral was again prevented from going to USA on 10 April 2005.<sup>122</sup>

On 5 April 2005, security personnel at the Tribhuvan International Airport barred three politicians including former MP and central committee member of CPN (UML), Pradip Gyawali, joint general secretary of Rastriya Prajatantra Party, Khem Raj Pandit, and spokesman of Nepali Congress (Democratic), Dr Minendra Rijal from flying to Colombo to take part in a seminar. No reasons were given for prohibiting movement of the political leaders.<sup>123</sup>

<sup>116</sup>. NHRC member prevented from traveling, The Kathmandu Post, 6 March 2005

<sup>117</sup>. Former speaker Dhungana barred from leaving Kathmandu, The Nepal News. Com, 10 March 2005

<sup>118</sup>. SC lifts travel ban on Dhungana, The Kathmandu Post, 8 April 2005

<sup>119</sup>. Dhungana barred again from flying, The Himalayan Times, 15 April 2005

<sup>120</sup>. Ex-state minister prevented from traveling, The Kathmandu Post, 20 March 2005

<sup>121</sup>. Three academics barred from flying to India, Nepal News.com, 26 March 2005

<sup>122</sup>. Prof. Baral barred at the TIA once again, Nepal News.com, 10 April 2005

<sup>123</sup>. Three leaders barred from flying to Colombo, Nepal News.com, 6 April 2005

On 22 April 2005, security personnel reportedly restricted former Supreme Court Justice Laxman Prasad Aryal, Nepal Bar Association President Shambhu Thapa and Chairman of Constitutional Lawyers' Forum Bhimarjun Acharya from traveling to New Delhi, India. They were already on board the aircraft to attend a regional seminar when police entered the plane and disembarked them. The trio was to present papers on the exercise of the constitution in Nepal in recent times at a conference organized by the Supreme Court Bar Association of India. No reason was given for the restriction.<sup>124</sup>

On 23 April 2005, security personnel at Tribhuvan International Airport reportedly barred the former Nepal Bar Association (NBA) president Hari Har Dahal and his wife from leaving the capital for Pokhara, where he was to deliver a political speech at a programme. Dahal said security forces stopped him citing orders from 'above'.<sup>125</sup>

On 27 April 2005, security personnel at the domestic terminal of the Tribhuvan International Airport reportedly barred former deputy Mayor of Kathmandu metropolis, Bidur Mainali, who is also general secretary of Nepal Municipalities' Association (NMA), from flying to Pokhara. The security personnel did not provide any reason, except that they had orders not to allow him leave the capital. Mainali was on his way to take part in the programme of

executive officers of all 58 municipalities in the country to share best practices in drinking water and sanitation as chief guest.<sup>126</sup>

## 6. Judiciary: Under the King's thumb

It is during the state of emergency that the role of judiciary which is indispensable. However, the Supreme Court of Nepal failed to improve its integrity. Initially the Supreme Court acted timid, refusing even to admit writ petitions seeking legal remedy under the non-suspended articles of the constitution. Writ petitions — *Harka Man Shrestha vs Land Reform Ministry*, *Dambar Singh Gadal vs Ilam Municipality*, and *Kiran Kumar Shrestha vs Ministry of Health* — seeking the Supreme Court's order to the authorities for the rights guaranteed under Article 11, 88(1) and (2) of the Constitution were reportedly rejected.<sup>127</sup> On 21 February 2005, Chief Justice (CJ) Hari Prasad Sharma publicly defended the rejection of writ petitions saying the issue was "political".<sup>128</sup> This is despite the fact that the Supreme Court had entertained over 400 writ petitions on legal remedy during the last emergency in 2001-2002.<sup>129</sup> It was only on 31 March 2005 that the Supreme Court decided to accept writ petitions related suspension

<sup>124</sup>. Legal eagles restricted from traveling abroad, The Kathmandu Post, 23 April 2005

<sup>125</sup>. Ex-NBA prez denied freedom of movement, The Kathmandu Post, 24 April 2005

<sup>126</sup>. Mainali barred from flying to Pokhara, Nepal News.com, 27 April 2005

<sup>127</sup>. SC to conduct full bench hearing on non-suspended rights, The Himalayan Times, 3 March 2005

<sup>128</sup>. CJ defends rejection of legal remedy, The Kathmandu Post, 23 February 2005

<sup>129</sup>. SC orders details on writ petition rejections, The Kathmandu Post, 1 March 2005

of fundamental rights during emergency.<sup>130</sup>

On 1 April 2005, the Supreme Court maintained that emergency cannot limit habeas corpus since habeas corpus is an independent constitutional provision. In a habeas corpus case it said, "It is inappropriate and unconstitutional to strip citizens of their personal liberties, arrest and detain them in illegal and arbitrary manner; to deprive a detainee from his right to being informed of the reasons of his arrest at the earliest possible, and meeting a lawyer of his/her choice; to refrain a detainee from his right to be presented before a judicial authority."<sup>131</sup>

The SC subsequently upheld many detentions by the government as "illegal such as the detention of Kalam Bahadur Khatri,<sup>132</sup> student leaders Medini Sitaula, Lochan KC and Mahesh Devkota and youth leader Mahesh Basnet,<sup>133</sup> leader of Nepal Students Union Rathor,<sup>134</sup> Yagya Sunwar and president of Free Students' Union at Tribhuvan University Campus, Bijaya Kumar Rai.<sup>135</sup>

Yet, whenever the security personnel felt the necessary, they re-arrested political activists in contempt of the Supreme Court.

<sup>130</sup>. SC to accept writ petitions, Kantipur Online, 1 April 2005

<sup>131</sup>. SC strictures on citizens' detention, The Kathmandu Post, 2 April 2005

<sup>132</sup>. Kamal vs Kalam: A tale of mistaken identity, The Nepal News.com, 11 March 2005

<sup>133</sup>. Court orders release of student, youth activists, Nepal News.com, 28 March 2005

<sup>134</sup>. Order on Rathor's release, The Kathmandu Post, 2 April 2005

<sup>135</sup>. SC orders release of two student leaders, Kantipur Online, 30 April 2005

On 27 April 2005, police re-arrested Pradip Paudel, Vice President of Nepal Students' Union (NSU) soon after he was released following a Supreme Court order. On 26 April 2005, the apex court ruled that his detention was illegal.<sup>136</sup>

On 5 May 2005, student leader Gagan Kumar Thapa was re-arrested by police from inside Kathmandu District Police Office soon after his release at the order of the Supreme Court. DSP Ganesh KC reportedly defended the move saying that the court order had not mentioned that the police could not re-arrest Thapa.<sup>137</sup> On 6 May 2005, the Kathmandu District Administration extended his detention by three months and kept at Kharipati, Bhkatapur.<sup>138</sup>

## 7. The collapse of the NHRC

The NHRC which was appreciated for monitoring human rights violations both by the security forces and the Maoists appears to have succumbed. Justice Nayan Bahadur Khatri, in his address to the 61<sup>st</sup> session of the Commission on Human Rights blamed Nepali political parties and defended the coup of February 1.

On 5 March 2005, security forces at Tribhuvan International Airport barred a team of the NHRC comprising Sushil Pyakurel, Dr Gauri Shankar Lal Das and head of NHRC's Protection Division Yagya Prasad Adhikari – scheduled to

<sup>136</sup>. Police rearrest after SC release order, The Kathmandu Post, 28 April 2005

<sup>137</sup>. SC defied again, Gagan re-arrested, The Kathmandu Post, 6 May 2005

<sup>138</sup>. Gagan's detention order extended by 3 months, Kantipur Online, 7 May 2005

fly to Bhairahawa to investigate violence in Kapilavastu district where a group of anti-Maoist villagers had torched about 200 houses of alleged Maoists some two weeks ago.<sup>139</sup> Later on a team of NHRC minus Sushil Pyakurel visited Kapilavastu. On 6 April 2005, the NHRC made public its preliminary report on the Kapilavastu incident stating that a total of 47 people were killed in the incident, and over 450 houses were burnt down.<sup>140</sup> But, the NHRC failed to identify as to who were responsible for the killings.<sup>141</sup>

## 8. The conflict and its consequences

The Maoist conflict had reportedly claimed 11,358 persons from 13 February 1996 to 28 February 2005. The number of killings in the conflict has crossed 12,000 with the killings of 535 persons by the security forces and 129 persons by the Maoists from 1 February to 9 May 2005.

Both the security forces and the Maoists deliberately targeted civilians and executed them in a systematic way with impunity. Both the groups have been responsible for blatant violations of the provisions of the Rome Statute of International Criminal Court.

## 8.1 Atrocities by the security forces

### a. Extrajudicial killings

The security forces have killed a total of 535 persons as on 9 May 2005. Many of those killed were civilians.

On 19 February 2005, the security forces gunned down at least a dozen alleged Maoists at Sakhuwa Mahendranagar VDC in Dhanusha district.<sup>142</sup>

On 21 February 2005, at least 12 alleged Maoist insurgents were killed in a security action at Dakaha of Sirthauli VDC in central Sindhuli district.<sup>143</sup>

On 17 February 2005, 15-year-old Maina Sunar of Kharelthok area in Kavre district was extrajudicially killed after her arrest by RNA personnel. Later a Court of Inquiry inquiring into the incident found the RNA guilty. The RNA reportedly admitted its fault and taken responsibility for her death. An RNA statement on 14 March 2005 stated that a court martial would be held for necessary action on the guilty security officials.<sup>144</sup>

On 22 February 2005, at least 10 alleged Maoists were killed in separate security actions in different parts of the country with 4 of them getting killed in Suda VDC, 4 Maoists, including two district level leaders in Arghakhanchi district, and 2 in Kaski district. Those killed in Kaski district were district members of

<sup>139</sup>. NHRC member prevented from traveling, The Kathmandu Post, 6 March 2005

<sup>140</sup>. Inciting masses counterproductive: NHRC, Kantipur Online, 7 April 2005

<sup>141</sup>. HR groups slam NHRC, The Kathmandu Post, 5 April 2005

<sup>142</sup>. 12 Maoists killed in Dhanusha clash, The Himalayan Times, 20 February 2005

<sup>143</sup>. Ibid

<sup>144</sup>. RNA admits mistake in Kharelthok incident, Kantipur Online, 15 March 2005

the All Nepal Labour Association identified as Dashu Poudel and Rajaram Kumal.<sup>145</sup>

On 23 February 2005, hundreds of villagers reportedly attacked several houses of suspected Maoist sympathisers and set afire 20 such houses in Singhokhor, Parsolia and Labani VDCs in Kapilavastu district. The villagers also beat a Maoist cadre to death in Lalbani. In the last fortnight, villagers reportedly lynched 22 alleged Maoist cadres in retaliation to attacks on them.<sup>146</sup> The villagers had burnt some 300 sheds in Shibapur VDC.<sup>147</sup>

On 24 February 2005, one Surendra Shrestha, a mentally challenged civilian, was killed at Ratdada area of Baglung Municipality-4. Chief District Officer Prem Narayan Sharma after verifying the incident said the security forces shot dead the victim suspecting him as a Maoist as he had tried to flee after seeing the security patrol. Shrestha is survived by his wife, a son and two daughters.<sup>148</sup>

On 7 March 2005, three alleged women Maoists were reportedly killed in security action at Rampur VDC in Dang.<sup>149</sup>

On 20 March 2005, security forces shot dead a Maoist rebel identified as Kumar Pandey alias 'Prabhat' at Salme area of

Nuwakot district.<sup>150</sup> On the same day, security forces also killed two Maoists – Ramjulum Yadav alias 'Birupan' and Dilip Yadav alias 'Dilpa' at Gadha area, and shot dead another identified as Satma Raya at Mohanpur area of Siraha district. The security forces reportedly recovered two pistols, bullets, socket bombs and explosives.<sup>151</sup>

On 22 March 2005, three students – Narayan Bahadur Kanauji Magar (17) of Class IX, Tek Bahadur Gaha (15) of Class VIII and Dal Bahadur Darlami (15) of Class VI– were shot dead by plain-clothes security personnel suspecting them to be Maoists. The youth were shot at when they were collecting 'donations' from vehicles and passengers plying on the highway, some 19 km northeast of Tansen, the district headquarters of Palpa. The youth in their school uniform were raising money to observe 'Fagu Purnima,' a festival of colours. Police claimed that they were killed in encounter. Following protests from the relatives of the deceased and civil society groups, the police reportedly acknowledged that the boys had died "due to bullet injuries".<sup>152</sup> On 31 March 2005, chief of the Western Divisional Headquarters of RNA, Amar Panta said that a board of inquiry into the killing of three school students has been formed.<sup>153</sup>

On 24 March 2005, a RNA personnel Gobind Karki allegedly opened fire in a

<sup>145</sup>. 10 Maoists killed in separate clashes, The Kantipuronline, 23 February 2005

<sup>146</sup>. Irate Kapilvastu villagers burn houses, The Kantipuronline, 24 February 2005

<sup>147</sup>. Villagers burn 20 houses, kill Maoist, The Kathmandu Post, 24 February 2005

<sup>148</sup>. Civilian killed, 3 injured, The Kathmandu Post, 27 February 2005

<sup>149</sup>. Six Maoists killed, The Kantipuronline, 8 March 2005

<sup>150</sup>. Rebel gunned down, bus torched in Siraha, The Kathmandu Post, 21 March 2005

<sup>151</sup>. 3 Maoists killed, 3 kids injured, The Kathmandu Post, 22 March 2005

<sup>152</sup>. Last rites of three youths carried out, Nepal News.com, 26 March 2005

<sup>153</sup>. Army to probe killing of students, The Kathmandu Post, 1 April 2005

drunken frenzy leaving Arjun Lamichhane, a civilian from Manmaiju-8, seriously injured in Lamabagar, Kathmandu. Arjun Lamichhane died while being shifted to Bir Hospital for treatment.<sup>154</sup>

On the night of 7 April 2005, the Maoists reportedly attacked a security base at Khara in the mid-western district of Rukum. As on 10 April 2005, the security forces claimed to have recovered 113 dead bodies of Maoists from the encounter site. Three security personnel were also killed in the incident.<sup>155</sup> 35 more bodies of Maoists were reportedly found buried in Arma and Muru areas near Khara.<sup>156</sup>

On 14 April 2005, a Maoist rebel identified as Bimala Kumari Joshi reportedly died in RNA custody in Kanchanpur. The RNA claimed that she was killed in security action when she attempted to escape breaking security ring.<sup>157</sup>

## 8.2 Atrocities by Maoists

The Maoists have been responsible for blatant violations of international humanitarian law standards by resorting to indiscriminate killings, torture, kidnapping, targeting civilians and schools, and “the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording

all the judicial guarantees which are recognized as indispensable by civilized peoples”.

### a. Arbitrary killings

The Maoists have been responsible for the killing of 131 persons from 1 February to 9 May 2005.

On 18 February 2005, suspected Maoists abducted a primary school teacher Tej Narayan Prasad Chanau of Amritgunj-5 and brutally killed him. He was reportedly shot at the head and chest.<sup>158</sup>

On 24 February 2005, suspected Maoists shot dead central member of the World Hindu Youth Federation, Chandra Prakash Rathaur at his residence in Birendranagar municipality in Surkhet district.<sup>159</sup>

On 25 February 2005, Ghar Baran Teli, a civilian, was shot dead in Labani VDC in Kapilvastu district by the alleged Maoists. They also killed Bedullah Jolha, Maksoor Alam and Mohammed Hakik in Jahari village development committee (VDC) in the same district on the night of February 26.<sup>160</sup>

On 6 March 2005, suspected Maoists killed five alleged members of an anti-Maoist retaliation group at Kudarmatewa village in Kapilvastu district.<sup>161</sup>

<sup>154</sup>. RNA soldier kills man in drunken frenzy, The Kathmandu Post, 26 March 2005

<sup>155</sup>. 16 more bodies found in Khara, Maoist toll now 113, Kantipur Online, 11 April 2005

<sup>156</sup>. 35 more bodies of Maoists found buried in Khara, Kantipur Online, 13 April 2005

<sup>157</sup>. 2 civilians, Maoist killed, The Kathmandu Post, 16 April 2005

<sup>158</sup>. Teacher shot dead, The Kathmandu Post, 20 February 2005

<sup>159</sup>. Suspected Maoists kill Hindu leader in Surkhet, abduct youths in Dhading, The Nepal News, 25 February 2005

<sup>160</sup>. Maoists kill four civilians, The Kathmandu Post, 28 February 2005

<sup>161</sup>. Maoists kill five villagers in Kapilvastu, The Nepal News.com, 8 March 2005

On 26 March 2005, three unarmed security personnel were kidnapped by the alleged Maoists in Ramechhap district. They were taken to the Jafe area of the district, their hands tied up and were attacked with a Kukri (a type of curved knife) before being gunned down.<sup>162</sup>

On 27 March 2005, Madhav Prasad Sedhai, chairman of Small Peasants' Cooperative in Jiwanpur VDC in Dhading district was killed after his abduction by suspected Maoists.<sup>163</sup>

On 30 March 2005, suspected Maoists shot dead Deputy Superintendent Officer Mahesh K.C. of National Investigation Regional Department in Pokhara.<sup>164</sup>

On 31 March 2005, chairman of Sindhuli Chamber of Commerce and Industries, Narayan Kumar Shrestha was shot dead at his residence at Dhungrebas of Kamalamai Municipality by the suspected Maoists.<sup>165</sup>

On 1 April 2005, alleged Maoist rebels shot dead Ram Lal Moktan, an ex-Indian army man of Chungmang VDC-1 in Dhankuta. Three armed rebels came to Moktan's house, took him a kilometer west of his house and shot him dead.<sup>166</sup>

On 8 April 2005, alleged Maoist cadres shot dead Bidhay Sagar Mahato, a farmer of Babargunj VDC-4 in Sarlahi.

A group of six to seven armed Maoists came to Mahato's house and took him some distance away from his house and shot him dead.<sup>167</sup>

On 9 April 2005, suspected Maoist cadres shot dead Bharat Dev Bharati, the Chairman of Town Development Committee of Surkhet valley, at his residence in Mulpani area of Uttarganga VDC in Surkhet district.<sup>168</sup>

On 11 April 2005, alleged Maoists shot dead Balanand Kafle, acting Chief District Officer of Bardia at his residence.<sup>169</sup>

On the night of 15 April 2005, Maoists gunned down 10 civilians, including a child, in cold blood at Baragdawa of Somni VDC in Nawalparasi district. The Maoists reportedly barged into their houses while they were asleep, pulled them out of the houses and shot them dead. According to the security forces, Maoists suspected them of being members of the Maoists' Resistant Committee (MRC).<sup>170</sup>

On 21 April 2005, suspected Maoist rebels shot dead Basanti Lama, a social worker and hotelier in Nepalgunj in Banke district.<sup>171</sup>

On 23 April 2005, suspected Maoist insurgents brutally killed five villagers on the charges of being members of the

<sup>162</sup>. Kidnapped security men murdered: RNA, The Himalayan Times, 28 March 2005

<sup>163</sup>. Chairman of cooperative killed, The Kathmandu Post, 28 March 2005

<sup>164</sup>. Maoists kill DSO, injure RNA Major, The Kathmandu Post, 31 March 2005

<sup>165</sup>. Maoists kill business leader in Sindhuli, Nepal News.com, 2 April 2005

<sup>166</sup>. The Kathmandu Post, 2 April 2005

<sup>167</sup>. Maoists kill 2, 200 rebels surrender, The Kathmandu Post, 10 April 2005

<sup>168</sup>. Ibid

<sup>169</sup>. Maoists shoot dead acting chief district officer, Kantipur Online, 12 April 2005

<sup>170</sup>. Maoists kill 10 civilians, The Himalayan Times, 17 April 2005

<sup>171</sup>. A social worker shot dead in Nepalgunj, Nepal News.com, 22 April 2005



anti-Maoist “resistance group” in Marchabar Semari and Thumahawa villages in the southwestern Rupandehi district. Dozens of heavily armed rebels reportedly launched a simultaneous attack in the two villages between 10:00 p.m. to 11:00 p.m., dragged the villagers out their homes and shot them.<sup>172</sup>

On April 26, alleged Maoists killed Yagya Prasad Belbase and Min Prasad Belbase, respectively Chairman and Secretary of Subarnakhal VDC in Arghakhanchi. While the secretary was hacked to death, the chairman’s throat was slit.<sup>173</sup>

On 27 April 2005, alleged Maoists killed three innocent civilians identified as Shriram Chauhan, Surendra Basnet and Shankar Bhandari, and injured 17 others at Pipaldanda area in Sindhupalchowk.<sup>174</sup>

On 6 May 2005, suspected Maoists shot dead the chairman of World Hindu Federation-Nepal, Pundit Narayan Prasad Pokhrel in Butwal.<sup>175</sup>

On the morning of 9 May 2005, Maoists shot dead 55-year-old Bhagawan Das Shrestha, coordinator of the District Monitoring Committee, Chitwan. Shrestha was also a popular film producer and social worker.<sup>176</sup>

<sup>172</sup>. Maoists kill five civilians in Rupandehi, Nepal News.com, 25 April 2005

<sup>173</sup>. Six civilians, 10 Maoists killed, The Kathmandu Post, 29 April 2005

<sup>174</sup>. Ibid

<sup>175</sup>. World Hindu Federation Nepal chairman shot dead, Kantipur Online, 6 May 2005

<sup>176</sup>. Rebels kill another govt appointee, The Kathmandu Post, 10 May 2005

## **b. Abduction**

On 21 February 2005, alleged Maoists abducted three youth identified as Gautam Ghale, Dhana Bahadur Pariyaar and Rudal from their houses in Dhading district. The youth were preparing to go to bed before being abducted. Their whereabouts is not known.<sup>177</sup>

On 12 March 2005, alleged Maoists kidnapped Dhamananda Bhatta, jailor of the Dadeldhura district jail, from a public bus at Sahajpur of Kailali while he was going to Dadeldhura from Dhangadi. A woman employee of the Nepal Electricity Authority was also kidnapped from the same bus.<sup>178</sup>

On 19 March 2005, seven staff members of the Nepal Electricity Authority (NEA) were abducted from Triveni at Sankhejug VDC in Ilam district by the alleged Maoists.<sup>179</sup> They were later released.

On 5 April 2005, Maoist rebels abducted over 100 students, who had completed their School Leaving Certificate (SLC) examination in the morning of the same day, from Barbote and Sukumbe villages in Ilam district.<sup>180</sup>

## **c. Economic blockade**

The Maoists imposed two economic blockade from 13 to 26 February 2005

<sup>177</sup>. Suspected Maoists kill Hindu leader in Surkhet, abduct youths in Dhading, The Nepal News, 25 February 2005

<sup>178</sup>. Maoists kidnap jailor in Dadeldhura, Nepal News.com, 15 March 2005

<sup>179</sup>. NEA staffers abducted, The Kathmandu Post, 21 March 2005

<sup>180</sup>. Over 100 students abducted in Ilam, The Kathmandu Post, 6 April 2005

and 3 to 14 April 2005 in the last 100 days. Often, they imposed the blockades violently.

The Maoists reportedly torched two trucks at Khairahi VDC on Mahendra Highway on 18 February 2005.<sup>181</sup> On 17 February 2005, the Maoists set ablaze 13 goods carriers at Jogimara section of the Prithvi Highway that burnt 58 buffaloes alive.<sup>182</sup>

On 27 February 2005, Maoists torched five vehicles on the Hetauda-Patlaiya section of Mahendra Highway. Huge loads of food grains were destroyed.<sup>183</sup> On the same day, Maoists torched some vehicles plying along the Mahendra Highway in Bara, and ambushed an RNA vehicle that rushed to the incident site, seriously wounding a security personnel.<sup>184</sup>

On 20 February 2005, Nripad Kumar Parveji, a truck driver from Nagpur (India) was shot dead by the Maoists at Charaudi Bazaar area on Prithvi Highway for defying the economic blockade. He was returning to India after delivering goods in Kathmandu.<sup>185</sup>

On 22 February 2005, Maoists set on fire an ambulance run by a non-profit organisation near Khairani along the

Kohalpur-Lamahi section of the Mahendra highway.<sup>186</sup>

On 20 March 2005, the Maoists torched a bus at Sambhunath area of the Mahendra Highway in Siraha.<sup>187</sup> On 26 March 2005, alleged Maoist rebels torched two Indian tankers parked in front of the office of Nepal Lever Limited (NLL) at Hetauda. The tankers plated DLIGA 2546 and 2521 were used by NLL to import chemicals from India.<sup>188</sup>

On 1 April 2005, suspected Maoists burned down seven trucks loaded with cement and foodstuff at Jalbire area along the Narayanghat-Mungling highway in Chitwan.<sup>189</sup> On 9 April 2005, at least five passengers, including a minor, died while 27 others sustained injuries when a bus escorted by security forces ran over a Maoist-laid landmine at Sakhawachwok along the Chandranihaharpur-Gaur section of the highway.<sup>190</sup>

The government of Nepal also adopted equally draconian measures. Following the Maoists blockade, the Department of Transportation Management decided to nullify the registration of public vehicles that do not ply on the highways they have acquired permit order for. In case of non-compliance to ply the specified highways, even the license of the driver of such vehicle could be cancelled. The

<sup>181</sup>. Unidentified groups torch house, vehicles, The Kathmandu Post, 19 February 2005

<sup>182</sup>. 13 vehicles torched on Prithvi Highway, The Kathmandu Post, 20 February 2005

<sup>183</sup>. 5 vehicles destroyed, The Kathmandu Post, 28 February 2005

<sup>184</sup>. The Nepal News, 28 February 2005

<sup>185</sup>. Indian driver killed by Nepal's Maoists, The Times, 22 February 2005

<sup>186</sup>. Maoist bomb an ambulance, The Nepal News, 23 February 2005

<sup>187</sup>. Rebel gunned down, bus torched in Siraha, The Kathmandu Post, 21 March 2005

<sup>188</sup>. Maoists torch Indian tankers, Nepal News.com, 28 March 2005

<sup>189</sup>. Nepal News.com, 2 April 2005

<sup>190</sup>. Maoists ambush passenger bus, 5 killed, The Kathmandu Post, 10 April 2005

new rules were enforced throughout the country.<sup>191</sup>

#### d. Attacks on schools

The Maoists have systematically targeted the schools.

On 14 February 2005, alleged Maoists bombed and destroyed six schools - Ratmata Secondary School, Solawang Secondary School, Kailideu Lower Secondary School, Thurpunge Lower Secondary School, Dangdunge Primary School and Garadhunga Primary School in Musikot, the district headquarters of Rukum.<sup>192</sup>

On 20 February 2005 Maoists detonated explosives in several schools in Nepalgunj and Banke districts including Mahendra High School, Modern Public School, Mangal Secondary School, Chandra Mewalal Secondary School and Bheri Technical School for having defied their “educational strike”.<sup>193</sup>

On 17 April 2005, Maoists bombed Jaybageswori Higher Secondary School in Nepalgunj and Bal Kalyan Primary School at Khara in Rukum district, seriously injuring three students.<sup>194</sup>

On 18 April 2005, Maoists hurled bombs on the premises of St Thomas Boarding

School, and ABC Boarding School in Nepalgunj.<sup>195</sup>

On 18 April 2005, Maoists torched a private school, Janapradipan Boarding School in Patihani of Chitwan district, and bombed a private school in Pokhara.<sup>196</sup>

On 21 April 2005, Maoists detonated a powerful bomb at Small Heaven Boarding School in Bharatpur of Chitwan district.<sup>197</sup>

On 21 April 2005, Maoists bombed St. Mary's School at Chaudha Kilo area of Gorkha district that destroyed 16 computers, some printers and furniture.<sup>198</sup>

On 22 April 2005, Maoists exploded bomb in Namuna Boarding School, a private school, in Gaidakot in Nawalparasi.<sup>199</sup>

On 23 April 2005, Maoists bombed a school in Khara of mid western Rukum district injuring three kid students, one of them seriously.<sup>200</sup>

Although the Maoists withdrew their indefinite closure of private schools across the country with effect from 29 April 2005, they continued to target private schools. On 1 May 2005, Maoist

<sup>191</sup>. DoTM warns vehicles not plying routes, The Kathmandu Post, 2 March 2005

<sup>192</sup>. Rebels destroy six schools, SLC students affected, The Kathmandu Post, 20 February 2005

<sup>193</sup>. The Nepal News, 22 February 2005

<sup>194</sup>. Maoists bomb school in Nepalgunj, injure students in Rukum, Nepal News.com, 17 April 2005

<sup>195</sup>. Maoists explode bombs in Nepalgunj schools, The Himalayan Times, 19 April 2005

<sup>196</sup>. Maoists continue attacking schools, Nepal News.com, 21 April 2005

<sup>197</sup>. PABSON chief's school bombed, The Kathmandu Post, 22 April 2005

<sup>198</sup>. Maoists bomb school, The Kathmandu Post, 23 April 2005

<sup>199</sup>. Maoists continue to attack schools, injure minors, Nepal News.com, 24 April 2005

<sup>200</sup>. Ibid

rebels bombed Sun Shine Boarding School in Siddharthnagar in Rupandehi district.<sup>201</sup> On the night of 2 May 2005, a building of Lakshmi Adarsha Higher Secondary School at Sishuwa, Lekhnath-7 in Kaski district was set afire damaging the library and laboratory sections of the school.<sup>202</sup>

A total of 371 schools have been closed in Bardiya district following the Maoist threats. The Maoists instructed the teachers and students to boycott classes until further notice. Over 100,000 students in Bardiya district, and over 70,000 students belonging to 240 schools (private and public) in Chitwan district have been affected by the Maoists' educational bandh.<sup>203</sup>

The Maoists' student wing All Nepal National Free Students Union (ANNFSU)-Revolutionary called for indefinite closure of all private schools and colleges in the country from the new academic session beginning from April 14. There are over 8,500 private schools in Nepal that enroll at least 1.5 million students and provide employment to over 175,000 teachers.<sup>204</sup>

#### **d. Destruction of public properties**

On 20 February 2005, Maoists destroyed a sub-station of Nepal Electricity

Authority (NEA) at Kohalpur of Banke district. At least two persons were killed in the blast.<sup>205</sup>

On 26 February 2005, Maoists damaged two government office buildings used by the Department of Survey and Revenue Office in Hetauda by exploding bombs.<sup>206</sup>

On 3 March 2005, Maoists set ablaze more than half-a-dozen government offices based at the headquarters of Argakhachi district including the RNA's West-division at Pokhara.<sup>207</sup>

On 16 March 2005, suspected Maoists detonated powerful bombs at the offices of state-owned Nepal Telecom Company (NTC), District Survey Office and District Forest Office in Inaruwa in Sunsari district in eastern Nepal.<sup>208</sup>

On 21 March 2005, Maoists bombed building of the Employees' Provident Fund Regional Office in Banke.<sup>209</sup>

On 14 April 2005, the rebels bombed and destroyed a two-story building that housed the Drinking Water and Sanitation Consumers' Committee Office at Narayanpur VDC-3 in Dang.<sup>210</sup>

<sup>201</sup>. Maoists bomb school in Siddharthnagar, Nepal News.com, 1 May 2005

<sup>202</sup>. Arsonists destroy school building, The Kathmandu Post, 4 May 2005

<sup>203</sup>. Maoists shut schools in Bardiya, Chitwan; abduct students in Nuwakot, The Nepal News, 26 February 2005

<sup>204</sup>. Maoists bomb school in Nepalgunj, injure students in Rukum, Nepal News.com, 17 April 2005

<sup>205</sup>. The Nepal News, 22 February 2005

<sup>206</sup>. The Kathmandu Post, 28 February 2005

<sup>207</sup>. Maoists attack Sandhikharka, The Kathmandu Post, 5 March 2005

<sup>208</sup>. Explosions at Nepal Telecom and other offices, Nepal News.com, 17 March 2005

<sup>209</sup>. The Kathmandu Post, 23 March 2005

<sup>210</sup>. 2 civilians, Maoist killed, The Kathmandu Post, 16 April 2005

On 25 April 2005, Maoist rebels exploded a powerful blast at the District Education Office of Doti.<sup>211</sup>

On 26 April 2005, Maoists torched the Nepal Television tower at Chaupatta in Dang district causing loss of property estimated to be Rs 8.5 million.<sup>212</sup>

## 9. Conclusions and recommendations

King Gyanendra has lifted emergency on 29 April 2005. The lifting of emergency minus the fundamental rights enshrined in the constitution has failed to convince international community.

King Gyanendra does not appear to be in a mood to give up power having re-installed one party panchayat system. On 25 March 2005, King Gyanendra innocuously promulgated the Local Administration Fifth Amendment Ordinance 2061 to revive the post of 14 *Anchaladhishes*, the chief administrators of 14 *Anchals*, regions. These posts, a symbol of Panchayat regime were abolished after the 1990 democracy movement. But King Gyanendra has appointed five regional administrators for the country's five development regions and 14 zonal administrators to replace bureaucrats. The government continues to mis-use the Royal Commission on Corruption Control (RCCC) and Public Safety Act against the political parties.

While the resolution of the recently concluded 61<sup>st</sup> session of the United Nations Commission on Human Rights to set up monitoring offices of the Office of the United Nations High Commissioner for Human Rights in Nepal is welcome, unless the troika of India, the United States and United Kingdom continue to withhold military and other aid, Gyanendra is unlikely to relent. Unless, both the government and Maoists declare a cease-fire, monitoring of human rights violations is unlikely to reduce the gross human rights violations

International community must be cognizant of the prevailing ground realities in Nepal.

First, while international community cannot remain mute witness to the fall of a nation state, it is essential to realize that there is no military solution to the Maoists crisis. While India, Nepal's primary arms supplier, reportedly deploys 400,000 to 700,000 armed forces in addition to local Jammu and Kashmir Police to tackle the insurgency<sup>213</sup> in the trouble-torn State, the Royal Nepal Army has only 78,000 soldiers. Out of these, 30-40% soldiers are reportedly locked to defend the Kathmandu valley and the King.<sup>214</sup> Arming the RNA has also meant arming the Maoists as the Maoists often capture weapons from the security forces. If arms supplies were resumed, it would mean supporting the dictatorship of King Gyanendra at the perils of Nepal.

Second, the involvement of the political parties is indispensable for resolution of

<sup>211</sup>. Maoists bomb education office in Doti, Nepal News.com, 27 April 2005

<sup>212</sup>. Maoists torch NTV tower in Dang, Kantipur Online, 27 April 2005

<sup>213</sup>. <http://www.state.gov/g/drl/rls/hrrpt/2003/27947.htm>

<sup>214</sup>. <http://www.flonnet.com/fl2109/stories/20040507001105600.htm>

the Maoist crisis. And the support of political parties cannot be obtained under repression.

Third, since the Maoists control about 70% of the territory. Nepal's problem cannot be resolved by ignoring the Maoists. In fact, delivery of humanitarian assistance in the rural areas where it is desperately needed, require some kind of agreement with the Maoists. If the international community can engage with the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka, there is no reason as to why it should not engage with the Maoists to ensure that the Maoists too comply with international human rights and humanitarian law standards.

Aphorism says that when something does not bend it must be broken. If Gyanendra does not establish constitutional monarchy and multi-party democracy as two pillars of Nepal, sanctions on Nepal must continue. While Gyanendra sought to use geo-politics through juxtaposition of India against China and Pakistan on supply of arms, whether China will provide such assistance to Nepal is anybody's guess. Even if China were to provide assistance to King Gyanendra, it is unlikely that Nepal will survive purely on military aid from China and Pakistan when most international aid remains suspended. Indo-China relations have improved considerably and these relations are unlikely to be put to test by tyranny of King Gyanendra.

The restoration of multi-party democratic government with constitutional monarchy is a first step that needs to be taken before creating a framework where over ground political

parties of Nepal are able to engage in negotiation with the Maoists to find peaceful solution to the gravest humanitarian crisis in South Asia.

ACHR makes the following recommendations to the international community, in particular the United States, India and United Kingdom:

- Continue the embargo on military supplies to Nepal until a multi-party government with constitutional monarchy is formed in Nepal;
- Urge King Gyanendra to unconditionally release all political detainees, journalists, human rights defenders, lawyers, student leaders and withdraw all charges filed under Public Safety Act and other laws for opposing the coup;
- Urge King Gyanendra to establish a Commission of Inquiry to investigate excesses committed during emergency; and
- Repeal of all the ordinances promulgated during the emergency including the Local Administration Fifth Amendment Ordinance;

**To the Office of the High Commissioner for Human Rights and International Committee of the Red Cross:**

- Immediately establish mechanisms to regularly visit all places of detentions to examine the condition of the detainees and ensure that the detainees have access to the basic amenities; and

- Urge the Maoists to stop targeting the schools and students.