



**UNITED NATIONS  
OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS IN NEPAL**



**Statement to the Press  
Report of the High Commissioner for Human Rights to the General Assembly**

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in Nepal**

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The first Report of the High Commissioner for Human Rights to the General Assembly on the human rights situation and the activities of her Office in Nepal was released in New York during Dashain. We have a Nepali translation of the Report available here today. The Report will be presented by the High Commissioner when she addresses the General Assembly in New York next week.

The Report reflects the monitoring and activities of OHCHR-Nepal until the end of August 2005 and, in addition to formally presenting the Report to you myself, I wish to take this opportunity to provide an update on more recent human rights concerns.

The Report first describes human rights and humanitarian law violations committed in the context of the armed conflict by the State authorities or by the CPN (Maoist). It then raises concerns involving respect for democratic rights. And lastly it addresses longer-standing human rights issues.

In common with the National Human Rights Commission and civil society organizations, we welcome the reported reduction in killings since the CPN (Maoist) unilaterally declared a ceasefire. Nevertheless some killings and other abuses are reported to have continued after the ceasefire and we are investigating these. OHCHR-Nepal has repeatedly presented to the leadership of the CPN (Maoist) reports of individual killings and abductions attributed to them. While we have received general assurances of cooperation and commitment to human rights standards from the CPN (Maoist), I am sorry to say that in only very few cases have we received a response so far with action to address specific concerns.

OHCHR-Nepal has also been investigating killings by the RNA which are alleged to be in violation of international humanitarian law. We have investigated the incident involving the greatest single loss of life since the unilateral cease-fire – the killing of six persons, one of whom was acknowledged by the RNA to be a civilian, and injuries to other civilians, including children, in Bahadurpur Village, Palpa District, on 24 September. I have written to the Chief of Army Staff questioning an operation which put civilians so severely at risk, when the obligation of both parties is to protect those not taking direct part in hostilities. One of our teams is right now investigating in the field the circumstances in which four reported Maoists were killed by security forces at Limbu-

chowk, Belbari VDC-6, Morang District, on 15 October, and our information so far confirms other reports that these involved serious violations of international humanitarian law.

The General Assembly Report expresses concern regarding serious human rights abuses by vigilante groups. Additional investigations conducted after completion of the report, in Kapilbastu, Nawaparasi and Dailekh Districts, have confirmed these concerns. We welcome assurances by the authorities that actions by vigilante groups will be neither supported nor tolerated. But we must also note that any collusion by the State in either encouraging or failing to prevent vigilante activity would amount to State responsibility for serious human rights violations.

The abduction and alleged recruitment of children by the CPN (Maoist), as well as threats against teachers and the forced closure of schools, have been of particular concern to OHCHR, as well as to UNICEF. We have also been greatly concerned by reports of the arrest and detention by the authorities of children using the TADO counter-terrorist legislation – a practice that was strongly criticized by the United Nations Committee on the Rights of the Child – and more generally by our observation of the treatment, living conditions and legal situation of children in detention.

You are well aware of the visit of the Special Rapporteur on torture, Professor Manfred Nowak, who concluded that torture and ill-treatment is systematically practiced in Nepal by the police, armed police and the RNA in order to extract confessions and to obtain intelligence, among other things. Our Office continues to take the testimony of individual victims of torture, and to urge proper investigations and prosecution of perpetrators. In our continuing visits to places of detention we have observed inhuman conditions in some facilities, including most notably in Hanumandoka prison.

The General Assembly Report notes that punishment in cases where members of the security forces are found by military courts to be guilty of grave human rights violations appears light. Unfortunately this is confirmed by the recent judgement on a case related to the torture, disappearance and apparent execution of a 15-year-old girl, Maina Sunawar, while in RNA custody in February 2004. A military tribunal found that the responsible officers were guilty merely of negligence in the way Maina Sunawar's death was reported and failed to assign responsibility for the torture that is thought to have led to her death. In the related case of the torture, rape and execution on 12 February 2004 of two young women, Reena Rasaili and Subhadra Chaulagain, OHCHR has received no information that would indicate that charges have been lodged, despite the ample evidence and eye-witness testimony that is available indicating RNA involvement.

Since our Office was established, we have consistently expressed concern about re-arrests of detained persons whose release had been ordered by the Supreme Court or other courts. We welcomed the instructions issued in June this year by the Home Ministry and the RNA to stop such re-arrests. I regret to say that some cases of immediate re-arrests have continued to occur, most often conducted by persons in civilian clothing who refuse to identify which branch of the security forces they belong to. I raised OHCHR's concern with the Government over the re-arrest, on 22 September, of Mr Krishna KC, after the Government had failed to give any indication in court of the charges on which he was then re-arrested.

The General Assembly Report also recalls the April resolution of the United Nations Commission on Human Rights, adopted during the state of emergency, which called for the reinstatement of all civil and political rights in Nepal. More recently, I have expressed to the Government OHCHR's concern at the extension of bans on public gatherings in certain localities which restrict the right to peaceful assembly, at the use of excessive force and sexual harassment in the policing of demonstrations, and at the beating and ill-treatment of some of those taken into custody. The Report also expresses concern that the Code of Conduct for NGOs which the Government intends to impose under the amended Social Welfare Act might undermine the independence of NGOs. I regret to note that these concerns have since been confirmed with the submission of a draft code by the Social Welfare Council. I have written to the Minister responsible to point out that the draft would impose constraints on the membership, objectives, programming, functioning, access to funding and affiliations of national and international NGOs active in Nepal which would be incompatible with international human rights standards.

The Report also stated that OHCHR will examine any revised media legislation for conformity with international standards on the right to freedom of opinion and expression. I share the concerns already expressed by the Director-General of UNESCO that the amendments to existing legislation introduced by the Media Ordinance, adopted on 9 October, infringe upon international standards related to freedom of expression. The amendments impose restrictions on FM radio stations without adequate justification and establish criminal sanctions for defamation, both measures that can only serve to limit the exercise of freedom of expression.

We have continued to take up cases of threats to journalists, whether made by the CPN (Maoist) or by state authorities. Most recently, we have received assurances from the CPN (Maoist) that the deplorable threat to journalist Kamal Neupane by a district committee member in Dailekh does not represent policy, that his safety will be assured and that the person who made the threat is now subject to investigation.

I should like to be able to stand here and say that the picture presented in the High Commissioner's Report to the General Assembly, completed at the end of August, has since been over-taken by positive human rights developments in the weeks since it was written and discussed with senior Government representatives. Unfortunately, in most respects this is not the case and, on the contrary, additional grounds for concern have emerged. What is positive is the commitment of many human rights defenders to speaking out against abuses both by the Maoists and by the State, and we will continue to work with them and with the National Human Rights Commission, as well as with the authorities, in pursuing OHCHR's mandate of promoting and protecting fundamental human rights.