



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



Statement to the Press

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in Nepal

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I am pleased to be able to release to you the report of the High Commissioner for Human Rights on the human rights situation and the activities of her Office in Nepal, which she will present to the 62nd session of the Commission on Human Rights, scheduled to be held from 13 March to 21 April. The report is also being made public in Geneva today.

The report reflects the monitoring and activities of OHCHR-Nepal until the end of January. It is divided into three main sections: the first addresses violations by State authorities and by the Communist Party of Nepal (Maoist) in the context of the armed conflict; the second addresses issues of respect for democratic rights; and the third touches upon some longer-standing human rights issues. I want now both to highlight some major conclusions of the report, and to refer to developments since it was completed that are likely to be of concern to the Commission.

The most significant factor affecting the trend in conflict-related abuses was the four months of unilateral ceasefire declared by the CPN (Maoist). This saw a marked reduction in killings of all kinds, although other violations by the CPN (Maoist) continued, including abductions, threats and extortion, as did violations by security forces. There was also a marked decline in disappearances reported in 2005, although I must stress as strongly as I can the continuing responsibility of the State to clarify the many outstanding cases of disappearances from previous years.

It is a tragedy for the people of Nepal that full-scale conflict has now resumed. When the unilateral ceasefire ended, High Commissioner Louise Arbour emphasized that there must not be the same gross violations of international humanitarian law and human rights standards that have been perpetrated during previous phases of the conflict. She declared that those on either side of the conflict who commit violations must be held accountable, and that this Office would be closely monitoring the conduct of both parties. OHCHR has conducted field investigations in districts where major military operations or encounters have taken place. Our investigations into clashes in Kichnas (Syangja District), Tansen (Palpa District), Phaparbari (Makwanpur District) and Panauti (Kabrepalanchok District) found that each of the clashes occurred in highly populated areas, placing the civilian population in grave danger, and combatants made use of civilian buildings, including schools. This violates the requirements of international

humanitarian law to protect civilians against the dangers arising from military operations. Other violations noted in our investigations included a small number of civilian deaths; a series of abductions of civilians by the CPN (Maoist), most of whom have since been released; and destruction or damage of a school and other public buildings. Children in particular have been placed at risk, including as combatants within the CPN (Maoist), by indiscriminate action by the security forces, including aerial bombardment, and by the placement or abandonment of explosive devices.

We have nevertheless noted a number of positive steps taken by both sides to minimize civilian casualties, for example in the cases of Syangja and Panauti where the Royal Nepalese Army (RNA) showed clear restraint in responding to CPN (Maoist) attacks. OHCHR also notes that neither side has engaged in a pattern of deliberate killing of civilians in these combat situations, and that the CPN (Maoist) has promptly released captured members of the security forces. OHCHR's investigations into allegations that five police were deliberately killed inside Thankot police station have been unable to establish the facts with certainty, but I have been assured by the leadership of the CPN (Maoist) that they do not intend to target unarmed police.

Turning to issues of democratic rights, when our Office was opened in early May last year, the state of emergency declared on 1 February 2005 had only recently been lifted and many political and civil society activists were still detained under the Public Security Act. Eventually all were released, but we continued to be concerned about restrictions or attempted restrictions on fundamental rights: on freedom of expression, through the Media Ordinance; on freedom of association, through the Code of Conduct imposed on non-governmental organizations; and on freedom of peaceful assembly. Blanket bans were imposed in many municipalities as a means to prevent the exercise of the right to freedom of peaceful assembly, culminating in the ban, curfew and mass arrests to prevent protest in Kathmandu on 20 January 2006 and similar measures around the country in the days up to 8 February. The great majority of detainees have been arbitrarily arrested for exercising their right to freedom of assembly or expressing their political opinion. Some have now been detained in unsatisfactory conditions for four weeks. In every case brought before the courts their detention is being found illegal, and the authorities should not be waiting for court orders before releasing all those against whom there is no evidence of involvement in violence.

OHCHR has monitored a large number of demonstrations, and sometimes has been able to acknowledge a high degree of restraint by the police. But there have also been serious cases of excessive use of force, and in a few cases beatings amounting to torture of those taken into custody. Most seriously of all, a demonstrator died when the RNA fired on demonstrators in Ghorahi (Dang District) on 8 February. OHCHR is investigating the circumstances, and has sought information from the Home Minister, the RNA and the police about official investigations. We do not believe that investigations are being undertaken with the seriousness and independence that is required.

The murder of two election candidates, death and injury to others in attacks on candidates or their homes, and the murder of a taxi driver during the Maoist-declared bandh, are all to be utterly condemned. When the spokesperson of the CPN (Maoist) responded publicly to my call to confirm that it is against their policy to take physical action against any unarmed persons, he

said that his party was already investigating several incidents of this nature. I repeat now my call for the results of such investigations to be made public and action taken against those responsible. I welcome the releases that have taken place of some persons abducted and detained by the CPN (Maoist), but I call for the release of all, including the three executives of Surya Nepal whose holding as hostages has been acknowledged by the All Nepal Trade Union Federation – Revolutionary.

I am often asked whether the presence of OHCHR-Nepal has had a positive impact on the human rights situation. Our cooperation with State authorities and with the CPN (Maoist) has certainly developed over the short period since our Office was established. The reduction in the number of detainees in army barracks and of disappearances, and the commitments to establish a central register of detainees and to legislate against torture, are positive developments, but transparent investigations, prosecutions and appropriate punishment to end the impunity of perpetrators are essential. The leadership of the CPN (Maoist) has made further commitments to us and to others that they will observe international humanitarian law and respect human rights, but they have to ensure that their cadres respect these in practice.

The question about our impact is best answered by Nepalis, and many Nepalis tell me that they believe that violations would be more severe if we were not present. But one cannot separate our work from that of our partner organizations: the National Human Rights Commission, human rights NGOs, the Nepal Bar Association and other civil society organizations. I pay tribute to all who have worked for human rights in the period of this report, and I hope that their efforts will be rewarded with greater improvements in the period ahead. As the High Commissioner concludes her report, the best basis for building the full respect for human rights would be the peace for which the people of Nepal continue to yearn.