



## **Statement to the Press**

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**United Nations High Commissioner for Human Rights**

### **On Bardiya Disappearances** **21 January 2007**

I met today in Bardiya with relatives of the disappeared who were seized by army patrols in 2001 and 2002. Clarifying the whereabouts of all those who disappeared after arrest and determining who was responsible must be a pressing priority.

I have received a list of almost two hundred names of those arrested or allegedly seized in Bardiya by the Nepalese Army. Their fate has never been revealed by the authorities. As their relatives sought to locate them, they faced constant denials that they had been detained, in spite of witnesses to the contrary. A typical case is that of teacher Shagun Lal Chaudary, who was arrested in front of witnesses on 27 December 2001 by an army patrol. He was last seen in Chisapani Barracks, in early 2002, but since then there has been no news of his whereabouts and the NA denied his arrest. Added trauma is faced by families when the fact that their loved ones have disappeared is not even recognized by the authorities.

A recent decision of the Supreme Court to request a Task Force to investigate the cases of those who disappeared from the Bhairabnath Battalion Barracks in 2003/4 is encouraging and my Office has called for the Task Force to be given adequate resources and support to undertake their onerous task. But my Office continues to call for the establishment of a credible, competent, impartial and fully independent commission to clarify all the cases of the disappeared - whether by the State or CPN-M - and hold to account those who were responsible. The findings of such a commission should be made public and widely disseminated.

Those members of the Nepalese Army implicated directly or through command responsibility for units involved in disappearances should be suspended from any official duties pending the investigation, and should not be proposed for participation in United Nations peacekeeping missions. Persons against whom there is evidence of criminal responsibility should be brought to justice before a civilian court, in accordance with international principles related to impunity.

At the same time, reparations must also be addressed. The Tharu women relatives of the disappeared, in particular, have faced a constant economic struggle to survive, through lack of income, the social stigma of being without a husband, and the unclear legal status of property due to the unknown situation of the disappeared individual. The impact on the social, cultural and economic rights of family members of the disappeared must not be ignored by the Government.

Disappearance itself is an ongoing human rights violation, and under international law States have an ongoing obligation to investigate allegations of enforced disappearance until the whereabouts or fate of disappeared persons is determined. OHCHR has received some 500 reports of disappearances by state authorities and of some 120 people reportedly abducted by the CPN(M) during the conflict whose whereabouts has not yet been clarified.

In addition to establishing a fully independent commission to investigate all disappearances, the Government must take action to prevent such abuses occurring again. The current legal framework in Nepal is inadequate to protect against disappearances, which is not criminalized under existing law. The new Army Act explicitly provides that Courts Martial have jurisdiction over disappearances and torture – these are grave human rights violations, and must be dealt with instead through the civilian justice system. The Government could also demonstrate its commitment to preventing disappearances by ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, which was recently adopted by the General Assembly, in December 2006.

My Office will continue its investigations into disappearances in Bardiya, and other parts of the country, both by the State security forces and by the CPN (Maoist). We will continue to work with the families of the disappeared to ascertain their whereabouts or fate, and to achieve justice.