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Nepal: The Maoists' conflict and its impact on the rights of the child

**An alternate report to the United Nations Committee on the
Rights of the Child on Nepal's 2nd periodic report
(CRC/CRC/C/65/Add.30)
Geneva, Switzerland**

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I. Introduction

On 20 May 2005, the UN Committee on the Rights of the Child is scheduled to examine the second periodic report of the government of Nepal. Although the periodic report was submitted on 3 December 2004, it failed to make any reference to the significant adverse impact of the armed conflict between the Government of Nepal and the Communist Party of Nepal (Maoists) on the enjoyment of the rights of the child in the country. An estimated 305 children have been killed from 13 February 1996 to 28 February 2005. Out of these, 168 children were reportedly killed at the hands of the state and 138 at the hands of the Maoists.¹ Yet, Nepal is portrayed as a country with little problems. It does not help the purpose of examining the periodic reports.

Since the King took over in a *coup de tat* on 1 February 2005, the human rights and humanitarian crisis have worsened further. During 100 days of direct rule 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. The children and schools have been specifically targeted both by the Maoists and the security forces.²

While the Maoists reportedly control about 75% of landscape of Nepal, entire Nepal is afflicted by the Maoists' armed conflict. The armed conflict must be the bearing factor while examining the implementation of the Convention on the Rights of the Child in Nepal

Suhas Chakma
Director

¹. http://www.inseconline.org/download/Killings_Data.htm

². Asian Centre for Human Rights, 100 Days of Tyranny in Nepal, 9 May 2005

II. Executive Summary and Recommendations

The deplorable condition of the rights of the child requires little introduction. While centuries old discrimination continues unabated, the Maoist conflict has made children extremely vulnerable to abuses both by the security forces and the armed opposition groups.

Non-Discrimination:

In Nepal, discrimination is deep rooted and ingrained in the caste system existent in the Nepalese society that adversely effect 4.5 million Dalits. The constitutional guarantees prohibiting the practice of untouchability had little or no effect. The institutions created by the government like the National Committee for the Upliftment of the Depressed, the Oppressed and Dalit Community, National Women's Commission, National Dalit Commission, and the National Human Rights Commission have proved to be inadequate and ineffective.³ The NHRC, which is the most effective national institution, did not have any recommendation on Dalits in its annual report of 2003 on the subject.⁴

There are reportedly 205 types of discrimination against the Dalits - 54 types of discriminations relate to denial, 10 relate to entry in public places, 14 relate to services, six relate to access to common resources, 10 relate to kinship and three relate to relationship and 14 relate to public participation.⁵

On 17 May 2004, Sita Sada, a 17-year-old Dalit girl was allegedly kidnapped from her house at a Dalit settlement in Inarwa-6 in Sunsari district of Nepal and killed after being gang raped. The police freed the culprits.⁶

Right to life:

Children do not enjoy the right to life in Nepal because of the armed conflict with the Maoists. Yet, the second periodic report of Nepal only refers to death due to non-availability of medical treatment. It fails to refer to death due to lack of food security often created due to economic blockade by the Maoists and the security forces. From 13 May 1996 to 28 February 2005, an estimated 305 children have been killed respectively 168 children at the hands of the state and 138 at the hands of the Maoists.⁷

On 22 March 2005, three school children – 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.

³. <http://www.alrc.net/pr/mainfile.php/2004pr/32/>

⁴. <http://www.nhrc-nepal.org/docs/Annual%20Report%20Summary%202003.PDF>

⁵. Discriminations galore law notwithstanding, The Kathmandu Post, 21 March 2004

⁶. Dalit families relocate after rape, murder of girl, The Kathmandu Post, 22 May 2004

⁷. http://www.inseconline.org/download/Killings_Data.htm

The children were in their school uniform. The Royal Nepal Army has ordered an inquiry into their killings following massive protests.⁸

Name and nationality:

The periodic report fails to reflect anything about the plight of the persons without nationality and lack of compliance with Sub-sections 4 and 5 of Section 3 of the Nepal Citizenship Act, 1964. Under the law, an applicant needs to provide evidence that his/her birth has been registered. According to UNICEF, only about 21 per cent of births are registered in Nepal, and these are mostly in major towns.⁹

The Citizenship Amendment Bill introduced in the Parliament in 2001 could not be passed as the Supreme Court held some of the provisions of the amendment bill as unconstitutional.¹⁰ This has deprived hundreds of thousands of children belonging to Badi, Dalits¹¹, Sikhs¹², Madhesi community¹³ and the Chepangs¹⁴ the right to nationality.

Freedom of thought, conscience and religion:

Though the Article 19 of the 1990 Constitution of Nepal provides for freedom to profess or embrace any religion in the Kingdom, it is not free altogether from religious violence. The upper caste Hindus often try to suppress the religious minorities. The Dalits are the worst victims of religious intolerance and caste based discriminations. In August 2004, Dalits were denied entry into the Navadurga Shiv Panchyan Temple in Bharatpur in Chitwan district.¹⁵

Freedom from torture:

In Nepal, children remain widely vulnerable to human rights violations including torture and detentions. Out of 6,315 cases of violations of the rights of the child recorded by Child Workers in Nepal Concerned Centre during 2004, a total of 324 were found to be of torture by security forces

Corporal punishment:

Corporal punishment including sexual assault remains a serious concern in Nepal. The law permits corporal punishment in the so-called best interests of the children.¹⁶ The

⁸. Army to probe killing of students, The Kathmandu Post, 1 April 2005

⁹. www.oxfam.org.uk/what_we_do/resources/downloads/gdc_laczo.pdf+denial+of+citizenship+rights+in+Nepal&hl=en

¹⁰. <http://www.nepalnews.com.np/archive/2001/october/arc281.htm#4>

¹¹. <http://www.insec.org.np/download/Informal.pdf>

¹². Nepali Sardars, Nepal News.com, Kathmandu, April, 2001

¹³. 34 lakh Madhesis 'deprived' of citizenship, The Himalayan Times, 28 February 2005

¹⁴. <http://www.nepalnews.com.np/archive/2003/june/arc712.htm#4>

¹⁵. Dalits banned from a temple, The Kathmandu Post, 12 August 2004

¹⁶. Corporal punishment: Blatant violation of human dignity, The Kantipuronline.com, 16 November 2004

Nepal Children's Act, 1992 forbids cruel treatment of children while allowing parents, family members and teachers to beat a child lightly if it is for the purpose of correcting behavior. Nepal's Civil Code or Muluki Ain (Laws of the Land) states that guardians and teachers shall not be held responsible if they fatally hurt a child in the course of education or defense; if the beating results in death, they shall be punished with a small fine. The Child Workers in Nepal Concerned Centre reported 32 cases of severe corporal punishment in 2001¹⁷, 66 cases in 2002,¹⁸ and 203 cases in 2003.¹⁹

Right to education:

Out of per 100 children only 80 are admitted to school; and out of 80 enrolled only 51 complete the primary level in Nepal.²⁰ About 34.2% of children aged 6-10 years are out of the school system.²¹ The education system has completely collapsed in 75% of Nepal controlled by the Maoists. The Royal Nepal Army personnel have turned hundreds of schools into military barracks. Kidnapping of teachers and students and destruction of schools by the Maoists are common in Nepal.

Between April 1996 and May 2004, a total of 136 teachers have lost their lives in the on-going Maoist conflict while another 200 have left for urban centers seeking safety.²² In May 2004, approximately 7,000 out of the 14,500 teachers, who had passed the licensing examinations conducted by the Teachers' Service Commission, could not join duty due to Maoist opposition. The Maoists insist that their *Janabadi Sikshya* (people's education) be made part of the school curriculum and that teachers have to take training on it first.²³

Between 1 February and 9 May 2005, the Maoists attacked 23 schools resulting into destruction of many schools and injuries to children.

Thousands of students are denied the right to education in the *bandhs* (general strikes) called by the Maoists' student wing All Nepal National Free Students Union - Revolutionary (ANNFSU -R) for indefinite closure of schools and colleges in the country to press their demands. Private schools are specifically targeted. 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.²⁴

Refugee children:

Among the refugee children, the Tibetan refugees remain the most vulnerable to human rights violation including arrest, imprisonment, torture, heavy fines and forced

17. http://www.cwin.org.np/resources/reports/ROC_2002/index.htm

18. CWIN's state of the rights of the Child-2003

19. http://www.cwin.org.np/resources/reports/roc_2004/roc_report04.htm

20. CWIN's state of the rights of the child-2003

21. http://www.cwin.org.np/resources/reports/ROC_2002/index.htm

22. *ibid*

23. Maoists bar teachers from joining schools, The Kathmandu Post, 20 May 2004

24. Maoists bomb school in Nepalgunj, injure students in Rukum, Nepal News.com, 17 April 2005

repatriation to China. The closure of the Tibetan Refugee Welfare Office on 21 January 2005 has increased the risks further. On 13 January 2004, three Tibetan refugees, including one minor, were handed over to Chinese border police by Nepalese officials at the Friendship Bridge border post at Dram.²⁵ Nearly 3,000 Tibetans risk their lives every year while coming over the Himalayas into Nepal.²⁶

Children in armed conflict situations:

Both the security forces and the Maoists make children victims for the alleged offences or crimes allegedly committed by parents. They have been victims of extrajudicial executions, torture, disappearances and rape etc. The girls have been raped and molested by the security forces. On 10 November 2004, half a dozen security personnel allegedly raped a 15-year-old Majhi girl in the dense Charkoshe Jhadi forest of Bharaul village of Sunsari district.²⁷ According to an investigation team of the National Human Rights Commission of Nepal that visited the place of offence, a police constable allegedly involved in the crime has been identified while five Royal Nepalese Army personnel are yet to be identified.²⁸

The children have also been victims of arbitrary killings, abductions and torture at the hands of the Maoists. Thousands of children have been recruited as child soldiers. On 13 and 14 November 2003, the Maoists allegedly forcibly mobilized around 1,000 students from several schools of Achham district for "organisation expansion." The abducted students comprised of the nine grade and above mostly from the Jalapa Devi and Bidhya Mandir higher secondary schools and schools of Raniban, Dhakari, Toli, Binayak, Koika Village Development Committees (VDCs).²⁹ Another 200 teenaged students were allegedly been abducted by the Maoists from Nandeswari Secondary School and Bindeswari School in Achcham district on 4 December 2003.³⁰

Juvenile Justice:

The provisions of the Children's Act of Nepal of 1992 have not been fully implemented. Juvenile justice is still treated as a section of criminal justice system. The government failed to establish a "Children's Correction Home". Children are seldom given different treatment when they are brought to the attention of the justice system. They are often kept in custody together with adults, and the processes and jurisdiction applicable to the investigation, remand, bail and judicial custody are similar to that of adults.³¹

The Maoists conflict has put children at further risks. On 9 September 2004, Jhurri Teli (16 years), resident of Belhiya VDC-7 Banke district was reportedly arrested by the

25. <http://www.achrweb.org/press/2004/Oct2004/TIB-061004.htm>

26. <http://hrw.org/english/docs/2005/01/28/nepal10085.htm>

27. Army men accused of raping 15-yr-old, The Kathmandu Post, 16 November 2004

28. Security forces raped 15-yr-old girl: NHRC, The Nepal News Com, 2 December 2004

29. Thousand students abducted? The Himalayan Times, 15 November 2003

30. 200 school kids abducted: Official, The Himalayan Times, 6 December 2003

31. CWIN's State of the Rights of the Child in Nepal-2003

plain-cloths security personnel from the Nepagunj Municipality-16, was detained in different detention centres and prisons till 28 September 2004 when the Appellate Court of Nepalgunj ordered his release. However, the next day at about 2.00 pm, in the presence of lawyers and several representatives of human rights organizations, a police team under the command of Police Inspector Rajendra Prasad Bhatta from the Banke District Police Office, re-arrested him.

The condition of the children of convicts is quite worse. Because of the lack of shelter, 7-year-old Ajbira Saiyad Musalman was sent to the Kapilvastu prison along with her parents³² while Ashmin, Raju and Samjhana Lama, all below eight years of age, were living in a congested women's cell of the Central Jail, Kathmandu along with their mother.³³

Children in situation of exploitations:

As many as 350,000 to 400,000 Nepalese have been displaced from their villages during the last nine years of the Maoists conflict. However, the government of Nepal has no specific policy over the internally displaced persons. Initially, the government established the Victims of Conflict Fund under which IDP families were entitled to nearly \$1.3 per day but the problem was that many failed to provide proof that they were in fact IDPs and hence were excluded from state support³⁴ leaving them to fend for themselves. This has rendered many of the displaced children destitute and hapless exposing them to their exploitation as child labour, sexual exploitation, trafficking and sale, forced prostitution etc.

According to Central Bureau of Statistic (CBS), Central Department of Population Studies (CDPS) and International Labour Organisation (ILO), the total number of working children between 5 to 14 years is 2.6 million (25,96,000) of which the economically active children are 1.7 million (1,66,0000). Of these 127,000 children work in worst forms of child labour defined by ILO.³⁵ The conflicts with the Maoists have forced thousands of children to cross over to India and work in exploitative situations.

In many cases, children are exploited by those who ought to protect them from being abused or exploited. In 2000, 34 children sheltered in a childcare centre were reportedly abused and molested by a caretaker in Kathmandu, who was later arrested.³⁶ In 2001, CWIN recorded a total of 223 cases of rape of women and children. Among these cases, 174 or 78% were children below 16 years of age. Some of the incidents were of brutal rape of children below 10 years of age and six of the victims were boys. Even a girl of one and half years old was raped.³⁷ Two minor girls aged nine and ten had been sexually

³². 7-year-old innocent girl languishes in jail, The Kathmandu Post, 14 August 2003

³³. Innocent lives squander away inside the nation's jails, The Rising Nepal, 10 January 2001

³⁴. <http://www.irinnews.org/report.asp?ReportID=45591&SelectRegion=Asia>

³⁵. The State of the Rights of Child in Nepal-2003

³⁶. <http://www.cwin.org.np/resources/reports/roc2001.pdf>

³⁷. http://www.cwin.org.np/resources/reports/ROC_2002/index.htm

exploited by 45-year-old Chirinjivi Rai, chief of the Disabled Freedom Service Center in Lokanthali in Bhaktapur district in July 2004.³⁸

The Maoists insurgency has further contributed to the key factors that encourage trafficking - poverty, gender discrimination, illiteracy, unemployment and most importantly, impunity. On 18 February 2005, Maiti Nepal, Birgunj rescued eight children, including three under the age of 14 years, from Inaruwa on the Nepal-India border who were being trafficked to Delhi.³⁹ Earlier on 10 May 2004, Shashi Kanta Mainali, secretary at the Ministry for Women Children and Social Welfare (MWCSW) himself admitted that "Despite the increasing number of girls and women being trafficked from the country, we are not able to control it as the offenders are getting the protection of highly-placed political officials".⁴⁰

Recommendations:

In order to ensure effective implementation of the CRC, the Committee on the Rights of the Child should make the following recommendations in its Concluding Observations:

I. General principles

The right to non-discrimination

In light of article 2 of the Convention, the Committee should express deep concerns at the widely disparate levels of enjoyment of the rights in the Convention by girls, children belonging to Dalits and indigenous groups.

The Committee should express deep concern at the failure of the National Committee for the Upliftment of the Depressed, the Oppressed and Dalit Community, National Women's Commission, National Dalit Commission, and the National Human Rights Commission to combat discrimination against the Dalits

The Committee should recommend that concerted efforts at all levels be taken to address social inequalities by reviewing and reorienting policies, including increasing budgetary allocations for programmes targeting the most vulnerable groups, seeking technical assistance from, among others, UNICEF and strengthening the national institutions.

Right to life

The Committee should express concerns at the reported deprivation of the right to life of children both by the Maoists and the security forces and imposition of blockade both by the Maoists and security forces, which contribute to the deprivation of the right to life.

³⁸. Custodian sexually abuses two minors, The Kathmandu Post, 22 July 2004

³⁹. Maiti Nepal rescues 8 children, The Himalayan Times, 19 February 2005

⁴⁰. Girl traffickers getting high-level protection, The Kathmandu Post, 11 May 2004

The Committee should recommend the State Parties to order prompt and impartial inquiries into any report of children being killed and order the security forces not to impose blockade on essential commodities.

II. Civil rights and freedoms

Birth registration

The Committee should express concerns that birth registration cannot be taken up in many parts of the country and that only about 21 per cent of births are registered in Nepal, mostly in major towns.

The CRC Committee should recommend that the State party should issue necessary administrative directive not to discriminate against children (**not**) having birth certificate and authorise the Village Development Committees to issue such certificates.

Right to nationality

The Committee should express serious concern about the denial of the right to nationality to the children belonging to Badi, the Dalit, Sikh, Madhesi and the Chepangs communities.

The Committee should recommend that the State party take measures to provide these children with a nationality, in accordance with article 7 of the Convention.

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

The Committee should express concerns at numerous reports of ill treatment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children by law enforcement officials.

The Committee should recommend the State party:

- **Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**
- **Set up child-sensitive mechanisms to receive complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and in detention centres;**
- **Investigate and prosecute complaints in a child-sensitive manner;**
- **Strengthen its efforts to train the law enforcement personnel on the human rights of children; and**
- **In light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.**

Corporal punishment

The Committee should express concerns about the allowing of corporal punishment under the Nepal Children's Act, 1992 and Muluki Ain (Laws of the Land), continued gap between existing legislation and its practical implementation and instances of numerous corporal punishments.

The Committee should strongly recommend that the State party prohibit corporal punishment in the family, in schools and other institutions and undertake campaigns to educate families, teachers and other professionals working with and/or for children on alternative ways of disciplining children.

III. Education, leisure and cultural activities

The Committee should express concerns that high number of school drop outs, attacks on schools by the Royal Nepal Army and the Maoists, the kidnapping and killings of teachers by the Maoists.

IV. Special protection measures

The Committee should express concern that the conflict with the Maoists across Nepal has seriously affected children, especially their right to life through extrajudicial executions, survival and development (article 6 of the Convention).

The Committee should express its very serious concern at reports of children who are involved in and are victims of these conflicts and call upon the Maoists to stop recruitment of child soldiers.

In light of articles 38 and 39 of the Convention, the Committee should recommend that the State party ensure respect for human rights and humanitarian law aimed at the protection, care and physical and psychosocial rehabilitation of children affected by armed conflict, notably regarding any participation in hostilities by children. The Committee (should call) upon the State party to ensure impartial and thorough investigations in cases of rights violations committed against children and the prompt prosecution of those responsible, and that it provide just and adequate reparation to the victims.

Refugee children

The Committee should welcome the generous policy of the State party in hosting the Bhutanese refugees but express concerns about the discrimination against the Tibetan refugees including the closure of the Tibetan refugee centre and refoulement of the Tibetan refugees.

In light of article 22 of the Convention, the Committee should recommend that the State party consider acceding to the 1951 Convention relating to the Status of

Refugees and its 1967 Protocol, and adopt comprehensive legislation to ensure adequate protection of refugee and asylum-seeking children, including in the fields of physical safety, health, education and social welfare, and to facilitate family reunification.

Economic exploitation, including child labour

The Committee should take note of increase of economic exploitation of children as a result of the Maoists conflict.

Among others, the Committee should call upon the State party and relevant specialised agencies to report on the impact of the Maoist conflict upon the rights of the child in Nepal.

Sexual exploitation of children/trafficking in children

The Committee should express concerns about the sexual exploitation of children in the protective custody of the State and impunity enjoyed by the culprits.

In light of articles 34 and 35 and other related articles of the Convention, the Committee should recommend that the State party:

- **Provide sufficient human, financial and technical resources for the ensuring that perpetrators are brought to justice;**
- **Strengthen its policies to facilitate the reunification of child victims of trafficking with their families and provide adequate care and reintegration programmes for children who have been sexually exploited and/or trafficked, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children; and**
- **Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**

Administration of juvenile justice

The Committee should express concerns that juvenile justice is still treated as a section of criminal justice system and there is no "Children's Correction Home" and that children are often kept in custody together with adults, and the processes and jurisdiction applicable to the investigation, remand, bail and judicial custody are similar to that of adults.

The Committee should also express concerns about the re-arrest of juveniles accused of having links with Maoists despite the release by the courts; and

The Committee should further express concerns about the detention of children of convicted persons in prisons because of the lack of rehabilitation of the children of convicts in clear violations of the Prison Act (1962) which provides that if both parents are imprisoned and there is no relative to care for the child, the child will be sent to a children's home.

The Committee should recommend that the State party take all appropriate measures to implement a juvenile justice system that is in conformity with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System.

In addition, the Committee should recommend that the State party:

- **Take all necessary steps to establish, as a measure of urgency, to amend Children's Act of 1992 to bring conformity with obligations under the CRC;**
- **Strengthen training programmes on relevant international standards for all professionals involved with the system of juvenile justice;**
- **Strengthen rehabilitation and reintegration programmes especially the children of convicted prisoners being kept in prisons;**
- **Use deprivation of liberty only as a measure of last resort; and**
- **Consider seeking technical assistance from, among others, OHCHR and UNICEF.**

Minorities/indigenous children

The Committee should express concern that indigenous children have been disproportionate victims in the conflict with the Maoists and at the situation of children belonging to indigenous peoples who face discrimination and at their limited access to social services, including health care, immunization and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.

III. General Principles

Article 2: Non-Discrimination

In its second periodic report⁴¹ the government of Nepal states that discrimination is prevalent in only some communities. It is a highly overstatement of facts. In Nepal, discrimination is deep rooted and ingrained in the caste system existent in the Nepalese society. Though the government of Nepal has repeatedly showed strong commitments on paper to eradicate caste-based discrimination, the practice of untouchability continues to stigmatise the 4.5 million Dalits in the country. Despite a constitutional provision prohibiting the practice, it remains rampant, and the perpetrators are seldom prosecuted.

Like most institutions in Nepal, institutions that are mandated to tackle caste-based discrimination are ineffective. The National Committee for the Upliftment of the Depressed, the Oppressed and Dalit Community consists of political appointees whose sole purpose seems to be silencing opposition to the government within the Dalit community. Besides bringing a draft bill on the Upliftment and Protection of the Dalit Community before parliament, which remains stalled due to the suspension of parliament, the National Dalit Commission has done little else. As it is directly under the Ministry for Local Development, its functioning depends upon the whims of concerned minister and is subject to political influence. It is not a permanent body: its mere two-year tenure impedes its functioning and its continuation is subject to the decision of parliament.

The National Women's Commission reportedly prefers to direct complaints to the National Dalit Commission rather than taking up the cases filed with it. The National Human Rights Commission does not have any Dalit member. The NHRC in its 2003 report failed to make any recommendation on the Dalits.⁴²

In most places, Dalits live mainly in separate villages. Dalits are not allowed to enter many Hindu temples, for fear of polluting the temples. Dalits have been chased out, abused and beaten up for daring to set foot inside a temple, even though it is a temple of their religion. While Dalits are considered as "untouchable" - too "polluted" to be touched by the upper castes - the rape of Dalit women and girls, who represent the honour of the community - by the upper caste Hindus is commonplace.

Untouchability results in widespread discrimination against the Dalits. According to a research paper of the Action Aid Nepal, there are 205 types of discrimination existing against the Dalits. 54 kinds of discriminations are related to denial, 10 related to entry in public places, 14 to services, six to access to common resources, 10 to kinship, 3 to relationship and 14 to participation.⁴³

⁴¹. CRC/C/65/Add.30 of 3 December 2004

⁴². <http://www.nhrc-nepal.org/docs/Annual%20Report%20Summary%202003.PDF>

⁴³. Discriminations galore law notwithstanding, The Kathmandu Post, 21 March 2004

The following cases, though not exhaustive, are indicative of the trend of caste-based discrimination in the kingdom.

Case 1: Assaulting of two Dalit boys for bathing in a pond of upper caste man

On 25 April 2004, two Dalit boys were allegedly beaten up by one Mahabir Yadav, the pond owner for bathing in his pond at Bisahariya in Rajbiraj in Saptari district of Nepal. The boys' father Ghinai Sada (Musahar) alleged the pond owner Mahabir Yadav, tied his sons' hands and beat them. He said when he and his neighbours Bauki Sada, 80, and Hirai Sada, questioned Yadav about the act, Yadav rebuked them. Then Mahabir aided by Asarfi and Dukhi Yadav beat them.⁴⁴

Case 2: Killing of a Dalit girl after gang rape

Sita Sada, a 17-year-old Dalit girl was allegedly kidnapped from her house at a Dalit settlement in Inarwa-6 in Sunsari district of Nepal on 17 May 2004 and killed after being gang raped. Her body was recovered from a nearby pond. Chunchun Chaudhary, one of the suspects set free by the District Police Office (DPO), had allegedly threatened the deceased girl a year earlier of dire consequences. Terrified over the release of the three suspects detained from near the incident site by the DPO, the Dalit population comprising 20 families had relocated themselves to some other secure locations.⁴⁵

Case 3: Ban on Dalits from entering temple

In August 2004, Managing Committee of the Navadurga Shiv Panchyan Temple in Bharatpur in Chitwan district of Nepal, denied participation of the Dalits in the Yogya celebration of the temple. The Committee allegedly made the lame excuse that the last date of registration was over.⁴⁶

Case 4: Restrictions on Dalit's freedom of movement

The upper caste Hindus imposed a blockade on the movement of Chamars, a Dalit community of Piprahi in Bisariya VDC of Saptari district, in the last week of September 2004 for refusing to play Dhol (a musical instrument) during the Dashain festival. A meeting of the upper class people had reportedly decided that all Dalits should come to play the Dhol during the festival. When the Dalits refused to carry out the decision, the upper castes imposed blockade on their movement. Many of them even left their villages to avoid the sufferings.⁴⁷ Hundreds of Dalits families were forced to starve due to economic blockade. The blockade prevented Chamars from practising their profession or earning their livelihood through other means.⁴⁸

⁴⁴. 3 Dalits hurt in caste clash, The Himalayan Times, 26 April 2004

⁴⁵. Dalit families relocate after rape, murder of girl, The Kathmandu Post, 22 May 2004

⁴⁶. Dalits banned from a temple, The Kathmandu Post, 12 August 2004

⁴⁷. Ban imposed on Dalits' mobility, The Himalayan, 2 November 2004

⁴⁸. Chamars face starvation after upper caste blockade, The Himalayan Times, 3 November 2004

Article 6: The right to life, survival and development

In its Second Periodic Report (paragraphs 84 to 89), the Government of Nepal only refers to deaths occurring due to lack of medical treatment consequent upon its failure to provide for the same.

The second periodic report fails to include the systematic violations of the right to life by the Maoists as well as the security forces.

From 13 May 1996 to 28 February 2005, an estimated 305 children have been killed respectively 168 children at the hands of the state and 138 at the hands of the Maoists.⁴⁹

Please refer to the chapter on the children caught in armed conflict for further information.

IV. Civil and Political Rights

Article 7: Name and Nationality

In its second periodic report, the government of Nepal fails to refer to the plight of the persons without nationality.

Sub-sections 4 and 5 of Section 3 of the Nepal citizenship Act, 1964, provides, “(4) Any child who is found within the territory of Nepal but the whereabouts of whose parents aren't known shall be deemed to be the citizen of Nepal *jus sanguinis* until the father of the child is traced; (5) Any minor born within a reasonable time after death of his father shall be deemed to retain the status of the father existing at the time of his father's death.” However, the provisions are hardly complied with in practice thereby depriving many of nationality and the rights of a Nepalese citizen.

To apply for citizenship, an applicant needs to provide evidence that his/her birth has been registered. But process of registration of births has not been taken up widely by the government till recently. According to UNICEF, only about 21 per cent of births are registered in Nepal, and these are mostly in major towns.⁵⁰ With 75% percent of Nepal being under the control of the Maoists, the government simply does not exist in these areas to register births or deaths.

The Supreme Court of Nepal also blocked the adoption of the Citizenship Amendment Bill of 2001 by declaring some of the provisions of the amendment bill as unconstitutional.⁵¹

Hundreds of thousands of children are denied the right to nationality.

⁴⁹. http://www.inseconline.org/download/Killings_Data.htm

⁵⁰. www.oxfam.org.uk/what_we_do/resources/downloads/gdc_laczo.pdf+denial+of+citizenship+rights+in+Nepal&hl=en

⁵¹. <http://www.nepalnews.com.np/archive/2001/october/arc281.htm#4>

Case 1: The denial of the right to citizenship to the Badi children.

Article 9 of the constitution has been an impediment for Dalit women namely Badi from being citizen of the country. Article 9(2) of the constitution of Nepal provides that every child who is found within the Kingdom of Nepal and the whereabouts of whose parents are not known shall, until the father of the child is traced, be deemed to be a citizen of Nepal by descent. This provision has assigned authorities power to give citizenship certificate to those who come with the name of his/her father but not mother. The citizenship certificate cannot be claimed with the name of mother. The Badi children are worst affected by this provision as majority of their mothers are sex workers and therefore are not able to identify the actual father of their children. On the other hand, the officials at the village development committee and municipalities refuse to register the birth of Badi children, even in cases where their fathers exit.⁵²

Case 2: The denial of the right to nationality to Sikh people

There are over 3,000 Sikhs living in Nepal for the last 45 years. But they are still denied Nepalese citizenship and they face tremendous hardships. Owing to the absence of citizenship, they can't register property in their names and have to rely on the goodwill of friends, which is too risky.⁵³

Case 3: Deprivation of citizenship to Madhesi community

Around 34 lakh members of Madhesi community, persons of Indian origin, living in the Terai region, have been deprived of citizenship rights. As a result, Madhesis and their children have been denied access to country's resources and their basic rights to food, shelter, healthcare, and education. The children of Madhesi community have been suffering from various problems related to their identity.⁵⁴

Case 4: Deprivation of citizenship right to Raju Pariyar

Raju Pariyar, a Dalit youth from Chandranigahpur Village Development Committee of Rautahat District of western region has been denied citizenship by the local authorities on the grounds of his "low" caste. The officials in the District Administration Office rejected Raju's application for more than a year, saying that he shall acquire citizenship only after the House of Representatives pass the bill on Dalits in the parliament, even though he had met all the requirements including his age to apply for the citizenship. Raju works at a local hotel and needed to acquire the citizenship to try for a better job.⁵⁵

⁵². <http://www.insec.org.np/download/Informal.pdf>

⁵³. Nepali Sardars, Nepal News.com, Kathmandu, April, 2001

⁵⁴. 34 lakh Madhesis 'deprived' of citizenship, The Himalayan Times, 28 February 2005

⁵⁵. CWIN's state of the rights of child in Nepal -2003

Case 5: Denial of nationality to Chepangs

Most members of the Chepang community, one of Nepal's minority communities, are yet to get Nepalese citizenship. They are alien in their ancestral lands in Makwanpur district, where they have been living since time immemorial. The government officials deprive them citizenship right on the ground that they do not have the necessary evidence to be able to get citizenship certificates.⁵⁶

Article 14: Freedom of thought, conscience and religion

Though the Article 19 of the 1990 Constitution of Nepal provides for freedom to profess or embrace any religion in the Kingdom, the upper caste Hindus often try to suppress the religious minorities. The Dalits are the worst victims of religious intolerance and caste based discriminations.

Case 1: Prohibition of entry of Dalits into the temples

On 6 June 2004, hundreds of Dalits, including political representatives, leaders and human rights activists, who were trying to enter the Samauji temple situated at Lalpur VDC in Kailali district, were reportedly barred entry even in the presence of the authorities. The so-called upper caste people also allegedly pelted stones and beat the Dalits while they were returning back home after performing puja at the Durga temple after having failed to enter the other temple that was locked.⁵⁷

The Dalits at the vicinity of the Navadurga Shiv Panchyan Temple in Bharatpur were not allowed to enter into the temple during religious festival in August 2004 on the lame excuse that the last date for registration was over.⁵⁸

At least a dozen people were reportedly injured, three of them seriously, when Dalit activists and 'upper-caste' people engaged in fistcuffs when the later tried to bar Dalits from entering a temple Hindu in Bharatpur Municipality on 4 December 2004. The scuffle began when the 'upper-caste' people present at the Laxmi Benkateshwor Temple premises barred Dalit activists led by human rights activist Krishna Pahadi and Dalit leader Padam Lal B.K from going inside for puja.⁵⁹

Case 2: Attacks on mosques in Kathamandu

On 1 September 2004, the Muslim community in Nepal came under attacks of the unruly mob who was protesting against the brutal killings of 12 Nepalese workers in Iraq by the armed opposition groups. The Nepali Hindus attacked Nepali Muslims' places of

⁵⁶. <http://www.nepalnews.com.np/archive/2003/june/arc712.htm#4>

⁵⁷. Samauji Temple at Lalpur VDC in Kailali district, Dalits barred from entering temple, The Himalayan Times, 10 June 2004

⁵⁸. Dalits banned from a temple, The Kathmandu Post, 12 August 2004

⁵⁹. Temple scuffle between Dalits, 'upper-caste' people leaves dozen injured, The Nepal News. Com, 4 December 2004

worship, as well as on storefronts, shutters, airline offices, shacks and shanties - on anything bearing a signboard that implied ownership by someone of the Islamic faith.⁶⁰ Chairman of Kashmiri Jama Masjid, Syed Nehal Shah lamented that despite their request to the deputy prime minister, home minister and other senior officials to declare curfew from early September 1, adequate security measures have not been taken to prevent the attacks.⁶¹

Article 15: Freedom of Association and peaceful assembly

Soon after imposition of emergency on 1 February 2005, King Gynendra banned all political activities by public servants and all “direct or indirect” criticism of security forces engaged in fighting Maoist insurgency.⁶² No meeting, conference, workshop or interaction programme, which “undermine the Kingdom’s sovereignty and integrity, disturb the law and order of the country or cause any adverse effect on the current state of emergency” 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.⁶³ These prohibitions also applied to the children.

Article 37: The right not to be subjected to torture

Children remain extremely vulnerable to human rights violations including torture and detentions. In its bid to gain information about Maoist activities to find out the whereabouts of Maoists parents, the security forces often detain children and subject them to torture and other cruel, inhuman or degrading treatment or punishment.

Out of total of 6,315 cases of violations of the rights of the child recorded by Child Workers in Nepal Concerned Centre (CWIN) during 2004, a total of 324 were found to be of torture.⁶⁴

Case 1: Detention of 41 SLC students

Security forces detained 41 students on 7 April 2004 from Mangalsen Bazaar, the district headquarters of Achham, on suspicion of being Maoists. The students were preparing to leave the district headquarters, in the far-western region, for their respective homes after appearing in the School Leaving Certificates examination that concluded on 5 April 2004. Local security authorities claimed that only 12 students have been taken under control "for investigation". However, the other 29 students who are below 18 years whom the security force claimed not to have detained have not either left for home. Eyewitness alleged that a combined team of security personnel had searched rooms of these students before their arrests. All the 41 students were arrested and moved towards Jwaladal barracks with their eyes blindfolded. The students whose disappearance was enforced by

⁶⁰. Enter the monster, the Nepali Times, 3–5 September 2004

⁶¹. Attacks on mosques were pre-meditated: Syed Shah, The Nepal News.com, 4 September 2004

⁶². Nepal bans criticism of armed forces, The Tribune, 8 February 2005

⁶³. King lifts curbs on meetings, The Economic Times, 8 February 2005

⁶⁴. http://www.cwin.org.np/resources/reports/roc_2004/roc_report04.htm

the security forces have been identified as Digra Prasad Timilsina, Keshav Timilsina, Hemanta Kumar Timilaina, Devraj Dhakal, Jhankar Chalaune, Man Bahadur BK, all appearing in the exam from Bidhya Mandir Higher Secondary School at Binayak. Nripa Shah, Krishna Khanal, Krishna Rawal, Brikha Bahadur Rawal of Yasoda Secondary School at Netakot, and Purna Shodari of Kalagaon Secondary School.⁶⁵

Case 2: Torture and extra-judicial killing of Bandara, 15 years

Bandara (a.k.a.) Ram Prasad Dhobi, a 15-year-old student was reportedly killed along with four men, Munabber Khan, 25, Mohammad Khan, 30, Rajjab Khan, 25 and Mahendra Barma, 30, by security forces around 6 am on 3 April 2004. The group of about 12 personnel from the joint command came on bicycles and captured all five, of Banke district, while they were sleeping on the roof of Ram Janaki Temple of Sonbarsha village. They tied the hands of the five behind their backs, forced them to lie on the road and beat them with batons and kicked them with their boots. They then told each of the men to run towards the fields in turn, and shot them in the head. Initially they spared Ram Prasad, but an officer from one of two vehicles that arrived later shot him too. After that, they loaded the bodies into one vehicle and drove in the direction of Nepalgunj.⁶⁶

Case 3: Torture of Kumar Lama, 15 years

Kumar Lama, a 15-year-old seller residing at Lazimpath, Kathmandu was reportedly in Taku at 11 am on 29 December 2003 and taken to the District Police Office of Hanumandhoka. According to Kumar, he was sitting in the shop where he worked when two plain-clothed policemen came and arrested him. He was brought to Hanumandhoka in a van, and taken to the interrogation section, where he was beaten for half an hour. The police beat him with a wooden stick on his back, soles and chest. At 10 pm that night he was taken to the interrogation section again and beaten for about two hours. Similar beatings continued over about four days, for half an hour each day. While beating him they told him to admit to committing theft, and to name his friends. His elder brother was also subjected to similar treatment. Both were presented in court on 14 January 2004 on charges of robbery.⁶⁷

Article 28: Corporal punishment

Most teachers in Nepal practice corporal punishment including beating, thrashing, pounding, whipping and even sexual assault and verbal humiliation. Teachers often face pressure from many parents and the Managing Committees to resort to corporal punishment and maintain strict "discipline" in schools. As a result, students suffer severe physical punishment and verbal humiliation in front of their classmates. Some of them may feel so humiliated that they develop psychosocial problems and drop out of school.⁶⁸

⁶⁵. Army detain 41 SLC students, The Kathmandu Post, 9 April 2004

⁶⁶. <http://www.crin.org/resources/infodetail.asp?ID=5367&flag='news'>

⁶⁷. <http://www.crin.org/resources/infodetail.asp?ID=5367&flag='news'>

⁶⁸. <http://www.civict.org.np/disc.html>

Laws in Nepal permit corporal punishment in the so-called best interests of the children.⁶⁹ The Nepal Children's Act, 1992 forbids cruel treatment of children while allowing parents, family members and teachers to beat a child lightly if it is for the purpose of correcting behavior. On the other hand, Nepal's Civil Code or *Muluki Ain* (Laws of the Land) states that guardians and teachers shall not be held responsible if they fatally hurt a child in the course of education or defense; if the beating results in death, they shall be punished with a small fine.

The Child Workers in Nepal Concerned Centre (CWIN) reported 32 cases of corporal punishment in 2001⁷⁰, 66 cases in 2002,⁷¹ and 203 cases in 2003.⁷²

Case 1: Teacher thrashes fourth grader, breaks elbow

On 7 January 2005, Sita Koirala, a teacher of Balkalyan Vidhya Mandir School in Biratnagar-15 reportedly severely beat up Ajit Khadka, a fourth-grader with a stick on his left elbow accusing Ajit Khadka of answering a question asked to another student. Ajit's only fault was that he helped his friend to answer the question that the accused teacher asked to his friend. Ajit said that the teacher beat him till the stick broke into pieces and his left hand had bent backwards after the beating. According to him, three teachers had tried to relocate his displaced bone, but to no avail.⁷³

V. Education, Leisure and Cultural Activities

Article 28, 29 & 31: Education, Leisure and Cultural Activities

Out of per 100 children only 80 are admitted to school and out of 80 only 51 complete the primary level.⁷⁴ About 34.2% of children aged 6-10 years are out of the school system.⁷⁵

a. The collapse of the education system

The right to education has virtually collapsed due to the armed conflict. There are two kinds of educational systems in Nepal – one run by the government and the other by the Maoists, known as *Janabadi Sikshya* (people's education). In May 2004, the Maoists prevented approximately 7,000, out of the 14,500 newly appointed teachers, who had passed the licensing examinations conducted by the Teachers' Service Commission from joining duty. The Maoists insist that their *Janabadi Sikshya* (people's education) be made part of the school curriculum and that teachers got training on it first.⁷⁶ On 11 June 2004, over five-dozen teachers of 13 primary and lower secondary schools, one secondary

⁶⁹. Corporal punishment: Blatant violation of human dignity, The Kantipuronline.com, 16 November 2004

⁷⁰. http://www.cwin.org.np/resources/reports/ROC_2002/index.htm

⁷¹. CWIN's state of the rights of the Child-2003

⁷². http://www.cwin.org.np/resources/reports/roc_2004/roc_report04.htm

⁷³. The Kathmandu Post, 10 January 2005

⁷⁴. CWIN's state of the rights of the child-2003

⁷⁵. http://www.cwin.org.np/resources/reports/ROC_2002/index.htm

⁷⁶. Maoists bar teachers from joining schools, The Kathmandu Post, 20 May 2004

school and two Sanskrit schools of Devghat VDC in Narayangarh were reportedly abducted by the Maoist rebels for training on *Janababi Shiksha*. All those schools faced indefinite shut down.⁷⁷

Many schools have turned into military barracks of the RNA and the RNA personnel deliberately targeted the schools.

On 1 May 2004, more than a dozen students, including girls, of Bidya Mandir Higher Secondary School at Binayak Achham district reportedly fled to India due to continued atrocities perpetrated both by the security forces and the Maoists in the aftermath of the aerial bombings by security forces on 12 April 2004. Owing to violence, the number of students in schools in Darchula, Baitadi, Dadeldhura, Bajhang, Bajura, Achham and Doti districts had gone down by 15 per cent as compared to previous years.⁷⁸ Fear of being picked up by the Maoists led to the students of Mudbhara leaving their village to join the schools in the district headquarters.⁷⁹

i. Attacks on schools and students by the RNA:

Case 1: Killing and injuring of children in aerial bombing by RNA personnel at a school at Binayak

On 12 April 2004, a 14-year-old student was reportedly killed along with four civilians in an aerial bombing by the security forces at a cultural programme organized by the Maoists at Bidya Mandir Higher Secondary School at Binayak, Achham in Nepalganj district. At least a dozen school children were injured in the bombing. An eight-year-old boy, Meghraj Timilsina of Kuika VDC-7 was reportedly hit by shrapnel on his both legs.⁸⁰ The Maoists had forced a large number of people, including minors, from neighboring villages to attend a cultural function on the occasion of the New Year, 2061 B.S. Most of the injured were children below 15 years of age.

Case 2: Brutal killing of four school children at Sharada Higher Secondary School, Doti

On 13 October 2003, four students were killed and five injured when the security forces attacked a cultural programme of the Maoists at Sharada Higher Secondary School in the Mudbhara VDC Ward No. 1 in Doti district. Teachers and school children were reportedly forced to participate in the cultural programme. As the program got under way, the security forces, dressed both in uniform and in civilian clothes, cordoned the school and fired indiscriminately resulting in the death of four unarmed school children. Even as some soldiers shouted "student, student" during the clash, other soldiers shot at the children, claiming they were Maoists dressed as school children.⁸¹ The National Human

⁷⁷. Schools shut after teachers' abduction, The Kathmandu Post, 13 June 2004

⁷⁸. Violence-hit school kids flee Nepal, The Himalayan Times, 3 May 2004

⁷⁹. Maoist fears see students flee village, The Kathmandu Post, 3 May 2004

⁸⁰. 'Dozens of children were hurt in Binayak bombing' The Kathmandu Post, 16 April 2004

⁸¹. <http://www.watchlist.org/reports/nepal.report.php?p=9>

Rights Commission of Nepal inquired into the incident and held the security forces guilty.⁸²

ii. Attacks on schools and students by the Maoists:

According to Chuman Singh Basnet, Director General at the Department of Education, by May 2004, a total of 136 teachers have lost their lives in the on-going Maoist conflict while another 200 have left for urban centers seeking safety.⁸³

The Maoists have systematically targeted the schools. Between 1 February and 9 May 2005, Asian Centre for Human Rights recorded attacks on 23 schools by the Maoists.

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.⁸⁴

On 20 February 2005 Maoists detonated explosives in several schools in Nepalgunj in Banke district including Mahendra High School, Modern Public School, Mangal Secondary School, Chandra Mewalal Secondary School and Bheri Technical School for having defied their "educational strike".⁸⁵

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.⁸⁶

On 18 April 2005, Maoists hurled bombs on the premises of St Thomas Boarding School, and ABC Boarding School in Nepalgunj.⁸⁷

On 18 April 2005, Maoists torched a private school, Janapradipan Boarding School in Patihani of Chitwan district, and bombed a private school in Pokhara.⁸⁸

On 21 April 2005, Maoists detonated a powerful bomb at Small Heaven Boarding School in Bharatpur of Chitwan district.⁸⁹

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.⁹⁰

⁸². NHRC wants UN experts called in, Doti killers punished, The Himalayan Times, 20 November 2003

⁸³. *ibid*

⁸⁴. Rebels destroy six schools, SLC students affected, The Kathmandu Post, 20 February 2005

⁸⁵. The Nepal News, 22 February 2005

⁸⁶. Maoists bomb school in Nepalgunj, injure students in Rukum, Nepal News.com, 17 April 2005

⁸⁷. Maoists explode bombs in Nepalgunj schools, The Himalayan Times, 19 April 2005

⁸⁸. Maoists continue attacking schools, Nepal News.com, 21 April 2005

⁸⁹. PABSON chief's school bombed, The Kathmandu Post, 22 April 2005

⁹⁰. Maoists bomb school, The Kathmandu Post, 23 April 2005

On 22 April 2005, Maoists exploded bomb in Namuna Boarding School, a private school, in Gaidakot in Nawalparasi.⁹¹

On 23 April 2005, Maoists bombed a school in Khara of mid western Rukum district injuring three kid students, one of them seriously.⁹²

Closure of the schools by the Maoists:

The Maoists' student wing All Nepal National Free Students Union -Revolutionary (ANNFSU -R) often calls for indefinite closure of schools and colleges in the country to press their demands. Private schools are specifically targeted. 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.⁹³

After proclamation of emergency on 1 February 2005, the Maoists imposed an indefinite educational bandh in Bardiya and Chitwan districts. A total of 371 schools have been closed in Bardiya district following the Maoist threats. The Maoists have reportedly instructed the teachers and students to boycott classes until further notice. The Maoists' diktat came a month before the School Leaving Certificate examinations and over 100,000 students in Bardiya district have been affected. In Chitwan district, over 70,000 students belonging to 240 schools (private and public) have been affected by the Maoists' educational bandh. The Maoists reportedly abducted over 200 students and teachers from Bhumadevi Secondary School at Deurali VDC in Nuwakot district.⁹⁴

Scores of girls could not sit for the nursing examination, which was conducted at Nepalgunj on 19 February 2005. They could not reach Nepalgunj due to absence of transport due to the blockade.⁹⁵

On the night of 14 February 2005, the Maoists reportedly 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. This has left the students and the teachers terrorized. Some 50 candidates for the School Leaving Certificate (SLC) examination were the immediate victims.⁹⁶

On 20 February 2005, the Maoists detonated explosives in several schools in Nepalganj in Banke district including Mahendra High School, Modern Public School, Mangal

⁹¹. Maoists continue to attack schools, injure minors, Nepal News.com, 24 April 2005

⁹². Ibid

⁹³. Maoists bomb school in Nepalgunj, injure students in Rukum, Nepal News.com, 17 April 2005

⁹⁴. Maoists shut schools in Bardiya, Chitwan; abduct students in Nuwakot, The Nepal News, 26 February 2005

⁹⁵. Bands, blockades cripple life, The Kathmandu Post, 20 February 2005

⁹⁶. Rebels destroy six schools, SLC students affected, The Kathmandu Post, 20 February 2005

Secondary School, Chandra Mewalal Secondary School and Bheri Technical School,⁹⁷ for having defied their “educational strike”.⁹⁸

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 rebels bombed Sun Shine Boarding School in Siddharthnagar in Rupandehi district.⁹⁹ 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.¹⁰⁰

In April 2004, over a dozen schools including Sita Ram Higher Secondary School, Latamandau Lower Secondary School, Radha Krishna Secondary School and Gora Primacy School in Doti were closed due to Maoists abduction of the teachers and students. Many teachers and students fled the area to escape abduction.¹⁰¹

In May 2004, the Maoists shut down six government schools in Baglung district after issuing a threat to lock all private, community and boarding schools of the district on the ground that education was being commercialized and schools were charging exorbitant fees. The schools that were shut down included Prabha Secondary School of Burtiwang and Gyanendra Lower Secondary School. The Maoists also reportedly blasted a bomb at Prastavit Secondary School, Kusmishera, for holding classes.¹⁰²

On 9 June 2004 at 4.30 am, at least 20 armed rebels stormed the Modern Indian School and exploded a bomb at Chovar, about 10 kms south of Kathmandu for defying a strike called by the rebels. Two rooms and 46 computers of the school were completely damaged by the explosion.¹⁰³ The indefinite educational strike was called by the Maoists' student wing, ANNISU-R demanding reduction of fees in private schools by 29 per cent, 25 per cent in higher secondary schools, free education in community schools and withdrawal of the terrorist tag attached to it.¹⁰⁴

The Jana Jyoti Secondary School, Kunathari, in western Surkhet was shut down since 23 June 2004 after the Maoists' student wing, ANNISU(R) threatened the school administration to return the admission fee and monthly fee to the students.¹⁰⁵

On 17 July 2004, the ANNISU-R shut down 47 private schools in Jhapa for allegedly operating without the permission of the District Education Office of the Maoists. The closure had affected over 15,000 students.¹⁰⁶

⁹⁷. *ibid*

⁹⁸. Maoists rule Nepal highways, *The Telegraph*, 23 February 2005

⁹⁹. Maoists bomb school in Siddharthnagar, *Nepal News.com*, 1 May 2005

¹⁰⁰. Arsonists destroy school building, *The Kathmandu Post*, 4 May 2005

¹⁰¹. Maoist action leads to schools' closure, *The Kathmandu Post*, 1 May 2004

¹⁰². Maoist force closures of 6 govt schools, *The Himalayan Times*, 17 May 2004

¹⁰³. Maoists attack Indian-run school in Nepal, *The Central Chronicle*, 10 June 2004

¹⁰⁴. Maoist strike hits schools nationwide, *The Himalayan Times*, 7 June 2004

¹⁰⁵. Maoist threat leaves school closed, *The Himalayan Times*, 27 June 2004

Over half-a-dozen boarding schools in Phidim were closed for indefinite period from 31 August 2004 due to the fear of increased Maoist activities. Mechi, Naya Namuna, Nilkantha, Balkiran, Vidyabardan and Nava Jyoti boarding schools were shut down.¹⁰⁷

On 5 September 2004, the ANNISU-R called an indefinite educational strike. The strike directly affected some 150,000 school and college students – 100,000 in Makwanpur and 50,000 in Tanahun. Likewise, over 700 public and private schools in Tanahun district was closed down indefinitely.¹⁰⁸

ANNISU-R called an indefinite educational strike from 10 September 2004. Over 100 schools in Udaypur district were closed down and it affected over 40,000 students. All the educational institutions in Kailali district were shut down from 13 September 2004 due to the strike called by ANNISU-R. At least 43 schools in Ramechhap district remained shut down from September 17 due to the indefinite strike called by the Maoist-aligned All Nepal Teacher's Organisation. Over 10,000 students were affected by the closure.¹⁰⁹

b. Caste discrimination and education

Caste based discrimination against the so-called lower caste or Dalits children remain a major hindrance in their schooling. The Dalits who comprise 20% of the total population of Nepal have the literacy rate of 13%. Enrollment of the Dalits in primary schools is less than 20 per cent, compared to 68 per cent for Nepali children in general.¹¹⁰ The so called upper caste people in Dhading district of Nepal have been allegedly trying to shut down the Shil Kanya Primary School established by the Dalits to provide education to their children. There are about 46 students enrolled in the school and the District Education Office has already granted permission to run the school and has also provided a temporary teacher for a year. However, according to Mitthe Biswokarma, chairman of the school management committee, the high caste people have been creating hindrance to the smooth operation of the school. The upper caste people reportedly claimed that the school established by the Dalits has been creating problems in the education system of the village.¹¹¹

Similarly, the children belonging to the downtrodden and marginalized Badi community are discriminated against in schools. Discrimination, combined with their dire economic condition, force most of the children to drop out of school usually after grades 5 or 6.¹¹²

¹⁰⁶. Rebel students close 47 private schools, The Kathmandu Post, 18 July 2004

¹⁰⁷. Phidim schools shut due to Maoist fear, The Himalayan Times, 2 September 2004

¹⁰⁸. ANNISU-R strike affects hundreds of schools, colleges, The Kathmandu Post, 6 September 2004

¹⁰⁹. No sign of Udaypur schools' reopening, The Himalayan Times, 21 September 2004

¹¹⁰. http://www.cwin.org.np/resources/reports/ROC_2002/index.htm

¹¹¹. The Himalayan Times, 27 May 2004

¹¹². Plight of the Badi community, The Kathmandu Post, 4 September 2004

Their plight is much deplorable in the western part of the kingdom. They are denied education even in schools in the district headquarter, Chainpur.¹¹³

VI. Special Protection Measures

Article 22: Refugee Children – The Tibetan refugees

In its concluding observation after consideration of Nepal's initial report, the Committee on the Rights of the Child recommended Nepal to consider ratifying the 1951 Convention relating to the Status of Refugees to ensure adequate protection of refugee children.¹¹⁴

The condition of the refugee children cannot be seen in isolation or differently to that of their parents. Their condition must be viewed in the context of the overall situation of the adult refugees. While the government of Nepal in its second periodic report (pages 58 to 59) provides some information on the refugees, the report fails to highlight the truth on the status of refugees and their children.

With the closure of the Tibetan Refugee Welfare Office on 21 January 2005, Tibetan refugees have been put into serious risks. Nearly 3,000 Tibetans risks their lives every year while coming over the Himalayas into Nepal.¹¹⁵ The government's notice of closure said that the office was not properly registered under Nepali law. But, Nepali law does not give refugees/asylum seekers in Nepal the right to register associations or institutions in their name.¹¹⁶

The government of Nepal consistently repatriated Tibetan refugees.

On 24 October 2005, Nepalese security forces detained at least 27 Tibetan refugees, who reportedly fled from Tibet and entered Nepal via Sagarmatha passage in Namche area. The detained refugees were handed over to the district administration office on 5 October 2004 and were supposed to be forcibly repatriated to the Chinese border police. On 13 January 2004, three Tibetan refugees, including one minor, were handed over to Chinese border police by Nepalese officials at the Friendship Bridge border post at Dram. There were three incidents of forcible repatriation of Tibetan refugees by Nepalese officials in 2003.¹¹⁷

On 18 November 2003, nine Tibetan refugees including four students, who had been arrested in 2000 and 2001 and were given 10-year prison sentences. However, they were later were released only after a well-wisher paid the fines imposed by the Nepalese authorities.¹¹⁸

¹¹³. Badi children deprived of education, The Kathmandu Post, 24 August 2004

¹¹⁴. CRC/C/15/Add.57

¹¹⁵. <http://hrw.org/english/docs/2005/01/28/nepal10085.htm>

¹¹⁶. <http://hrw.org/english/docs/2005/01/28/nepal10085.htm>

¹¹⁷. <http://www.achrweb.org/press/2004/Oct2004/TIB-061004.htm>

¹¹⁸. http://www.tibet.ca/en/wtnarchive/2003/11/29-2_6.html

In August 2001, Nepalese security personnel arrested four Tibetan students at an India-Nepal border checkpoint while they were attempting to pass through Nepal on return to Tibet after schooling in India. During the same time, four female students, including one pregnant woman who gave birth in Dili Bazaar prison were arrested. All of them have been detained on charges of illegal immigration.¹¹⁹

Articles 38: Children in armed conflicts

In a country that is afflicted by armed conflict for the last nine years, thousands of children have been displaced, orphaned and rendered disabled either in security actions or in landmines and bomb explosions by the Maoists. An estimated 305 children have been killed during the period from 13 February 1996 to 28 February 2005. Out of these, 168 children have been reportedly killed at the hands of the state and 138 at the hands of the Maoists.¹²⁰

In the second periodic report, the government of Nepal has maintained silence about the extent of violations of the rights of the child by the security forces and has attributed violations to the Maoists only. The periodic report is clearly economical with the truth.

a. Abuses by the security forces

The government of Nepal gave *carte blanche* to the security forces to deal with the Maoists. The security forces were responsible for blatant violations of human rights, including arbitrary deprivation of the right to life, torture, rape, illegal detentions and disappearances. Often children are made victims for the alleged offences or crimes allegedly committed by parents.

i. Extrajudicial killings

Case 1: Extra-judicial executions of three children by RNA personnel

On 22 March 2005, three school children – 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 children 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, to observe ‘Fagu Purnima,’ a festival of colours. The children were in their school uniform. 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”. 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 by security personnel had been formed and the probe was underway.¹²¹

¹¹⁹. http://www.tibet.ca/en/wtnarchive/2003/11/29-2_6.html

¹²⁰. http://www.inseconline.org/download/Killings_Data.htm

¹²¹. Army to probe killing of students, The Kathmandu Post, 1 April 2005

Case 2: Brutal killing of three school girls by RNA soldiers

On 3 September 2004 three unarmed teenage girls - Hira Ram Rai, 15, Jina Rai, 16, and Indra Kala Rai, 16, were killed by the security forces. They were reportedly followed by a group of soldiers as they left their school in Basikhora village, Bhojpur district. When the girls went into a nearby forest, the soldiers shot them dead and buried them. Their killers could not be identified.¹²²

Case 3: Extrajudicial killing of a 14-year-old schoolgirl by RNA

On 23 October 2003, Royal Nepal Army personnel reportedly shot dead a 14-year-old schoolgirl identified as Pawitra Kumal when she protested torture of her father by the personnel after shooting at him. A group of security forces reportedly came looking for Chitra Bahadur Kumal at his residence at Gadauli VDC of Tanahun district and fired 11 rounds of bullets without issuing any warning. Kumal was hit by a bullet on his leg, but the security forces started beating him up. Pawitra, a student of Mahendrajyoti lower secondary school, started crying and protesting. The security forces shot her to silence her. Chitra Bahadur Kumal, however, managed to run away from the site.¹²³

Case 4: Brutal murder of 12-year-old Rupa Tharu

12-year-old girl, Rupa Tharu, was killed on the night of 22 July 2002 by the security forces. A joint patrol of approximately 400 army and police personnel arrived in Jagatia village, Ward No. 2, Sorahawa, Bardiya district. They entered the girl's home and questioned her father about providing food to the Maoists. When he denied it, armed personnel hit his legs and grabbed Rupa Tharu; they blindfolded her and took her away in the direction of Kuwachowk, where she was shot dead. Three nearby villagers were forced to carry her body to waiting vehicles. The police allegedly buried her body in Gularia municipality in the presence of two local politicians.¹²⁴

ii. Enforced disappearances

The United Nations Working Group on Enforced Disappearances recorded highest number of disappearances from Nepal. The National Human Rights Commission of Nepal received 1,619 complaints of disappearances: 1,234 cases attributed to the security forces, 331 attributed to the Maoists, and 54 where the responsible persons are unidentified. Out of these, more than 600 complaints were lodged in 2003-2004. The government of Nepal appointed Investigative Commission on Disappearances acknowledged that more than 1,000 cases have been brought to its attention.¹²⁵

A large number of victims of disappearances are children.

¹²² . <http://www.amnesty.org.uk/news/press/15876.shtml>

¹²³. RNA men gun down schoolgirl, The Himalayan Times, 26 October 2003

¹²⁴. AI, AI Index ASA 31/072/2002, December 2002

¹²⁵. E/CN.4/2005/65/Add.1 of 28 January 2005

Case 1: Disappearance of Prahalad Waiva, March 2004

At around 11.30am on 1 March 2004, an armed contingent of some 50-60 Royal Nepalese Army soldiers arrived on the road leading up to the Shri Krishna Secondary School, under the command of the lieutenant in charge of the Farping Check Post. Four of them in civilian dress and carrying bags on their backs sneaked towards the school. One remained at the school gate while the rest, among them the lieutenant, walked into the school office and unfolded a piece of paper to the headmaster. After going through the paper, the headmaster called for Pralahad Waiba, a class nine student. On his appearance before them, the soldiers took him some 15 metres away from the room, saying that they needed to talk privately with the boy. Over a quarter of an hour later, the soldiers returned Pralahad's books and class attendance register to the headmaster and took the boy away from the school before the eyes of all his teachers and friends. When the headmaster asked why they were taking his student, he was told that Pralahad was a Maoist.

On 28 April 2004, Pralahad's mother went to the Farping Check Post to meet her son, as he had still not returned to home, and she wanted to give him some clothes. However, she was told that she could not meet him. After two months, his father filed a complaint with the National Human Rights Commission and the International Committee of the Red Cross (No. 200847).¹²⁶

Case 2: Disappearance of Maina Sunuwar, February 2004

On 17 February 2004, at approximately 6 a.m., a group of 15 security personnel in plain clothes reportedly arrested and detained Maina Sunuwar, a 15-year-old schoolgirl of Kharelthok VDC-6, Kavre district. The girl was arrested in place of her mother, who was an eyewitness to the rape and killing of her niece and two other children in Pokhari Chauri Village of Kavre district on 12 February 2004. When the police arrived at the home of Maina Sunuwar and found her mother to be out of the house, they arrested Maina. In the days and months following Maina's arrest, her family and others made several attempts to locate her. On 22 May 2004, Advocacy Forum (a human rights NGO) reportedly received a call from a diplomatic agency that it had received a letter from the RNA stating that Maina had been killed after she attempted to escape from army custody. According to Advocacy Forum, the International Committee of the Red Cross (ICRC) also received a similar letter. However, the family members have never received the body of Maina or directly received any information about her.¹²⁷

Case 3: Disappearance of Shiva Ram Yadav

On 28 December 2003, 16-year-old Shiva Ram Yadav, a student at the Dahipaudi School, and a resident of Gauripur VDC-8, Siraha district, was reportedly arrested by armed security personnel from Gauripur-8 while he was going for tuition with his teacher

¹²⁶. <http://www.crin.org/resources/infodetail.asp?ID=5367&flag='news'>

¹²⁷. <http://www.watchlist.org/reports/nepal.report.php?p=11>

Jayapurwala. By the end of January 2004, his whereabouts and cause of arrest remained unknown.¹²⁸

Case 4: Disappearance of Bishawmbar Lama

On 1 December 2003, at about 11 p.m., 16 year-old Bishawmbar Lama, a student and resident of Lalitpur Sub-Metropolis-4, was reportedly arrested by armed security personnel from Sundarighat, Lalitpur district, while he was returning home. According to Bishawmbar's friend Niraj Lama, security personnel drove him away in a white four-wheeler. By the end of January 2004, his whereabouts remained untraced.

iii. Rape

Case 1: Rape of minor girl by half a dozen Army men

Half a dozen security personnel allegedly raped a 15-year-old Majhi girl in the dense Charkoshe Jhadi forest of Bharaul village of Sunsari district on 10 November 2004. The army men allegedly caught hold of her when she had gone to the forest along with her friends. She said, "They chased my friends away and showed me a Rs. 25 note before raping me." The victim was taken to Biratnagar for medical treatment and reportedly looked pale due to continuous bleeding.¹²⁹ According to a NHRC investigation team that visited the place of offence, a police constable allegedly involved in the crime was identified while five Royal Nepalese Army personnel were yet to be identified.¹³⁰

Case 2: Rape of 13-year-old rape victim by police ASI

A 13-year-old rape victim, who was brought to the police station in Devangunj in Dhankuta district of Nepal for investigation, was allegedly raped by assistant sub-inspector of police, Sanubabu Rajbanshi on 6 August 2004 inside the police station. The victim was earlier raped at Sunsari's Amduwa Village Development Committee-3 on 5 August 2004.¹³¹

Case 3: Rape of 8-year-old girl allegedly by cops

The family members of an eight-year-old girl of the Badi community alleged that unidentified cops lifted the minor girl from the family's tent at Pulbazaar of Dipayal in Doti district at 11 pm on the night of 17 September 2004 and gang raped her. The girl was found unconscious in a paddy field located next to the police office by her family on the next morning. The condition of the girl was reportedly critical. She however claimed that she could recognize her rapists, but did not disclose their names for fear of being killed by them.¹³² The girl's mother alleged that some policemen had kept her daughter at

¹²⁸. <http://www.derechos.org/news/archives/000031.html>

¹²⁹. Army men accused of raping 15-yr-old, The Kathmandu Post, 16 November 2004

¹³⁰. Security forces raped 15-yr-old girl: NHRC, The Nepal News Com, 2 December 2004

¹³¹. Rape victim falls prey to cop's lust, The Himalayan Times, 17 August 2004

¹³². Cops accused of raping 8-year-old, The Himalayan Times, 19 September 2004

the police quarters the whole night and threw her into the paddy field the next morning.¹³³

Case 4: Disappearance, rape of a minor schoolgirl after arrest by Army personnel

On 24 September 2002, 13-year-old Kumari Nepali, a Dalit girl was reportedly abducted along with six other non-Dalits by the security forces from Bhasriya in Kailali district. While the six non-Dalits were released, Kumari Nepali remained in the custody of the security forces. As in December 2003, her whereabouts were not known. Following complaint by her father, the National Human Rights Commission (NHRC) intervened and tried to trace her whereabouts without any success.¹³⁴ According to her mother, two of them reported that the soldiers kept her with the intention to commit rape.¹³⁵

b. Abuses by the 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”.

Arbitrary killings

Case 1: Killing of three boys by Maoists

Three youngsters were shot dead and one injured allegedly by the Maoists in Surkhet district of Nepal on the afternoon of 10 November 2004. The Maoists opened fire on the four in the headquarters of Birendranagar municipality-8, Itram. The dead were identified as Tularam Gharti, Ratna Bahadur Khatri and Drun Khatri of Maintada VDC-1, and the injured as Kabi Ram Khadka of Maintada Dhariwan.¹³⁶

Case 2: Killing of one Jamillah Musalman in bomb blast

A teenager, Jamillah Musalman (14) of Baidauli VDC-7, was killed and nine persons were injured when a bomb planted allegedly by the Maoists went off at Sunauli Customs Office, on the border between Nepal and India on the morning of 22 March 2004. According to inspector Lok Bahadur Karki of the District Police Office, Kapilvastu, the deceased and the injured had gone to see the office that was destroyed by the Maoists on the preceding night.¹³⁷

¹³³. THT IMPACT: Dutch woman comes to rape victim's aid, The Himalayan Times, 23 September 2004

¹³⁴. 13-yr-old Dalit girl is the youngest illegal detainee, The Kathmandu Post, 11 December 2003

¹³⁵. <http://64.233.187.104/search?q=cache:HQZlxmAKXd8J:www.alrc.net/pr/pdf/pl-alrc-07-2004.pdf+Discrimination+in+Nepal&hl=en>

¹³⁶. Maoists gun down three youths, The Himalayan Times, 11 November 2004

¹³⁷. Teenager killed, nine injured in Sunauli blast, The Himalayan Times, 23 March 2004

Case 3: Death of one Bishal Shrestha in bomb explosion

In an explosion caused by a bomb, reportedly left behind by rebels on a farm, on 30 March 2004 at Laxmi Bazaar in Gorkha district of Nepal, a four-year-old child Bishal Shrestha died instantly and another boy Sangam Thapa sustained injuries. Both of them had gone to their farm to pick wild berries. Locals suspected that the rebels might have left the bomb while attacking Deputy-Mayor Parashu Ram Pudasaini's house a week ago.¹³⁸

Case 4: Death of two minors in Maoists left bomb explosion

14-year-old Basanta Aryal and eight-year-old Ram Krishna Sapkota were herding cattle near their school at Rajhena Village Development Committee-4 in Banke district on 9 April 2004 when a powerful bomb, reportedly left behind by Maoists, went off suddenly. Both the minor boys died instantly and their body parts were found strewn as far away as 30 meters.¹³⁹

Case 5: Death of three-year-old in Jumla

Bal Krishna Sunar (3), a student of Nisha Boarding School in Khalang in Jumla district of Nepal was killed in a bomb blast that occurred in front of the school at around 3.30 pm on 10 November 2004. Three other students- nine-year-old girl, Jayalaxmi Chawlagai of Lamra village development committee -9, eight-year-old Nirmala Budha of Chulakot village development committee-8, and Gor Bahadur Sarki of Chana village development committee-9 Simhachaur were injured in the blast.¹⁴⁰

Recruitment of child soldiers:

There have been credible reports of the Maoists recruiting child soldiers. The Maoist-aligned student wing All Nepal National Independent Students' Union- Revolutionary (ANNISU-R) has been responsible for forcing school students of the Kathmandu to take its membership. According to Karna Bahadur Shahi, president of National Private and Boarding Schools Association Nepal (N-PABSAN), the ANNISU-R activists storm into the schools and force students of classes eight, nine and ten to take their membership and if any school tries to resist, they threaten the management.¹⁴¹ In two days i.e., 13 and 14 November 2003, the Maoists allegedly forcibly mobilized around 1,000 students from several schools of Achham district for "organisation expansion." The abducted students comprised of the nine grade and above mostly from the Jalapa Devi and Bidhya Mandir higher secondary schools and schools of Raniban, Dhakari, Toli, Binayak, Koika VDCs.¹⁴² Another 200 teenage students were allegedly abducted by the Maoists from Nandeswari Secondary School and Bindeswari school in Achcham district on 4

¹³⁸. Boy dies in bomb blast, The Kathmandu Post, 31 March 2004

¹³⁹. Two minors die in bomb blast, The Kathmandu Post, 10 April 2004

¹⁴⁰. Three-year-old killed in Jumla blast, The Himalayan Times, 11 November 2004

¹⁴¹. Maoists forcing students to join ranks, The Kathmandu Post, 20 June 2003

¹⁴². Thousand students abducted? The Himalayan Times, 15 November 2003

December 2003.¹⁴³ Many school children from remote Mugu district reportedly fled their homes to some safer places to escape Maoist recruitment of youth and school children as their party cadres. Some of these children were working as dishwashers in hotels while others were engaged in other manual labour.¹⁴⁴

On 19 July 2004, Maoists reportedly kidnapped over 40 students and 14 teachers from two schools of Chhaimale VDC on the outskirts of the Kathmandu Valley. The kidnapped students belonged to grades IX and X. All girls belonging to grade IX were taken away. The Maoists selected only those boys from grade IX who looked sturdy and intelligent. They, however, took away all the students of grade X. Twelve teachers, including principal Jagdish Prasad Singh of the Shree Krishna Secondary School of Chhaimale, and two other teachers, including its principal Bidur Prasad Gautam from the Pancha Kanya Primary School Bhandar Kharka, were dragged away.¹⁴⁵

The Maoists allegedly abducted 140 boys in Parbat and Bajura districts of Nepal on the night of 16 November 2004 for recruiting in their militia. Hundreds of youths reportedly fled their homes due to the fear of being kidnapped by the Maoists.¹⁴⁶

c. Children of Internally Displaced Persons

During the last nine years of the Maoist conflict since 1996, as many as 350,000 to 400,000 Nepalese have been displaced from their villages. However, the government of Nepal has no specific policy over the internally displaced persons. Initially, the government established the Victims of Conflict Fund under which IDP families were entitled to nearly \$1.3 per day but the problem was that many failed to provide proof that they were in fact IDPs and hence were excluded from state support. In 2004, the government announced that it had distributed nearly \$56,000 to the families but IDP activists claimed that the fund was so haphazardly distributed that the money did not reach most of the IDPs.¹⁴⁷

The conflict has completely ravaged the impoverished kingdom. Children were the worst affected. The conflict has deprived the children of the peaceful and congenial environment needed for their healthy mental and physical development. Thousands of them have been displaced, killed, tortured, incapacitated or rendered destitute, orphaned or trafficked. Children are usually treated as vulnerable group and the conflict has widened their risk and vulnerability. While it is the legitimate right of the government of Nepal to suppress the Maoists, it should not unnecessarily limit its options only to the perceived military solution that has not yielded the expected outcome. The intensification of the conflict in a bid to resolve it militarily has only resulted in the continuation of the vicious cycle of violence thereby increasing the sufferings of the people by way of

¹⁴³. 200 school kids abducted: Official, The Himalayan Times, 6 December 2003

¹⁴⁴. Schoolchildren flee Maoist recruitment, The Kathmandu Post, 16 December 2003

¹⁴⁵. Asian Centre for Human Rights, The Case for Intervention in Nepal, March 2005

¹⁴⁶. 140 youths abducted, The Kathmandu Post, 19 November 2004

¹⁴⁷. <http://www.irinnews.org/report.asp?ReportID=45591&SelectRegion=Asia>

displacement, loss of lives, causing disabilities, deprivation of freedom of movement (etc.).

Article 40: Juvenile Justice

Delivery of juvenile justice still remains a major challenge in Nepal. The Committee on the Rights of the Child expressed concern that juvenile justice in Nepal was not completely in line with the principles enshrined in the Convention and had suggested that legal reforms be pursued for the administration of juvenile justice as ensured in the Convention.

a. Lack of juvenile justice and the Maoists conflict

The provisions of the Children's Act, 1992 have not been fully implemented. Instead, Juvenile Justice is still treated as a section of criminal justice system in Nepal, at least in practice.

The government has also failed to evolve a consistent and uniform definition of the child. The "Children's Act, 1992" defines, "Child" means every human being below the age of 16 years. But, the Labour Act, 1992 puts the age limit of the child at 14 years whereas the Nepal Citizenship Act, 1963 considers a person below 16 years of age as minor. Similarly, the Civil Code (Muluki Ain), 1963 considers the legal age of marriage for boys at 18 years and for girls at 16 years with parents' consent and 21 years for boys and 18 years for girls respectively with no consent of parents.

The government of Nepal has also failed to establish a "Children's Correction Home". Since the announcement of the establishment of the Juvenile Bench in April 2000, no record has been found about its enactment in any district in the country. Children are hardly given different treatment when they are brought to the attention of the justice system. They are often kept in custody together with adults, and the processes and jurisdiction applicable to the investigation, remand, bail and judicial custody are similar to that of adults. There is no separate court for juvenile.¹⁴⁸

The Maoists conflict has further deteriorated the condition of the juveniles.

Case 1: Torture and re-arrest of Jhurri Teli, 16 years

On 9 September 2004, Jhurri Teli (16 years), resident of Belhiya VDC-7 Banke district was reportedly arrested by the plain-cloths security personnel from the Nepagunj Municipality-16, at about 7 o'clock in the morning when he was going for his medical check-ups and to buy some medicine against his headache. Two security men approached him, and asked for his name. They tied his hands on his back and blindfolded him. The security personnel interrogated him for half an hour about Maoist activities and tortured during the interrogation. They later put Jhurri Teli in an army vehicle and took him to

¹⁴⁸. CWIN's State of the Rights of the Child in Nepal-2003

Western Pritana Headquarters (western region army barracks), Imamnagar, Ranjha, Banke. During the period of his detention inside the army barrack, he was reportedly beaten severely during interrogation. Later he was been shifted to the Banke Prison on 16 September 2004 and was detained there till 28 September 2004 when the Appellate Court of Nepalgunj, in response to a writ of habeas corpus released him. However, the next day at about 2.00 pm, in the presence of lawyers and several representatives of human rights organizations, a police team under the command of Police Inspector Rajendra Prasad Bhatta from the Banke District Police Office, re-arrested the boy and took him away.

Case 2: Re-arrest of Raju Sharma Dhakal, student

On 3 November 2004, seventeen-year-old Raju Sharma Dhakal, son of Bal Krishna Sharma Dakal, resident of Chitwan district in Central Nepal was reportedly re-arrested from the prison gate immediately after his release from Bharatpur district prison. Raju was first arrested on 18 June 2004 on his way home from his college. He remained untraceable for 22 days, before the army admitted that he was being held at Bharatpur army barracks. On 23 August 2004, the Royal Nepal Army personnel also detained his father, Bal Krishna Dhakal, when visited Raju at the detention centre. Both Raju Sharma Dhakal and Bal Krishna Dhakal were later transferred to prison in Bharatpur district.¹⁴⁹

The Children's Act, 1992 prohibits for illegal detention, torture and any form of bad treatment that hampers to the child development. However, the law enforcing agencies do not seem serious in this regard. Reports and survey studies have revealed the fact that there are many children who are the victims of illegal arrest, illegal detention, imprisoned with adult prisoners, and physical-mental and psychological torture.

b. Condition of children of the convicts

The condition of the children of convicts is quite worse. Many spent their lives in jail with their parents without any crime due to the lack of rehabilitation mechanisms. This is despite the fact that the Prison Act (1962) provides that if both parents are imprisoned and there is no relative to care for the child, the child will be sent to a children's home.

Case 1: 7-year-old Ajbira Saiyad Musalman

7-year-old Ajbira Saiyad Musalman, a third standard girl child at a local school in Kapilavastu, was sent to the Kapilvastu prison along with her parents Jalkari Saiyad Musalman and her mother Bakali Saiyad Musalman of Bhalward VDC-8, who were arrested on the charges of trafficking. When her parents were sent to jail, there was none to take care of her, and she had to join them in prison.¹⁵⁰ She had to stay in the prison along with adult prisoners for more than one month until she was rescued by a charity institution in early September 2003 after the publication of news about her plight.

¹⁴⁹. <http://web.amnesty.org/library/Index/ENGASA311792004?open&of=ENG-381>

¹⁵⁰. 7-year-old innocent girl languishes in jail, The Kathmandu Post, 14 August 2003

Namaste Children's Home, Pokhara, took the responsibility of her including the education.¹⁵¹

Case 2: 6-year-old Lalita Kumari

6-year-old Lalita Kumari was sent to Saptari Jail with her convicted parents in 2002. As on 11 June 2003, she had been in the jail for nine months with her father and stepmother. Lalita's father Bhagwani Shah and her stepmother Santoliya Devi were convicted for killing Shanischari Devi, Lalita's mother. Since there was no one to look after the child, she had been sent to jail along with her parents.¹⁵²

Case 3: Jeena Dahal (12) and her brother Bhupendra (10) in Panchtar jail

Jeena Dahal (12) and her brother Bhupendra (10) reportedly visited the district jail in Panchthar twice a day to get a share of the meal meant for their father Krishna Prasad Dahal, a murder convict who was serving a life sentence at the jail. Their mother had died after the father was imprisoned. Another convict Dharma Prasad Dulal's 14-year-old son Govinda Dulal and 10-year-old daughter Ambika 10 also did the same thing. Krishna Prasad Dahal and Dharma Prasad Dulal rented a room for their children near the jail and got their children admitted to schools in the locality. However, as they had no one to supervise them at home, the children were unable to attend the school regularly. They were at great risk of the social ills every moment of their lives without a guardian to look after them.¹⁵³

Case 4: Ashmin, Raju and Samjhana Lama and others in Central jail in Kathmandu

Ashmin, Raju and Samjhana Lama, all below eight years of age, had been living in a congested women's cell of the Central Jail, Kathmandu along with their mother for last six months as on 9 January 2001. Their mother was arrested on the charges of human trafficking and undergoing trial. The conditions in which the children were living with adult detainees were appalling. Generally, the children had to share a room with seven other women inmates. At times, there were 12 inmates in a single room and their children had to sleep under the beds. According to an inmate, a child was given Rs 5.50 and 150 grams of rice per day, which was by no way sufficient. Since children did not get anything to eat apart from what was given to them, they became victims of malnutrition and other diseases. But they did not have access to proper medical facilities, including qualified doctors.¹⁵⁴

¹⁵¹. Girl child liberated, The Kathmandu Post, 7 September 2003

¹⁵². 6-yr-old girl in prison with her parents, The Himalayan Times, 12 June 2003

¹⁵³. Plight of children of prison inmates, The Kathmandu Post, 19 August 2002

¹⁵⁴. Innocent lives squander away inside the nation's jails, The Rising Nepal, 10 January 2001

Article 32: Economic exploitation of children, including child labour

According to Central Bureau of Statistic (CBS), Central Department of Population Studies (CDPS) and International Labour Organisation (ILO), the total number of working children between 5 to 14 years is 2.6 million (25,96,000) of which the economically active children are 1.7 million (1,66,0000). Of these, 127,000 children work in worst forms of child labour defined by ILO.¹⁵⁵ The Child Workers in Nepal Concerned Center (CWIN) has recorded 28 cases of torture of child labourers in 2000,¹⁵⁶ 35 cases in 2001,¹⁵⁷ 85 cases of exploitation of child labourers in 2002,¹⁵⁸ and 181 cases in 2003.¹⁵⁹ In all these cases, the victims were severely tortured and exploited in their workplaces. Slavery-like practices are still a routine in the majority of the labour sector despite the adoption of child welfare laws by the government. The government mechanism to regulate prevent child labour exploitation is not effective. The Child Labour (Prohibition and Regulation) Act, 2001 is still not enforced into action. The growing trend of maltreatment of children in all fields has not left the children's institutions.

Case 1: Debt-bondage or “Kamaiya” system

Bonded labour is still a part of life for the impoverished people of Nepal. Under *Kamaiya* system of agricultural labour, a person has to work for the debts that may have been accrued by his or her forefathers. This has made poor people slaves of wealthy landlords for generations, as loans and land contracts are renewed annually. This system of debt-bondage is reportedly still widely practised in the five districts of central and western development regions of Nepal, despite imposition of a complete ban on the practice in July 2000. The King had announced on 17 July 2000 that all the bonded labourers of the kingdom had been freed and those keeping the bonded labourers would be prosecuted.

The second periodic report (para 351) of the government of Nepal states, “The Government is in the process of resettling the freed *Kamaiya* by distributing land, and together with international NGOs, of launching a comprehensive programme of rehabilitation, non-formal education and skills training for rescued children”.

But practically there has been little improvement on the economic and social conditions of the *Kamaiyas* and their children. Immediately after the government banned the *Kamaiya* system in any form, they were driven out from their workplace by their landlords fearing prosecution. They were not rehabilitated. Without a house on a land that they could call their own, most of the *Kamaiyas* became destitute and jobless. Government's action without proper rehabilitation pushed the *Kamaiyas* into further trouble. The *kamaiyas* became refugees in their own country.

¹⁵⁵. The State of the Rights of Child in Nepal–2003

¹⁵⁶. <http://www.cwin.org.np/resources/reports/roc2001.pdf>

¹⁵⁷. http://www.cwin.org.np/resources/reports/ROC_2002/index.htm

¹⁵⁸. The State of the Rights of Child in Nepal–2003

¹⁵⁹. http://www.cwin.org.np/resources/reports/roc_2004/roc_report04.htm

Abject poverty and governmental apathy forced many freed Kamaiyas to prefer bondage to freedom by returning to their former landlords for food and work. In January 2004, some 20 families of freed Kamaiyas in Dang district reportedly moved back to their landlords' houses. Binti Ram Chaudhari, an ex-Kamaiya living near Kalika Community Forest in Lalmatiya VDC-4 kept his two sons, Bhodu Chaudhari (10) and Man Bahadur Chaudhari (15) as bonded labourers at a landlord's house in the Dang valley for Rs. 6,000 a year.¹⁶⁰

Article 34: Sexual exploitation and sexual abuse

In many cases, children are exploited by those who ought to protect them from being abused or exploited. In 2000, 34 children sheltered in a childcare centre were reportedly abused and molested by a caretaker in Kathmandu, who was later arrested.¹⁶¹ In 2001, CWIN recorded a total of 223 cases of rape of women and children. Among these cases, 174 or 78% were children below 16 years of age. Some of the incidents were of brutal rape of children below 10 years of age and six of the victims were boys. Even a girl of one and half years old was raped.¹⁶² In 2002, the organization recorded 159 cases of rape of women and children. Among these cases, 91 or 57.2% were children below 16 years of age.¹⁶³ The number was 137 in 2003.¹⁶⁴

Case 1: Rape of two minor girls by custodian in Welfare Home

Two minor girls aged nine and ten had been sexually exploited by 45-year-old Chirinjivi Rai, chief of the Disabled Freedom Service Center in Lokanthali in Bhaktapur district, where they were sheltered for over a year till their rescue by three non-governmental organizations with the help of the police in July 2004. Five girls, 15 boys and six members of Rai's family were residing in three congested and dingy rooms of the "welfare home". A case of rape against Rai was filed at the Bhaktapur District Court.¹⁶⁵

Case 2: Rape of 11-year-old orphan girl by male inmates in Government run childcare centre

An 11-year-old orphan girl had been repeatedly sexually abused at the Birta-based childcare centre managed by the Ministry of Women, Children and Social Welfare by three boys of the same centre. Although these boys were of above 17 years, they have been lodged with the girls at the centre. The victim was reportedly brought at the childcare centre in 2002 after she lost both her parents. She alleged that she had been sexually assaulted by the accused time and again for the last four months prior to her complaint to the authorities in July 2003. Although on 28 July 2003 police arrested Ram

¹⁶⁰. Ex-Kamaiya children become bonded labourers, The Kathmandu Post 22 January 2004

¹⁶¹. <http://www.cwin.org.np/resources/reports/roc2001.pdf>

¹⁶². http://www.cwin.org.np/resources/reports/ROC_2002/index.htm

¹⁶³. CWIN's the State of the Rights of Child in Nepal-2003

¹⁶⁴. http://www.cwin.org.np/resources/reports/roc_2004/roc_report04.htm

¹⁶⁵. Custodian sexually abuses two minors, The Kathmandu Post, 22 July 2004

Janam Chaudhary, the main accused, nothing was done for better rehabilitation of the victim.¹⁶⁶

Article 35: Sale, trafficking and abduction

The second periodic report of the government of Nepal asserts, "In 2000, the Government formulated a policy to combat commercial sexual exploitation of women and children, and created a national plan of action and an institutional mechanism to carry it out."

But at the same time the government has done little to effectively check the scale of child trafficking, which is rising alarmingly in the country. An estimated 7000 girls, between the ages of 10-16, are trafficked each year from Nepal to India.¹⁶⁷ Cross-border trafficking is common, systematic and widespread.

The Maoists insurgency has further contributed to the key factors that encourage trafficking - poverty, gender discrimination, illiteracy, unemployment and most importantly, impunity. On 10 May 2004, Shashi Kanta Mainali, secretary at the Ministry for Women Children and Social Welfare (MWCSW) himself admitted that "Despite the increasing number of girls and women being trafficked from the country, we are not able to control it as the offenders are getting the protection of highly-placed political officials".¹⁶⁸

On 18 February 2005, Maiti Nepal, Birgunj rescued eight children, including three under the age of 14 years, from Inaruwa on the Nepal-India border. The children hailing from Sasapur VDC, Sarlahi, were about to be trafficked to India as domestic help. Those rescued included nine-year-old Kamala Tamang, Sony Tamang, 11, Gyani Tamang, Ashok Tamang and Nirmala Tamang, 12. The traffickers Purna Bahadur Ghising and Som Bahadur Ghising claimed that they were the children's relatives, and were released on condition that they would produce the minors' guardians at Maiti Nepal Birgunj office. The brokers admitted they received commission for providing domestic help to various households in Delhi.¹⁶⁹

In April 2004, police reportedly arrested three persons, including Abdul Gafar the operator of Asia Circus, on charges of involving minor children in dangerous work. Acting on information provided by the Center of Information for Social Awareness (CISA), a police team under Inspector Siddhi Bikram Shah raided the circus at Inaruwa-8 in Sunsari district and rescued 17 children including 10 girls. The rescued children included Lali Lama, 8, Laxmi Thapa, 13, Asha Lama, Sima Bajgai, Anju lama, Sunita Lama, Babi Lama, Sharmila Lama, Urmila Pariyar, Sushila Lama, and Parbati Pariyar Suraj Pun.¹⁷⁰

¹⁶⁶. Girl raped at childcare center, The Kathmandu Post, 29 July 2003

¹⁶⁷. The Kathmandu Post, 31 March 2005

¹⁶⁸. Girl traffickers getting high-level protection, The Kathmandu Post, 11 May 2004

¹⁶⁹. Maiti Nepal rescues 8 children, The Himalayan Times, 19 February 2005

¹⁷⁰. 17 children rescued from circus, The Kathmandu Post, 25 April 2004

On 30 April 2001, local people of Janakpur rescued 23 minor boys between 8-15 years of age, from being trafficked to Bombay by four Muslim people. The children were reportedly boarded on a Jayanagar-bound train from Janakpur, the only railway service in the country. The rescued boys and the traffickers were handed over to the district police office. Police Inspector Yubaraj Thapa said that most of the children were from Mahottari district and some of the parents had also given their consents to take their children away from their home. 10-year-old Kirit Khati from Janakpur municipality-2 said he was forcibly boarded on the train tempting him of sweet and delicious meal. On the other hand, the accused claimed that they were taking the boys to India for employment.¹⁷¹

VII. Recommendations

In order to ensure effective implementation of the CRC, the Committee on the Rights of the Child should make the following recommendations in its Concluding Observations:

I. General principles

The right to non-discrimination

In light of article 2 of the Convention, the Committee should express deep concerns at the widely disparate levels of enjoyment of the rights in the Convention by girls, children belonging to Dalits and indigenous groups.

The Committee should express deep concerns at the failure of the National Committee for the Upliftment of the Depressed, the Oppressed and Dalit Community, National Women's Commission, National Dalit Commission, and the National Human Rights Commission to combat discrimination against the Dalits

The Committee should recommend that concerted efforts at all levels be taken to address social inequalities by reviewing and reorienting policies, including increasing budgetary allocations for programmes targeting the most vulnerable groups, seeking technical assistance from, among others, UNICEF and strengthening the national institutions.

Right to life

The Committee should express concerns at the reported deprivation of the right to life of children both by the Maoists and the security forces and imposition of blockade both by the Maoists and security forces which contribute to the deprivation of the right to life.

The Committee should recommend the State Parties to order prompt and impartial inquiries into any reports of children being killed and order the security forces not to impose blockade on essential commodities.

¹⁷¹. 23 minor boys rescued from being trafficked, The Kathmandu Post, 1 May 2001

II. Civil rights and freedoms

Birth registration

The Committee should express concern that birth registration cannot be taken up in many parts of the country and that only about 21 per cent of births are registered in Nepal, mostly in major towns.

The CRC Committee should recommend that the State party should issue necessary administrative directive not to discriminate against children not having birth certificates and authorise the Village Development Committees to issue such certificates.

Right to nationality

The Committee should express serious concern about the denial of the right to nationality to the children belonging to Badi, the Dalit, Sikh, Madhesi and the Chepangs communities.

The Committee should recommend that the State party take measures to provide these children with a nationality, in accordance with article 7 of the Convention.

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment:

The Committee should express concerns at numerous reports of ill-treatment, torture and sexual abuse of children in detention centers, and alleged instances of killings of children by law enforcement officials.

The Committee should recommend the State party:

- **Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**
- **Set up child-sensitive mechanisms to receive complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and in detention centres;**
- **Investigate and prosecute complaints in a child-sensitive manner;**
- **Strengthen its efforts to train the law enforcement personnel on the human rights of children; and**
- **In light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.**

Corporal punishment

The Committee should express concerns about the allowing of corporal punishment under the Nepal Children's Act, 1992 and Muluki Ain (Laws of the Land), continued gap

between existing legislation and its practical implementation and instances of numerous corporal punishments.

The Committee should strongly recommend that the State party prohibit corporal punishment in the family, in schools and other institutions and undertake education campaigns to educate families, teachers and other professionals working with and/or for children on alternative ways of disciplining children.

IV. Education, leisure and cultural activities

The Committee should express concerns that high number of school drop outs, attacks on schools by the Royal Nepal Army and the Maoists, the kidnapping and killings of teachers by the Maoists.

V. Special protection measures

The Committee should express concern about the conflict with the Maoists across Nepal has seriously affected children, especially their right to life through extrajudicial executions, survival and development (article 6 of the Convention).

The Committee should express its very serious concern at reports of children who are involved in and are victims of these conflicts and call upon the Maoists to stop recruitment of child soldiers.

In light of articles 38 and 39 of the Convention, the Committee should recommend that the State party ensure respect for human rights and humanitarian law aimed at the protection, care and physical and psychosocial rehabilitation of children affected by armed conflict, notably regarding any participation in hostilities by children. The Committee calls upon the State party to ensure impartial and thorough investigations in cases of rights violations committed against children and the prompt prosecution of those responsible, and that it provide just and adequate reparation to the victims.

Refugee children

The Committee should welcome the generous policy of the State party in hosting the Bhutanese refugees but express concerns about the discrimination against the Tibetan refugees including the closure of the Tibetan refugee centre and refoulement of the Tibetan refugees.

In light of Article 22 of the Convention, the Committee should recommend that the State party consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and adopt comprehensive legislation to ensure adequate protection of refugee and asylum-seeking children, including in the fields of physical safety, health, education and social welfare, and to facilitate family reunification.

Economic exploitation, including child labour

The Committee should take note of increase of economic exploitation of children as a result of the Maoists conflict.

Among others, the Committee should call upon the State party and relevant specialised agencies to report on the impact of the Maoist conflict.

Sexual exploitation of children/trafficking in children

The Committee should express concerns about the sexual exploitation of children in the protective custody of the State and impunity enjoyed by the culprits.

In light of articles 34 and 35 and other related articles of the Convention, the Committee should recommend that the State party:

-Provide sufficient human, financial and technical resources for ensuring that perpetrators are brought to justice;

-Strengthen its policies to facilitate the reunification of child victims of trafficking with their families and provide adequate care and reintegration programmes for children who have been sexually exploited and/or trafficked, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children; and

- Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Administration of juvenile justice

The Committee should express concerns that juvenile justice is still treated as a section of criminal justice system and there is no "Children's Correction Home" and that children are often kept in custody together with adults, and the processes and jurisdiction applicable to the investigation, remand, bail and judicial custody are similar to that of adults.

The Committee should also express concerns about the re-arrest of juveniles accused of having links with Maoists despite their release by the courts; and

The Committee should further express concerns about the detention of children of convicted persons in prisons because of the lack of rehabilitation of the children of convicts in clear violations of the Prison Act (1962) which provides that if both parents

are imprisoned and there is no relative to care for the child, the child will be sent to a children's home.

The Committee should recommend that the State party take all appropriate measures to implement a juvenile justice system that is in conformity with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System.

In addition, the Committee should recommend that the State party:

- **Take all necessary steps to establish, as a measure of urgency, to amend Child Rights Act of 1992 to bring conformity with obligations under the CRC;**
- **Strengthen training programmes on relevant international standards for all professionals involved with the system of juvenile justice;**
- **Strengthen rehabilitation and reintegration programmes especially the children of convicted prisoners being kept in prisons;**
- **Use deprivation of liberty only as a measure of last resort; and**
- **Consider seeking technical assistance from, among others, OHCHR and UNICEF.**

Minorities/indigenous children

The Committee should express concern that indigenous children have been disproportionate victims in the conflict with the Maoists and at the situation of children belonging to indigenous peoples who face discrimination and at their limited access to social services, including health care, immunization and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.