

# Nepal Monthly Human Rights Briefing Paper

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## The Chinese Chequer: Split Wide Open in Nepal

(Briefing paper covering the events of October 2005)

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## 1. Overview

With the announcement of 8 million Chinese Yuan (approximately about US\$ 1 million) as military aid to Nepal<sup>1</sup> following the visit of the Royal Nepalese Army Chief General Pyar Jung Thapa to Beijing<sup>2</sup> and the support of the Duma, the Russian parliament, to the municipal polls and parliamentary polls promised by King Gyanendra<sup>3</sup>, the restoration of democracy and resolution of the conflict with the Maoists have become more complex. Obviously, the visit of the EU troika from 4 to 6 October 2005<sup>4</sup> had little impact on King Gyanendra who even refused to give an audience to the Troika delegation.

The United States is the only country to have expressed concern over Chinese military aid.<sup>5</sup> The looming question is whether Chinese military aid will change New Delhi's policy of "not resuming supplies of lethal military equipments to Kathmandu until restoration of multiparty democracy by King Gyanendra".<sup>6</sup> The United States and the United Kingdom have been holding regular consultations with India. On 5 October 2005, British Defence Minister

John Reid stated that Britain would act in consultation with India on the issue of resuming arms supplies to Nepal.<sup>7</sup>

King Gyanendra appears determined to obtain Musharraf style legitimacy and adopted carrot and stick policy. In his message on Hindu religious festival Dusshera, he announced polls to all the 58 municipalities to be held on 8 February 2006<sup>8</sup>, and promised to hold parliamentary polls by mid-April 2007.<sup>9</sup> The Election Commission gave political parties 30 days time effectively from 20 October 2005 to have their names registered in the commission for the municipal elections.<sup>10</sup>

The government has also extended the offer of amnesty to the Maoists till mid-January 2006.<sup>11</sup>

King Gyanendra also continued his onslaught on the pillars of democracy. On 9 October 2005, King Gyanendra promulgated an anti-press legislation known as the "Ordinance Amending Some Nepal Acts related to Media-2062" to tighten his grip over the press.<sup>12</sup> At the mid-night of 21 October 2005, armed policemen stormed into the office of Kantipur FM radio station in Lalitpur and seized satellite equipment used to

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1. China grants Rs 72 million as military aid to Nepal, Nepal News.com, 25 October 2005

2. China grants Rs 72 million as military aid to Nepal, Nepal News.com, 25 October 2005

3. Russian parliament supports Nepal polls, Nepal News.com, 25 October 2005

4. There is a strong risk of political collapse in Nepal: EU Troika, Nepal News.com, 6 October 2005

5. Moriarty objects to Chinese military aid: Airs doubts on polls' motive, The Himalayan Times, 27 October 2005

6. No change in India's Nepal policy, The Kathmandu Post, 19 October 2005

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7. Arms supplies to Nepal: UK, India to act jointly, The Himalayan Times, 6 October 2005

8. Municipal polls on Feb 8, The Kathmandu Post, 10 October 2005

9. King seeks polls by mid-2007, The Statesman, India, 13 October 2005

10. EC gives parties 30 days to register for civic polls, The Himalayan Times, 20 October 2005

11. Amnesty offer for Nepal Maoists, BBC News, 25 October 2005

12. Gyanendra declares new measures to muzzle media, The Indian Express, 11 October 2005

uplink the FM's transmission to Bhedetar station in the eastern region.<sup>13</sup>

A Code of Conduct to control and regulate all NGOs in Nepal has been in the offing.<sup>14</sup>

The Supreme Court has been trying to uphold some basic rights. The Kantipur FM moved the Supreme Court against the seizure of its FM radio station equipments.<sup>15</sup> On 27 October 2005, the Supreme Court ruled that no action should be taken against Kantipur FM until a final verdict in the case was reached.<sup>16</sup>

It remains to be seen how the government reacts the order of the Supreme Court in the case of Kantipur FM. Earlier, despite of Supreme Court's order of 21 October 2005 to release Rajendra Phuyal from illegal detention, he has not been released so far.<sup>17</sup>

Although unilateral ceasefire declared by the Maoists on 3 September 2005 brought down the level of violence, the security forces sought to provoke the Maoists. The security forces and the Maoists have been responsible for gross human rights violations.

According to Informal Sector Service Centre (INSEC), 33 people were killed from 3 September to 2 October 2005. Of them, 29 persons were killed by the security forces and 4 by the Maoists. While the Maoists abducted 8,057 people, mostly students and teachers, at least 106 persons were arrested by the security forces on the charges of being Maoists during the same period.<sup>18</sup>

Until the royal takeover of 1 February 2005, international community was happy to engage with proxy governments. International community also intervened with the political parties not to weaken the King and give advantage to the Maoists. After the royal takeover, international community was forced to accept the reality and take some measures.

The seven-party alliance, which had nearly 90 per cent of the seats in the dissolved House,<sup>19</sup> has questioned the legality of the King's government and rejected the polls. On 19 October 2005, the seven-party political alliance formally decided to hold talks with the CPN-Maoists.<sup>20</sup>

Nepali Congress president and former Prime Minister Girija Prasad Koirala and United Marxist Leninist (UML) General Secretary Madhav Kumar Nepal have been reportedly mandated to hold talks with the Maoist supremo Prachanda and

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<sup>13</sup>. Nepali police raid pvt radio station, The Daily Star, 23 October 2005

<sup>14</sup>. Martin raps govt decision to regulate NGO, Kantipur Online, 6 October 2005

<sup>15</sup>. Kantipur FM moves SC, The Kathmandu Post, 24 October 2005

<sup>16</sup>. Court rules on Nepal radio move, BBC available at [http://news.bbc.co.uk/1/hi/world/south\\_asia/4380854.stm](http://news.bbc.co.uk/1/hi/world/south_asia/4380854.stm)

<sup>17</sup>. Govt flouts SC order again, The Kathmandu Post, 26 October 2005

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<sup>18</sup>. Killings down, abductions up: INSEC, Kantipur Online, 6 October 2005

<sup>19</sup>. King's gambit – It cannot end Nepal's crisis, The Tribune, 14 October 2005

<sup>20</sup>. Parties declare poll boycott, The Kathmandu Post, 20 October 2005

ideologue Baburam Bhattarai.<sup>21</sup> It remains to be seen how King Gyanendra reacts to the dialogue between the political parties and the Maoists. International community will once again be forced to take action if King seeks to stop such processes.

The Chinese military aid may indeed expedite the processes unless key actors drastically reverse their policy with regard to restoration of democracy in Nepal.

## 2. Human rights violations by the security forces

The security forces have been responsible for extrajudicial killings, torture, and looting. The Office of the High Commissioner for Human Rights in its report to the UN General Assembly has also indicted the army as having committed “serious violations of international humanitarian law”.<sup>22</sup>

### i. Arrest and detention

The seven-party alliance called a general strike in the Kathmandu valley on 28 October 2005 against the media ordinance. On the eve of the strike i.e. on 27 October 2005, police detained dozens of demonstrators who took to streets in support of the strike.

On 27 October 2005, 14 student leaders were reportedly arrested<sup>23</sup>: six, including NSU joint general secretary Kalyan

Gurung, from Dilli Bazaar and eight more were arrested from Kirtipur in Kathmandu.

On 27 October 2005, police also arrested five UML leaders including UML's Valley Coordination Committee Secretary Rameshwor Phuyal and member Gunjaman Basnet, Mukti Samaj's Nirmal Deula, and UML's youth wing's Paritosh Paudel and Suman KC in Kathmandu.<sup>24</sup>

On 28 October 2005, about 85 demonstrators affiliated with the seven-party alliance were arrested from different parts of Kathmandu, Lalitpur and Bhaktapur districts.<sup>25</sup>

### ii. Extrajudicial killings

On 2 October 2005, an unidentified Maoist cadre was killed by the security forces in an alleged encounter in Chokati area in Sindhupalchowk district. According to a Royal Nepalese Army (RNA) report, the Maoist was killed in retaliatory action.<sup>26</sup>

On 15 October 2005, the RNA soldiers killed four Maoists in an alleged encounter at Limbu Chowk at Belbari-6 in Morang district. Those slain were identified as Number-4 bureau member of the rebel outfit Mohan Khanal alias Binod, chairman of Maoists' intellectual council of Morang and Sunsari districts, Purna Shrestha, and Durga Limbu and Bidur Bhattarai, both area members.

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21. Team named for Maoist talks, The Telegraph, India, 20 October 2005

22. HR violated in Belbari, Bahadurpur: OHCHR, The Kathmandu Post, 22 October 2005

23. 14 student leaders arrested, The Himalayan Times, 28 October 2005

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24. 5 UML activists detained, Kantipur Online, 27 October 2005

25. Banda peaceful, 85 arrested, The Kathmandu Post, 29 October 2005

26. Maoist killed, abductions continue, The Kathmandu Post, 3 October 2005

Eastern Divisional Headquarters of RNA claimed that the security team retaliated after the Maoists traveling on a bicycle and motorcycle hurled grenades at the security patrol. RNA source also said that it recovered a cycle, motorbike and hand-grenade from the incident site. But in a press release, the Maoists accused the security forces of killing their cadres in cold blood. "Subba was killed as he was bathing at his home at Telkudiya and the other three were killed while they were going south on party work", the press release claimed.<sup>27</sup> Similarly, the local people, who witnessed the killing of the four Maoists, claimed that the Maoists were unarmed. They said Durga Limbu was taking a bath when security forces arrived and he was shot while trying to flee. The other three Maoists arrived on a motorcycle to the village after the security forces had surrounded the area.<sup>28</sup> An investigation into the Belbari killing by OHCHR-Nepal has also indicted the army for "serious violations of international humanitarian law".<sup>29</sup>

On 18 October 2005, Maoist area committee member Bishnu Manange was killed by RNA soldiers in alleged encounter at Khalte area of Taplejung district. According to a release by Directorate of Public Relations of RNA, the Maoists had first opened fire at the security patrol of the RNA. The RNA claimed to have recovered one pistol, a pressure cooker bomb, five socket

bombs and bullets from the incident site.<sup>30</sup>

On 19 October 2005, a Maoist 'area committee' member named Arjun Meyangbo was killed by the security forces in an alleged encounter in Dumrise area of Taplung district. The Directorate of Public Relation (DPR) of the Royal Nepalese Army claimed that the security forces recovered one firearm, Rs.321 thousand cash and Maoist documents from the site of encounter.<sup>31</sup>

On 20 October 2005, two Maoists were shot dead by the security forces in an alleged encounter in Korcha area of Dang district. A statement issued by the Directorate of Public Relation (DPR) of the Royal Nepalese Army (RNA) said the Maoists were killed in ensuing encounter after they opened fire at a security patrol in the afternoon. Security forces recovered one Magnum rifle, two revolvers, grenades, socket bombs, one computer and utensils from the incident site.<sup>32</sup>

On 20 October 2005, two Maoists were killed in an alleged encounter with the Royal Nepalese Army (RNA) at the Jhenam area of the western Rolpa district. A statement issued by the Directorate of the Public Relations of the RNA said the Maoists were killed in retaliatory action when they tried to hurl socket bombs at the patrolling security forces.

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27. Forces kill 4 Maoists, The Kathmandu Post, 16 October 2005

28. Killed Maoists were unarmed say locals, Kantipur Online, 17 October 2005

29. HR violated in Belbari, Bahadurpur: OHCHR, The Kathmandu Post, 22 October 2005

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30. Maoist killed in security action; 80 surrender, Nepal News.com, 18 October 2005

31. Three Maoists killed in security actions, Nepal News.com, 20 October 2005

32. Three Maoists killed in security actions, Nepal News.com, 20 October 2005

The statement further claimed that the security forces also recovered one rifle, one pistol, bullets of different guns, socket bombs, grenades, two generators, one computer and other material from the incident site.<sup>33</sup>

On 21 October 2005, security forces killed two Maoist commanders in an alleged encounter at Chormara area in Nawalparasi district. An RNA release on 22 October 2005 stated that they were killed in retaliation.<sup>34</sup>

On 24 October 2005, Maoist district committee member Harka Singh Thami alias 'Muskan' was killed in an alleged retaliatory action of the Royal Nepalese Army (RNA) in Barmadu area of the Darchula district. According to Directorate of the Public Relations of the RNA, security forces confiscated two guns, socket bombs, logistics and Maoist documents from the incident site.<sup>35</sup>

The security forces have often justified extrajudicial killings by terming them "encounter killings". However, such killings are often credibly found to be real extrajudicial killings. Some of the very recent examples of extrajudicial killings are as follows.

On 2 October 2005, the Civil Society's Ceasefire Monitoring Committee (CSCMC) stated that six Maoists and a civilian were not killed during crossfire on 24 September 2005 in Bahadurpur area of Palpa district, as claimed by the

security forces, but in "unprovoked firing" by the security forces. According to the CSCMC fact-finding report, three Maoist sentries, three Maoist cadres and an ordinary citizen were killed. The report said that "The army could have cordoned the Maoists and taken legal action, but the army took armed action".<sup>36</sup>

On 3 October 2005, National Human Rights Commission (NHRC) concluded that security personnel killed Maoist cadres Eknath Subedi and Nabin Singh Paudel after taking them under control in August 2005. Subedi, a member of the trade union close to CPN (Maoist), was killed on 27 August 2005 while Paudel was killed three months before at Pidariguthi of Parsa district. According to NHRC, Subedi was arrested from Nagardaha VDC of Parsa district and shot dead in front of local villagers by the security forces.<sup>37</sup>

On 4 October 2005, human rights activists said that security personnel killed Maoist rebel Bir Bahadur BK after taking him under control in Khochlek. A four-page investigation report concluded that security personnel could have taken Bir Bahadur BK under control after he fell on the ground but they fired three more rounds of bullets at him. Earlier, security forces had claimed that BK was killed in a clash at Deulek VDC in Baitadi district on 19 September 2005.<sup>38</sup>

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<sup>33</sup>. Two Maoists killed: RNA, Nepal News.com, 22 October 2005

<sup>34</sup>. Forces kill 2 Maoists, DFO abducted, The Kathmandu Post, 23 October 2005

<sup>35</sup>. Maoist district committee member killed: RNA, Nepal News.com, 25 October 2005

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<sup>36</sup>. Fact finding mission dismisses RNA claims, Kantipur Online, 3 October 2005

<sup>37</sup>. Rebels shot dead after arrest: NHRC, The Kathmandu Post, 4 October 2005

<sup>38</sup>. 'Rebel killed under forces' control', The Kathmandu Post, 5 October 2005

### iii. Torture

“We didn’t torture them because they didn’t lie to us. But if they lie to us, then we beat them up and then we torture them. That’s our practice.”

According to UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, the above statement was made by a commander of the Royal Nepalese Army (RNA) in one of Nepal’s barracks during his visit to Nepal. The UN Special Rapporteur was addressing the Third Committee of the UN General Assembly.<sup>39</sup>

Torture is not a criminal offence in Nepal and perpetrated rampantly without accountability. The Special Rapporteur concluded that torture is practiced systemically in Nepal.

On 1 October 2005, RNA soldiers allegedly physically assaulted Nepali Congress vice-president Resham Bahadur Baniya and chief of Skills Development Office Shankar Subedi in district headquarters Beni bazaar in Myagdi district. Angry locals picketed the District Administration Office, demanding action against those involved.<sup>40</sup>

On 12 October 2005, a drunken police constable Rajendra Shahi, posted at the zonal police office, stabbed 12-year-old

Ganesh Bahadur Singh of Dhangadhi municipality-5. According to report, the police constable attacked the victim with a knife after the latter asked him to pay up Rs 20 for liquor that he had bought. Two of the victim’s fingers were badly slashed as he tried to block the assault. On 11 October 2005, the same police constable had attacked the son of a local hotel owner, Bhakta Bahadur Singh, with a vegetable cutter when he was told to pay money for food he was served.<sup>41</sup>

On 14 October 2005, Janak Prasad Neupane, a correspondent of *Dristi*, a vernacular weekly published from Kathmandu, was beaten by a soldier without any reason at his own house in Dailekh district.<sup>42</sup>

### 3. Atrocities by the vigilante groups

Backed by RNA, vigilante groups do not hesitate to take law into their hands in the name of “self-defence”. In addition to killing of alleged Maoists or their sympathizers, vigilante groups have also put civilians at the point of Maoists’ targets. By indulging in killings, extortion and intimidation, these so-called vigilante groups have contributed to the country’s civil war and instability in a wholesale scale.

#### i. Killings

On the night of 17 October 2005, an anti-Maoist vigilante group shot dead 35-year-old Bijuli Lodh at Karauta VDC in Rupandehi district. According to

<sup>39</sup> . “Torture is our practice”, The Kantipuronline, <http://www.kantipuronline.com/kolnews.php?&nid=55626>

<sup>40</sup> . Soldiers manhandle locals, The Kathmandu Post, 3 October 2005

<sup>41</sup> . Sozzled cop stabs 12-yr-old, The Himalayan Times, 14 October 2005

<sup>42</sup> . Soldier beats Dristi scribe, The Kathmandu Post, 15 October 2005

sources, he was abducted from his house at Ama VDC-3, and shot at the head. Owning up the responsibility of the killing, the vigilante group accused Bijuli Lodh of having a hand in the killing of three persons by the Maoists in Parchabar a few months ago.<sup>43</sup>

## ii. Extortions

In order to maintain the cost of their weaponry or to meet their self-interests, the members of vigilante groups extort money from businessmen in the name of tax collection.

In Nawalparasi district, businessmen who bring cattle and household commodities from India have to pay up to Rs 300 per head of cattle, and 10 to 60 rupees per sack of household commodities as “tax” to the vigilante groups. Vigilantes reportedly man the entry points at the India-Nepal border, and take charges according to number of cattle being brought. The businessmen are not issued any receipt against the payment. Sometimes, it so happens that businessmen need to pay 3 to 4 times at different entry points for the same goods and cattle. They are threatened with death if they ask for a receipt.<sup>44</sup>

A member of such groups said they extort in order to “buy bullets, guns and also petrol for our motorbikes”, as the local administration has failed to provide them.<sup>45</sup> However, there is no accountability for the money collected.

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<sup>43</sup>. Vigilante group kills local, The Kathmandu Post, 19 October 2005

<sup>44</sup>. Vigilantes ‘tax’ businessmen, The Kathmandu Post, 16 October 2005

<sup>45</sup>. Vigilantes ‘tax’ businessmen, The Kathmandu Post, 16 October 2005

## 4. Atrocities by the Maoists

The cadres of the Communist Party of Nepal (Maoists) have failed to respect the ceasefire unilaterally declared by them on 3 September 2005. The Maoists are still indulging in killings, abductions, harassment, extortions, road blockades, denial of health services and forceful closure of schools.

### i. Torture and killings

On 3 October 2005, Maoists tortured and shot dead Laxmi Yadav in Samanpur area of Rautahat district and assaulted his mother seriously.<sup>46</sup>

On 6 October 2005, Maoists killed Saraswati Parajuli (35) of Baccha-7 Ghumaunedanda in Parbat district. She was abducted on 4 October 2005 in connection with a murder case. It is believed that the Maoists have tried her in a “kangaroo court”.<sup>47</sup>

On 20 October 2005, Maoists reportedly ambushed around 100 RNA personnel at Sanodumka VDC in Bhojpur. Although the security forces denied that there was any casualty, the Maoists claimed to have killed some army personnel.<sup>48</sup>

On 25 October 2005, two Sherpa kids, aged 9 and 14 years, of a same family in Shrijung VDC-2 were reportedly killed when a bomb left by the Maoists went off at Asine jungle area in Tehrathum

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<sup>46</sup>. Maoists kill civilian, stop health clinic: Reports, Nepal News.com, 5 October 2005

<sup>47</sup>. Maoists kill woman in Parbat, The Kathmandu Post, 17 October 2005

<sup>48</sup>. RNA, Maoists clash in Bhojpur, The Kathmandu Post, 22 October 2005

district. The children had gone to the jungle to collect fruits.<sup>49</sup>

On 30 October 2005, the RNA claimed that the Maoists killed Padam Lal Dhakal, a resident of Taplejung after abducting him from Sikaicha area of Taplejung a few days ago.<sup>50</sup>

## ii. Abductions

On 1 October 2005, Maoists reportedly abducted six people, including security personnel Kumar Basnet in Gaighat of Udayapur district.<sup>51</sup>

On 2 October 2005, the Maoists abducted around 300 civilians, including students, teachers and farmers, from Bharapa, Subhang, Panchami, Tharpu, Yoyang and Nagi VDCs of Panchthar district. Those abducted were between 17 and 35 years of age. The Maoists reportedly told the villagers that they were being taken for participation in an area-level training.<sup>52</sup>

On 4 October 2005, the Maoists reportedly abducted two Royal Nepalese Army (RNA) soldiers identified as Navaraj Adhikari and Amar Shah of Kali Bahadur Battalion from Dandakharka village in Makwanpur district after a clash in the village. According to a source, three Maoists and two RNA soldiers were killed in the clash.<sup>53</sup>

On 5 October 2005, the Maoists freed over 500 students and teachers abducted earlier from Panchthar and Taplejung districts.<sup>54</sup>

On 17 October 2005, Maoists reportedly abducted Subha Narayan Yadav of Aurahi area of Dhanusa district.<sup>55</sup>

On 18 October 2005, Maoists reportedly abducted four youths from their homes in Giregada VDC in Baitadi district after they returned from the district headquarters where they had appeared for tests to be recruited as Royal Nepalese Army (RNA) soldiers. Two of the abducted youth have been identified as Sukra Bahadur Chand and Raj Bahadur Chand. According to RNA sources, the youth were beaten up severely before abduction.<sup>56</sup>

On 21 October 2005, Maoists reportedly abducted District Forest Officer Vishwonath Prasad Mahato from Bhimdutta Panta Highway.<sup>57</sup>

According to the Directorate of the Public Relations of the Royal Nepalese Army, Maoists abducted more than 200 people from Giri Chauki, Chepali, Daud and Toleni area of Doti district, and more than 75 people from different places of Bajura and Accham district to provide Maoists' training.<sup>58</sup>

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49. Two children killed in an explosion, Nepal News.com, 31 October 2005

50. Maoists kill one, abduct several, The Kathmandu Post, 31 October 2005

51. Maoist killed, abductions continue, The Kathmandu Post, 3 October 2005

52. Maoists Abduct 300 Civilians in Pachthar, The Himalayan Times, 2 October 2005

53. Maoists continue abduction, atrocities, The Kathmandu Post, 9 October 2005

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54. Maoists free over 500 students, teachers, The Kathmandu Post, 6 October 2005

55. Maoist district committee member killed: RNA, Nepal News.com, 25 October 2005

56. Forces kill Maoist, 4 youths abducted, The Kathmandu Post, 19 October 2005

57. Forces kill 2 Maoists, DFO abducted, The Kathmandu Post, 23 October 2005

58. Maoists abduct over 275 people, Nepal News.com, 23 October 2005

On 20 October 2005, Maoists abducted RNA recruit Min Bahadur Mahat, 22, of Karimare, Tushara-3 from Bagdula area in Pyuthan. He was reportedly returning home from the training camp.<sup>59</sup>

According to National Human Rights Commission of Nepal, Maoists abducted Arun Chand, son of former Prime Minister Lokendra Bahadur Chand from Chuha Village in Kailali district on 27 October 2005.<sup>60</sup>

According to the Ministry of Defence, the Maoists abducted Devi Dhakal, Kumar Gurung, Surya Man Shrestha, Mangal Rai, Chitra Sapkota and Durga Khawas of Harkate area of Ilam District on 26 October 2005. On 27 October 2005, Sharmila Shrestha, a grade nine student of Durga Secondary School, Mag Deurali of Dolakha District was abducted. His whereabouts are not known. The Maoists also abducted 19 passengers of a bus plying on the Tikapur-Dhangadhi route when it had arrived at Masuriya area of Kailali district on the same day.<sup>61</sup>

On 30 October 2005, the Directorate of Public Relations (DPR) of RNA claimed that the Maoists abducted a huge number of villagers from Girichour, Chhapali, Bajhkakani and Mahadev areas of Doti district on 29 October 2005. The RNA also claimed that a group of Maoists abducted three persons identified as

Umesh KC, Damodar and Madhab Bhandari from Manpur area of Dang district on 27 October 2005. The rebels also reportedly abducted 12 teachers of Saraswoti Lower Secondary School in Soyang area of Ilam district on 26 October 2005.<sup>62</sup>

### iii. Extortions and road blockade

The Maoists have been reportedly engaged in extortion and road blockade. In Salyan district, they have reportedly been charging Rs 50 for each vehicle, Rs 10 on entertainment materials and Rs 29 on consumer goods as “road taxes”. They even collected “road taxes” from ambulances taking patients to hospitals in Dang.<sup>63</sup>

In Baitadi district, the Maoists have reportedly prevented locals from far-flung villages from traveling to the district headquarters.<sup>64</sup>

On 2 October 2005, the Maoists reportedly captured four tankers carrying 12,000 liters of kerosene and 3, 000 liters of diesel in Chuha in Kailali district.<sup>65</sup>

On 16 October 2005, RNA claimed that that a group of armed Maoists extorted money from tourists and local traders in Muchu VDC of the mid-western Humla district on 13 October 2005. The RNA further claimed that the Maoists set fire

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<sup>59</sup>. RNA recruit abducted, The Kathmandu Post, 24 October 2005

<sup>60</sup>. Maoists abduct former PM's son, The Kathmandu Post, 1 November 2005

<sup>61</sup>.  
<http://www.gorkhapatra.org.np/pageloader.php?file=2005/11/01/topstories/main14>

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<sup>62</sup>. 'No letup in abduction of civilians by Maoists', Nepal News.com, 30 October 2005

<sup>63</sup>. Maoists tax ambulance too, The Kathmandu Post, 19 October 2005

<sup>64</sup>. Maoists kill woman in Parbat, The Kathmandu Post, 17 October 2005

<sup>65</sup>. Maoists kill civilian in Rautahat: RNA, Kantipur Online, 4 October 2005

to a temple in Tham VDC in the western district of Gulmi, and looted Rs. 9,000 from a businessman in Sajghat area of Doti district on 12 October 2005.<sup>66</sup>

On 31 October 2005, the Maoists seized two oil tankers from Kailali's Sahajpur area. The tankers were carrying diesel and kerosene from Dhangadhi to Dipayal, where there was acute shortage of diesel and kerosene during the festive season of Tihar.<sup>67</sup>

#### **iv. Denial of access to healthcare**

The Maoists have imposed restrictions even on healthcare facilities. They have reportedly stopped a health clinic being organized in the remote Gaira and Dharadhiri area of Semjong VDC in Dhading district and looted the medicines that were to be distributed freely among the local people. According to a news report, the rebels asked the health workers to return from the area without organizing the clinic. Social Awareness and Development Forum, a local NGO, had organised the health clinic in support with Nepal Water for Health (NEWAH)—a Kathmandu-based non-governmental organisation.<sup>68</sup>

#### **v. Forcible closure of the schools**

On 17 September 2005, the All Nepal National Independent Students Union-Revolutionary (ANNISU-R), the student wing of the Maoists, issued fresh

directives asking the community-managed schools to hand over their management back to the government within 21 October 2005.<sup>69</sup>

The ANNISU-R has violently enforced closure of schools, depriving thousands of school students of their right to education.

In early October 2005, over 50 out of 190 community-run schools were shut down following threats from ANNISU-R in Morang district. Over 25,000 students were reportedly affected.<sup>70</sup>

In Argakhanchi district, over 600 students reportedly fled from their homes and enrolled themselves in schools of nearby districts. Most of the schools in the district had been closed since last 15 months due to threats from ANNISU-R. Parents of these students reportedly had to bear three times higher expenditure on the education of their wards.<sup>71</sup>

On 24 October 2005, the All Nepal National Independent Students Union-Revolutionary reportedly forcibly closed 22 community schools in different VDCs of Panchthar district. These include three higher secondary, two lower secondary and seventeen primary ones.

### **5. Contempt of the Court**

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<sup>66</sup>. Maoists continuing violent activities: Army, Nepal News.com, 16 October 2005

<sup>67</sup>. Maoists seize oil tankers, The Himalayan Times, 1 November 2005

<sup>68</sup>. Maoists kill civilian, stop health clinic: Reports, Nepal News.com, 5 October 2005

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<sup>69</sup>. 22 schools locked out, The Himalayan Times, 25 October 2005

<sup>70</sup>. ANNISU-R close over 50 schools, The Kathmandu Post, 2 October 2005

<sup>71</sup>. Over 600 students flee district, The Kathmandu Post, 16 October 2005

The government of Nepal has hit hard at the independence of the judiciary of the country and has sought to water down the Supreme Court.

Article 96 of the Constitution of Nepal makes order and decisions of Courts binding on the government. Section 2 of Article 96 specifically states that “Any interpretation given to a law or any legal principle laid down by the Supreme Court in the course of hearing of a suit shall be binding on His Majesty's Government and all offices and courts”.

But the orders of the Court have been flouted without slightest remorse. ACHR has recorded re-arrest of as many as 41 persons by the security forces during 28 February – 22 September 2005 following their release by the court that termed their detention “illegal”.

On 18 October 2005, five persons freed from the District Jail in Jhapa on the orders of the acting Chief District Officer (CDO) Prem Narayan Sharma were reportedly re-arrested by the security forces. Four of them were identified as Purusottam Chudal of Surunga -9, Puspa Upreti of Mechinagar, Khagendra Prasad Dahal of Shantinagar-9 and Him Bahadur Rana Magar of Ilam, Laxmipur. They have been in detention for a year.<sup>72</sup>

On 21 October 2005, a division bench of the Supreme Court comprising Justices Min Bahadur Rayamajhi and Balram KC ordered the release of detainee Rajendra Phuyal in the presence of a Kathmandu district judge. But the government defied

the SC and did not release Phuyal.<sup>73</sup> Phuyal a security personnel employed by the private security company ‘Kantipur Security Service, has been in detention for the last 18 months on the charges of being involved in terrorist and disruptive activities.<sup>74</sup> In response to a habeas corpus petition filed by Phuyal’s father Khagendra Prasad Phuyal, on 26 October 2005, the Supreme Court issued show cause notice to the Ministry of Home Affairs, the Headquarters of Police and the Royal Nepalese Army, the Kathmandu District Police Office, Hanumandhoka and the Central Jail, and ordered to produce Rajendra Kumar Phuyal before the apex court on 28 October 2005.<sup>75</sup> He was released on 31 October 2005 following a Supreme Court order.<sup>76</sup>

However, on 28 October 2005, the Patan Appellate Court extended detention of Krishna KC in police custody for another 12 days. Police said they were investigating KC’s alleged involvement in the killing of Inspector General of Armed Police Force Krishna Mohan Shrestha, his wife Nudup and bodyguard Surya Bahadur Regmi, and also accused him of involvement in Maoist attacks in Bhojpur district headquarters and Bhiman of Sindhuli district where some people and police personnel were killed.<sup>77</sup>

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<sup>72</sup>. Detainees freed, arrested, The Kathmandu Post, 23 October 2005

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<sup>73</sup>. Govt flouts SC order again, The Kathmandu Post, 26 October 2005

<sup>74</sup>. SC orders govt bodies to produce detainee, The Himalayan Times, 27 October 2005

<sup>75</sup>. SC orders govt bodies to produce detainee, The Himalayan Times, 27 October 2005

<sup>76</sup>. SC frees Phuyal, The Kathmandu Post, 1 November 2005

<sup>77</sup>. Court extends Krishna KC’s detention, The Himalayan Times, 29 October 2005

## 6. Freedom of the Press

### i. Muzzling of press freedom by the government

Article 19 (2) of International Covenant on Civil and Political Rights, to which Nepal is a party, states that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

The Constitution of Nepal also guarantees right to freedom of opinion and expression.

In violation of the national constitution and international human rights instruments, King Gyanendra has muzzled the free press.

On October 9, King Gyanendra promulgated an anti-press legislation known as “Ordinance Amending Some Nepal Acts related to Media-2062” to tighten his grip on the press. It gives the government the power to revoke journalists’ press accreditation, arrest and prosecute them. The fine for publishing ‘banned’ items has been increased ten fold to Rs 1 lakh<sup>78</sup> and that for publishing, translating and importing items aiding ‘terrorists’ has now been made Rs 5 lakh from the earlier Rs 50,000. The law also bars private radio stations from broadcasting news and

makes it a crime to criticize the royal family. The ordinance also restricts an organization or individual from running/operating radio, television and newspapers simultaneously. It also prohibits broadcasting centres from broadcasting information from more than one location.<sup>79</sup>

At the mid-night of 21 October 2005, armed policemen stormed into the office of Kantipur FM radio station in Lalitpur and seized satellite equipment used to uplink the FM’s transmission to Bhetetar station in the eastern region. According to a government official, about three dozen armed police, accompanied by technicians, entered the radio station at around 11:15 pm and seized eight pieces of satellite uplinking equipment, including a satellite modem, encoder and digital audio recorder.<sup>80</sup> Kantipur FM has moved the Supreme Court against the government action.<sup>81</sup>

On 23 October 2005, the Ministry of Information and Communications summoned more than a dozen representatives of FM stations and reportedly issued directions to stop broadcasting news oriented programs with immediate effect from 23 October 2005, and warned that strong action would be taken any one who fails to comply with the government directives.<sup>82</sup>

<sup>78</sup> . One lakh is equal to one hundred thousands

<sup>79</sup>. Gyanendra declares new measures to muzzle media, The Indian Express, 11 October 2005

<sup>80</sup>. Nepali police raid pvt radio station, The Daily Star, 23 October 2005

<sup>81</sup>. Kantipur FM moves SC, The Kathmandu Post, 24 October 2005

<sup>82</sup>. Govt directs FM radio to stop airing news, Kantipur Online, 23 October 2005

On 26 October 2005, in a “confidential” and “urgent” letter the Ministry of Information and Communications (MoIC) issued a 24-hour ultimatum to the Kantipur F. M. to explain as to why its operating license should not be cancelled. The Ministry of Information and Communications has accused Kantipur FM of airing news despite government orders. The Kantipur FM has decided to move the Supreme Court against the government order.<sup>83</sup>

On 28 October 2005, the NHRC of Nepal termed the government action against Kantipur FM as unconstitutional and illegal. According to NHRC, “If anyone commits a crime while airing news the government can inflict legal punishment but it cannot take an arbitrary action like raiding the station’s office,” and urged the government to return seized equipment.<sup>84</sup>

On the evening of 28 October 2005, plainclothes security personnel reportedly beat up Ram Bahadur Rawal, a local correspondent of *Dristhi* weekly, while he was observing *Deuda*, a folk dance, being performed in front of the district administrative office in Bajura. The security personnel brutally thrashed Rawal even after he identified himself as a journalist. Rawal was severely injured in the attack and was admitted to the district hospital. Earlier on 27 October 2005, police had manhandled journalist Dhanraj Pundit while he was covering a

protest rally organized by the CPN-UML.<sup>85</sup>

On 29 October 2005, a least 16 journalists, including Press Chautari Nepal president, Balkrishna Chapagain, editor of *Jana Astha* weekly, Kishor Shrestha, and editor of *Sambodh Weekly*, Gokul Baskota, were arrested from the government-prohibited area of Ratna Park, Kathmandu for protesting against the anti-media ordinance. They were released later.<sup>86</sup>

On 30 October 2005, at least two-dozen journalists and seven political leaders were reportedly arrested by a police team led by Sub-Inspector Ramji Katuwa while demonstrating against the anti-media ordinance in Dharan in Sunsari district in eastern Nepal. They were later released. Half-a-dozen journalists reportedly sustained serious injuries after police resorted to baton charge on them. During the police action, journalists lost their two digital cameras, a mike, and one TV camera. The Superintendent of Police (SP) Bigyan Raj Sharma admitted police misbehavior, and pledged action against the police commander and other policemen involved.<sup>87</sup>

While the government of Nepal arrested and intimidated the pro-democracy journalists, it rewarded the pro-palace journalists. In Baitadi district, more than 100 pro-palace journalists were reportedly provided pocket money and

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<sup>83</sup>. Govt threatens 96.1 license revocation, The Kathmandu Post, 27 October 2005

<sup>84</sup>. Govt action against Kantipur illegal: NHRC, The Himalayan Times, 29 October 2005

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<sup>85</sup>. Securitymen manhandle journalist, The Kathmandu Post, 30 October 2005

<sup>86</sup>. Police arrest 16 journalists, The Kathmandu Post, 30 October 2005

<sup>87</sup>. Police arrest 2 dozen journos, The Kathmandu Post, 31 October 2005

traveling allowance by the nominated representatives of the District Development Committee (DDC).<sup>88</sup>

## ii. Restrictions imposed by the Maoists

On 18 October 2005, the Maoists allegedly threatened Kamal Neupane, Dailkeh based reporter of Nepal Samacharpatra daily to give up his profession within three weeks or face consequences. In a letter to Neupane, a Maoist leader reportedly accused him of writing news against the Maoists.<sup>89</sup> However, the regional Maoist leadership has pledged a probe into the alleged threat to the journalist, and asked Neupane to “continue his job without any fear”.<sup>90</sup>

## 7. Attacks on Human Rights Defenders

The government is reportedly all set to introduce a Code of Conduct to regulate and control national and international NGOs in Nepal. The proposed Code of Conduct will be legally binding on the NGOs. The Code of Conduct reportedly has provisions to restrain membership, objectives, programming, functioning and access to funding and affiliation with national and international organizations active in Nepal.<sup>91</sup>

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<sup>88</sup>. Govt purse to nationalist journos, The Kathmandu Post, 31 October 2005

<sup>89</sup>. Maoist threaten journo to quit job, Kantipur Online, 19 October 2005

<sup>90</sup>. Maoists to probe threat to journo, The Kathmandu Post, 20 October 2005

<sup>91</sup>. Martin raps govt decision to regulate NGO, Kantipur Online, 6 October 2005

There were 142 INGOs operating in Nepal as in December 2003.<sup>92</sup>

## 8. Deplorable Prison Conditions

In the context of “virtual emergency”, the number of detainees has increased many folds. Many have been detained under national security laws, such as Public Security Act, Public Offence Act, and Terrorist And Disruptive (Control and Punishment) Ordinance of 2004.

The detention centres of the RNA and the jails are hubs for extreme torture.

The detention centres and jails are extremely overcrowded, devoid of basic amenities such as adequate food, water, medicine and sanitary toilets.

According to news reports, there were as many as 611 prisoners against its total capacity of 200 inmates in Morang jail as of May 2005. At least 80 prisoners were made to sleep in one room, which lacked proper ventilation. After his release from Morang jail, a former parliamentarian, Lal Babu Pandit said the prison room was so overcrowded that one had to wait for a turn to stand up. The inmates had to wait for at least two hours in queue to get their turn to take bath or to go to the toilet. In Prasi jail, the inmates had to sleep by turn due to lack of space.<sup>93</sup> Inmates in Kharipati Electricity Training Center in Bhaktapur too had no sufficient space to sleep at night, and there was only one toilet to be

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<sup>92</sup>.

[http://www.npc.gov.np/events/event\\_files/INGOs\\_Information.doc](http://www.npc.gov.np/events/event_files/INGOs_Information.doc)

<sup>93</sup>. Congested prisons, Kantipur Online, 2 May 2005

used by 60 detainees including females.<sup>94</sup>

On 4 October 2005, Diwakar Panta, secretary at the secretariat of Council of Ministers, declared that the government of Nepal has decided to establish additional detention centers in five development regions.<sup>95</sup> This is highly welcome.

The Nepali Constitution provides under article 14 (6) that “ Every person who is arrested and detained in custody shall be produced before a judicial authority within a period of twenty-four hours after such arrest, excluding the time necessary for the journey from the place of arrest to such authority, and no such person shall be detained in custody beyond the said period except on the order of such authority”. But this has not been held in practice. As a result, there has been inordinate and unnecessary delay in providing access to justice.

Prisoners of Bhimphedi prison, Hetauda in Makawanpur district have never faced the court for the last two years due to what the jail administration term as “security concerns”. This is despite that it is the jail administration which must provide adequate security for all the detainees.<sup>96</sup>

There are little or no treatment facilities in detention centres.

On the night of 4 October 2005, Mahesh Pahari (32), editor of the Rastriya Swabhiman weekly, died allegedly due to lack of treatment while being detained in Pokhara. He had been suffering from tuberculosis since the last one-and-a-half month but the authorities allegedly refused to allow him to be taken to Kathmandu for treatment despite of a recommendation by the regional hospital in Pokhara.<sup>97</sup> He had been imprisoned for the last two years for his alleged involvement in Maoist activities.

On 7 October 2005 evening, deputy commander of the Maoists’ Mechi Koshi Sagarmatha 18 battalion C company, Kishor Rajbanshi, allegedly committed suicide in Morang district prison. According to police, Rajbanshi hanged himself in the toilet. The deceased, a resident of Morang Darbesa VDC 8, was arrested by police on 7 July 2005 from his house and taken into custody in the Morang district prison under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO).<sup>98</sup>

## 9. Absence of appropriate punishment

While the Nepali laws do not recognize torture as crime, there has been no accountability for the excesses committed by the security forces. Punishment has not been handed over to the accused security personnel according to the gravity of the crime committed.

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<sup>94</sup>. Detainees falling sick at Kharipati, Kantipur Online, 11 May 2005

<sup>95</sup>. Govt for detention centers in five regions, Kantipur Online, 5 October 2005

<sup>96</sup>. Inmates deprived of legal process, The Kathmandu Post, 24 October 2005

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<sup>97</sup>. Journalist dies in detention, The Kathmandu Post, 6 October 2005

<sup>98</sup>. Suicide by Maoist, The Himalayan Times, 8 October 2005

On 1 October 2005, the Ministry of Defense (MoD) stated that three RNA officers - Colonel Bobby Khatri and Captains Amit Pun and Sunil Adhikari – were put in solitary confinement in army custody for six months from 14 March 2005 to 9 September 2005, in addition to suspension of their promotion and compensation to the victim’s family, as punishment of torture and killing of 15-year-old Maina Sunuwar in their custody in February 2004.<sup>99</sup> The action taken against the guilty RNA officers is totally inadequate and mere eyewash. This, in effect, could serve to encourage the security forces to commit more human rights abuses, if they are given the sense of comfort that they could escape with minor punishment for ghastly crime like extrajudicial killings.

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<sup>99</sup>. MoD dismisses HRW remarks, The Kathmandu Post, 2 October 2005

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