

## Nepal

The brutal eight-year civil war between rebels of the Communist Party of Nepal (Maoist) and government security forces raged on in 2004. Several serious encounters led to significant casualties on both sides. Both sides spoke publicly about resuming negotiations, without any real impact on the fighting.

Under intense international pressure to improve its human rights record, the Nepali government acknowledged “occasional aberrations” in 2004 and publicly renewed its pledge to abide by its human rights and humanitarian law obligations. In spite of this pledge, the government has not improved its conduct of the war. Its commitment to support the National Human Rights Commission (NHRC) has similarly gone unfulfilled. The government and its agencies continue to discount human rights workers as either pro-Maoist or naïve.

As the result of months of “anti-regression” demonstrations in Kathmandu, the highly unpopular government directly appointed by the king gave way to an unelected multi-party cabinet in June 2004. The government’s vague promises about holding elections soon were not satisfied as of this writing, and no election date had been announced.

The conflict and the political stalemate have had a devastating impact on the already desperately poor rural population. Nepal is among the poorest countries in Asia. Almost 40 percent of Nepal’s twenty-three million people live below the poverty line. Life expectancy at birth is just 59.6 years and infant and maternal mortality rates are among the highest in the region. The literacy rate is only 44 percent. The government’s limited capacity to provide essential health and education services has been severely curtailed by lack of access to Maoist controlled areas.

### ***Abuses Associated with the Civil War***

Civilians in Nepal are all too often caught in the middle of the civil war. Refusing to provide shelter to the rebels puts villagers at risk from Maoists who are ruthless in their punishments; providing such support, however, leaves them vulnerable to reprisal attacks from the state security forces. Human Rights Watch documented widespread abuses by both sides in 2004.

Summary executions of captured combatants and detained civilians are common in Nepal. According to the NHRC and other human rights organizations, government security forces have been responsible for approximately 2000 extrajudicial killings since 2001. In 2004, Human Rights Watch documented an ongoing pattern of killings which confirms these reports.

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When people are killed during security operations, government security forces (operating in a joint structure as the Unified Command) almost always issue a statement identifying the dead as Maoist rebels killed during exchange of gunfire. Investigations into the circumstances of the deaths have often revealed that many individuals were already in the custody of the armed forces at the time they were killed.

According to the U.N. Working Group on Enforced and Involuntary Disappearances, Nepal has the largest number of enforced disappearances in the world. The NHRC, which closely monitors enforced disappearances, documented 662 cases of enforced disappearances involving Nepali security forces between November 2000 and November 2003. If anything, the crisis of disappearances in Nepal has become more severe since the breakdown of the last ceasefire on August 27, 2003—hundreds have been detained or abducted since then, and many remain missing.

Disappearances are reported throughout the country. In almost all cases, the disappeared persons were last seen in the custody of government security forces. Those detained are held in informal places of detention: tents, government buildings, containers, and army training centers, making it virtually impossible for family members and lawyers to learn their fate or locate and gain access to them. The army's disregard of Supreme Court *habeas corpus* orders and its blatant lies to the courts have seriously undermined judicial oversight of detentions, one of the most important legal protections against "disappearances."

The Maoists also perpetrate serious abuses. The brutal summary execution of civilians is a favored tactic of the Maoists. Often, the executions are preceded by torture, in many cases in front of villagers and family members. The Maoists have assassinated or executed suspected government informants, local political activists or non-Maoist party officials, local government officials and civil servants, and individuals who refuse extortion demands from the Maoists. The Maoists also have executed off-duty army and police officers, often capturing them when they go to their villages to visit family members. In the vast majority of cases, the Maoists claim responsibility for the killings, explaining that the executed individuals are "informers," a vague charge which encompasses any act which defies Maoist dictates. Typically, the Maoists return to the village of their victim, informing the family or villagers of the killing.

The Maoists clearly use targeted killings to intimidate local villagers, ensuring that villagers know that deviance from Maoist demands will result in a brutal death.

### Use of Children

Accounts gathered by Human Rights Watch indicate that the Maoists recruit children, making them carry ammunition and supplies to the front lines, and using them as cooks and porters.

Because of security concerns and difficulties in gaining access to Maoist-controlled areas, both government and international aid workers have limited capacity to gather facts, provide protection, and

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assist former child soldiers with reintegration into society. While some child soldiers reportedly returned home after a ceasefire was declared on January 29, 2003, they were not officially demobilized. At the time, these children told journalists they were afraid that they could be re-recruited if the conflict resumed; what has happened to them since the breakdown of talks in August 2003 is unknown.

In addition to the use of children in combat, the Maoists have forcibly abducted students from schools for political indoctrination. This practice is well-reported and is readily admitted by the Maoists. Children and adults who have been abducted describe being given lectures on Maoism and on their rights as citizens, and being taught Maoist songs and dances. While most abducted children are returned days or weeks later, others remain unaccounted for. Some of the girls released after such abductions have reported sexual abuse to human rights groups.

The Maoist practice of calling either nationwide or regional “bandhs” (strikes) has had a paralyzing impact on most businesses and operations. Of particular concern are the forced closures of schools on strike days, which results in children missing an inordinate amount of school time.

### ***Violence and Discrimination Based on Gender and Sexual Orientation***

Gender-based violence—including domestic violence, sexual assault, and trafficking into forced labor and forced prostitution—remains pervasive and deeply entrenched in Nepal. Despite some positive legislative changes in 2002 providing women with improved rights to obtain abortions and to inherit parental property, legal discrimination prevents women from equal rights in passing citizenship to their children or to foreign spouses, from equal property rights, and from equal rights in marriage and divorce. There is no domestic violence law, and several limitations in the rape and sexual offense laws prevent victims from seeking redress through the justice system. Despite the legalization of abortion, some women remain imprisoned on abortion-related offenses.

Nepali authorities continue to turn a blind eye to a persistent pattern of police abuse of *metis* (biological males who cross-dress); men suspected of having sex with men; women suspected of having sex with women; and HIV/AIDS outreach workers. In other cases, police have deliberately failed to protect such individuals against abuses. These abuses violate both Nepalese and international law, which protect the dignity and equality of all human beings. They also heighten the risk of HIV/AIDS for people and communities already marginalized and made vulnerable by social stigma.

### ***Key International Actors***

The government of Nepal has refused any international or foreign mediation of the civil war against the Maoists, and resisted strong pressure to allow a joint national and international commission to monitor human rights conditions in the country. It dangerously stereotypes human rights workers as leftists and therefore anti-government. When senior commissioners at the NHRC have received death threats, the government has provided little or no protection or cooperation.

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During the February-August 2003 ceasefire, the international community increased its pressure on the government to respect human rights. The most significant international actors in Nepal are India, the United States, the United Kingdom, and the European Union. India has opposed a larger international monitoring or mediation role in Nepal because it opposes a similar international role in Kashmir. India is also battling its own insurgent Maoist groups. The United States has continued its policy of refusing to negotiate with Maoist organizations, and has cast Nepal's Maoists as enemies in the "war on terror." More recently, the U.S. passed a bill conditioning military assistance on the government's compliance with a commitment to cooperate with the NHRC to resolve "disappearances." The U.K. has continued its long tradition of military cooperation with Nepal, a relationship strengthened by the recruitment of Nepali "Gurkha" soldiers into the U.K. military.

The international community has supported the NHRC in its appeal to both the government and Maoists to agree to independent human rights monitoring in conflict zones. The two sides have agreed to neutral monitoring as a matter of principle, but neither side has signed a human rights accord allowing for such monitoring. On February 2, 2004, the E.U. issued a demarche to the Nepali government urging it to take the deteriorating human rights situation seriously. In March 2004, the government publicly pledged to abide by its obligations under human rights and humanitarian law. The pledge came days before anticipated condemnation of Nepal at the sixtieth session of the United Nations High Commission for Human Rights in Geneva. Although welcome, the timing of the pledge aroused serious suspicion, as it appeared to be timed to ward off a critical Item 9 resolution at the CHR hearings. Since then, the government has done little to fulfill its commitments.

Nepal continues to host over 100,000 refugees from Bhutan and has failed to make progress in finding a durable solution to the fifteen-year impasse. UNHCR is planning to withdraw assistance in 2005, leaving the fate of the refugees uncertain. This population is at high risk of statelessness.