

## Nepal

The human rights situation in Nepal worsened markedly in 2005. On February 1 King Gyanendra staged a coup against the civilian government, which he claimed was a necessary step to tackle the nine-year-old Maoist insurgency. Security forces arrested all leaders of major political parties. Authorities severed all communications links within Nepal and with the outside world. Many civil and political rights, including freedom of movement and freedom of assembly, were suspended.

Approximately three thousand political, human rights, and student activists were detained for months after the coup. The crackdown forced many human rights defenders to leave the country and others to curtail their work. After months of internal bickering, the political parties in September 2005 organized a series of protests against the king's usurpation of power. However, a renewed clampdown on the press towards the end of 2005 demoralized the political opposition and the otherwise vibrant and defiant media.

Despite the king's promise to resolve the civil war, the conflict continued with the same brutal intensity until September 2005, when the Maoists declared a unilateral ceasefire. The government said that it doubted the sincerity of the ceasefire and at this writing had not reciprocated. In spite of renewed commitments to abide by international standards, both sides continue to engage in serious violations of international humanitarian law. The establishment of a U.N. human rights office has generated some hope that the tide of abuses might be curtailed through vigorous monitoring and public censure of violations.

### ***Abuses Associated with the February Coup***

The royalist government has further clamped down on civil and political rights since February 1, 2005. The government prevents political parties and trade and student unions from operating freely, the media is restricted, and individuals have almost no recourse to the law. Extrajudicial killings, illegal detentions, and "disappearances" continue to be instigated by the Royal Nepalese Army (RNA) while the Maoists continue to engage in extortion, murder, forced displacement of civilians, and abductions. While these abuses existed before the coup, the ability of human rights defenders and the media to document abuses is now more difficult.

New laws and institutions have been designed to anchor the government's new restrictions in place. In the months after the takeover, the king maintained emergency powers through legislative changes that solidified control over key institutions, such as the National Human Rights Commission (NHRC), civil service, and media. The Human Rights Commission Act was amended to allow the king to change the

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composition of the NHRC appointment committee, undermining its independence and neutrality. Human Rights Watch found that the government and the RNA have consistently hampered the work of the judiciary and NHRC, despite cosmetic steps designed to give a contrary impression. Strict media regulations have prohibited the broadcasting of any news critical of the king and the royal family. FM radio stations, often the only source of news for most Nepalis, have been banned from broadcasting news. A code of conduct restricting the activities of national and international social organizations was introduced in November. The code of conduct is another legal tool which can be used to curtail the work of human rights NGOs and any other critic of the government.

The king's refusal to cede any authority to political parties has polarized the parties and reduced any chance of dialogue. The government has reacted violently to peaceful demonstrations instigated by the increasingly frustrated parties. As a result, the parties have reached out to the Maoists in a bid to isolate the king, which has resulted in the government labeling of them as "terrorists."

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

Both sides continue to commit abuses against civilians. Assisting or refusing to assist either side puts villagers at risk of reprisals by the army or the Maoists. Both sides use civilian militias, and the RNA has provided support for Village Defense Forces. The threat posed by these militias was starkly demonstrated in Kapilvastu where mobs associated with the Village Defense Force went on a three-day rampage in retaliation for a Maoist attack on two village officials. At least 46 people were killed, most of them unarmed civilians, and a 14-year-old girl was raped. Six hundred private houses were burned and destroyed.

In 2005 Nepal continued to have the largest reported number of enforced "disappearances" in the world. In almost all cases, the disappeared persons were last seen in the custody of government security forces in informal places of detention, making it virtually impossible for family members and lawyers to locate or gain access to them. While the NHRC declared that it had good access to detention centers after the coup, interviews with NHRC members revealed that they had to give prior written notice of visits, and that detainees were removed prior to the visits. The ICRC, which has faced similar obstacles, decided in May to halt its inspection of places of detention.

While there has been a limited degree of compliance with habeas corpus orders, individuals are frequently rearrested without charges immediately upon release. The army staged a few high profile courts martial in 2005, but even individuals convicted of egregious crimes received light sentences. In the Doramba case, the major responsible for the company which summarily executed nineteen captured Maoists received just two years of imprisonment. In the widely publicized case of the torture and killing of fifteen-year-old Maina Sunuwar by government soldiers, a military tribunal only found only three army officers guilty of negligence and sentenced them to six months in prison; the court then set the men free for time served in pre-trial detention. The RNA's human rights cell, instead of investigating these cases, has engaged in a concerted campaign to denounce those, including the NHRC, who have documented

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and investigated allegations of war crimes. In September 2005 the U.N. special rapporteur on torture visited Nepal and said that torture and ill-treatment is systematically practiced in Nepal by the police, armed police, and the RNA in order to extract confessions and to obtain intelligence. In the case of the Maoists, he found “shocking evidence of torture and mutilation” in order to extort money, punish non-cooperation, and intimidate others.

### ***Maoist Abuses***

The Maoists continue to perpetrate serious abuses. These include summary executions of civilians, often 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 and non-Maoist party officials, local government officials and civil servants, and individuals who refuse extortion demands from the Maoists. The Maoists have also executed off-duty army and police officers, often capturing them when they go to their villages to visit family members. In April and May the Maoists carried out several summary executions in Nawalparasi, Kapilvastu, and Chitwan districts. In June, the Maoists detonated a bomb that exploded in the path of a civilian bus carrying 150 passengers, claiming as justification the presence of armed soldiers on the bus. At least thirty-nine civilians were killed. Basic civil and political rights such as freedom of speech and association are essentially nonexistent in Maoist-held areas.

The Maoists regularly abduct students from schools for political indoctrination. Most students are released, although some remain behind in what the Maoists describe as “voluntary” recruitment. In April 2005 Maoists carried out attacks on several schools as part of a campaign for the closure of all private schools. Hundreds of schools across the country remain closed due to threats by Maoists.

There are reports of the Maoists using children in combat, particularly as spies, couriers, and messengers. Human Rights Watch interviewed a twelve-year-old girl who was forcibly abducted and forced to cook for a Maoist unit. In spite of vehement denials by Maoists, journalists who have traveled through Maoist-controlled areas describe meetings with children being trained in their camps and engaging in front-line combat.

### ***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. Legal discrimination continues to prevent women from equal property, marriage, and divorce rights and from passing citizenship to their children or foreign spouses. 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.

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

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women; and HIV/AIDS outreach workers. In other cases, police have deliberately failed to protect such individuals against abuses.

### **Humanitarian Concerns**

The conflict and coup led to increased concerns about the humanitarian situation in 2005, the primary concern being the rising numbers of internally displaced persons (IDPs). Recent IDPs have tended to be poor, often lower caste people, fleeing threats from either Maoists or security forces. Many have fled from the hills to urban centers in the Terai or India.

Nepal continues to host over one hundred thousand refugees from Bhutan and has failed to make progress in finding a durable solution to the fifteen-year impasse. The office of the U.N. High Commissioner for Refugees is planning to withdraw assistance in 2005, leaving the fate of the refugees uncertain. This population is at high risk of statelessness. Tibetan refugees also were affected by the January 21 closure of the Tibetan Refugee Welfare Office (TWRO), ostensibly because it was not registered. Only Nepali nationals are permitted to register an organization.

### **Key International Actors**

On April 11, 2005, the Government of Nepal and the U.N. Office of the High Commissioner for Human Rights (OHCHR) reached an agreement to establish an office in Nepal to monitor and investigate abuses of human rights by both parties to the conflict. The office has a mandate to independently monitor the human rights situation as well as support the NHRC and civil society organizations. On September 16, the High Commissioner issued a report on the office's activities in Nepal which provided an overview of the human rights situation. The report charged the government with extra-judicial executions, disappearances, arbitrary arrests, and curbs on the rights of free speech, assembly, and association.

With the exception of Chinese and Pakistani officials, who called the King's actions an internal matter for Nepal, international reaction to the King's takeover was uniformly critical. The United States, United Kingdom, and India recalled their ambassadors following the coup. Several other governments issued statements condemning the King's actions. All major arms-supplying countries suspended lethal assistance.

In late 2004, the U.S. Congress passed provisions linking further security assistance to Nepal with government efforts to resolve disappearances, comply with *habeas corpus* orders, cooperate with the NHRC, and take steps to end torture by security forces. The U.S. has determined that these conditions have not been met.

Donors have had difficulty implementing their programs given the security situation and the political uncertainty. The government has also acknowledged lower levels of development spending due to the

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security situation. Since February 1, 2005, most donors have opted to focus on direct service delivery rather than budgetary support.