

## Nepal

The human rights situation improved markedly after April 2006, when 19 days of widespread public demonstrations dubbed the Jana Andolan, or people's movement, ended King Gyanendra's year-long usurpation of all authority and created conditions conducive to a ceasefire in the brutal civil war between government forces and the Communist Party of Nepal—Maoists (CPN-M).

With both parties declaring a ceasefire by the beginning of May, civilian casualties directly caused by the conflict dramatically declined, as did human rights abuses such as extrajudicial execution, arbitrary detention, and torture. The removal of restrictions imposed by King Gyanendra after seizing power on February 1, 2005, also significantly improved the ability of Nepalese to exercise freedom of speech and association.

On November 8, 2006, the government and the Maoists signed a comprehensive agreement to govern a peace process, to establish a constituent assembly to redraft the country's constitution (including the continued existence of a monarchy), and to establish an interim government. This agreement explicitly referred to the parties' respect for human rights and included the creation of several high level commissions to address more than a thousand cases of "disappearances" as well as accelerate the process of returning tens of thousands of displaced people to their homes.

Notwithstanding the hope and jubilation following the Jana Andolan and the resulting peace process, many Nepalese continue to voice concerns about the country's human rights and political situation. Human rights activists complained that the peace agreement did not create any effective monitoring or implementation mechanisms to address violations by both sides. The issue was particularly relevant because both warring parties, and particularly the Maoists, regularly violated the letter and spirit of the ceasefire code of conduct they had signed on May 26, 2006. Despite changes in leadership, the Nepali Army failed to cooperate with investigations about the fate of hundreds of "disappeared" Nepalese and the

government failed to properly investigate or prosecute a single case of extrajudicial execution, “disappearances”, and torture.

### **Close to the Precipice**

As 2006 began, Nepal seemed poised on the edge of disaster. On January 2 the Maoists ended a unilateral, three-month ceasefire because the government had not reciprocated. Intensifying fighting between government security forces and the Maoists quickly engulfed nearly every one of the country’s 75 districts. Civilian casualties, which had decreased during the ceasefire, quickly soared once fighting resumed. Maoists increasingly carried out attacks on urban areas and sought shelter among civilians. Security forces used jury-rigged helicopters to drop mortar shells on Maoist positions, in several instances in civilian areas.

The government tried to establish a facade of normalcy and legitimacy by proceeding with local and parliamentary elections in February despite intense opposition at home and abroad. Nearly all the country’s political parties boycotted the elections. Maoist forces attacked several candidates and forced many to withdraw their candidacy. Not surprisingly, the results were widely viewed as illegitimate and were severely criticized as flawed and unrepresentative by most Nepalese as well as the United States, the European Union, and Japan.

### **The Jana Andolan**

Following the failed elections, on April 4 a broad-based opposition movement instigated street-protests by hundreds of thousands of Nepalese throughout the country. The protesters sought an end to King Gyanendra’s authoritarian rule and demanded an end to the civil war. The royal government attempted to quell the protests with excessive force and brutality, killing 18 people and injuring some 4,000 people, many of them children.

After 19 days of increasingly large protests that paralyzed the country’s economic and political life, the Jana Andolan succeeded in forcing King Gyanendra to reinstate the House of Representatives on April 24, 2006. (Many Nepalese called the movement the Jana Andolan II, a reference to the people’s movement that ushered in constitutional monarchy

and multi-party rule in 1990.) An alliance of seven opposition parties assumed authority and immediately implemented a ceasefire agreement with the Maoists. The newly reinstated parliament removed King Gyanendra as commander-in-chief and stripped him of all but ceremonial authority. The seven-party alliance and the Maoists committed to establishing a constituent assembly to revise the country's constitution.

### **After the Jana Andolan: Hope and Fear**

The end of King Gyanendra's dictatorial rule and the cessation of hostilities immediately decreased human rights abuses. Violations of the laws of war diminished significantly and casualties caused by armed clashes nearly disappeared. The government released hundreds of detainees held under the draconian Public Security Act (PSA) and Terrorist and Disruptive Activities (Control and Punishment) Ordinance; the only exception was the preventive detention of several senior members of the deposed royal government under the PSA. Strict limitations on freedom of speech and association were removed. Maoist cadres began operating openly, including in Kathmandu, and committed to allowing other political parties to operate in areas under their control.

Ongoing human rights violations by both sides nevertheless contributed to concerns that those in power would again trample the human rights of ordinary Nepalese. The new government and the Maoists agreed to a Ceasefire Code of Conduct that includes several references to international human rights standards and the laws of war. However, the code of conduct lacks specific language about implementation or penalties for infractions. A National Monitoring Committee began monitoring the Code of Conduct in August, but at this writing it had not established its credibility and independence.

Both sides failed to institute accountability for past violations by their troops. The Maoists freed some of those responsible for a 2005 bombing attack in Chitwan, which killed 35 civilians and injured dozens of others, after sentences of two to three months of "corrective punishment." The UN's Office of the High Commissioner for Human Rights (OHCHR) monitoring mission complained of ongoing failure by the renamed Nepali Army (formerly the Royal Nepali Army) to honor its commitment to provide access to documents related to disciplinary procedures and courts martial. In one of the most egregious instances, the army has actively obstructed attempts to investigate the death of Maina Sunuwar, a 15-year-old girl who was killed shortly

after she was taken into custody by the army in 2004. Although the Ceasefire Code of Conduct commits both parties to publicize the whereabouts of citizens who have been “disappeared,” some 800 people remain unaccounted for at this writing.

Maoist forces did not release any of the thousands of children under age 18 believed to be serving in their ranks, and Nepali rights groups reported ongoing recruitment campaigns throughout the country. Their commitment to the contrary notwithstanding, the Maoists continued to intimidate and restrict the activity of political activists from competing political parties, including more than a dozen cases in which political activists were allegedly killed by Maoist cadres throughout Nepal. Nepali human rights groups as well as monitors from the OHCHR in Nepal documented dozens of abductions of individuals by the Maoists, including at least 16 members of other political parties. Farmers and businesses increasingly complain about being forced to “donate” to the Maoists. The Maoist leadership issued a directive on September 5 to its cadres to halt beatings, abductions, killings, and extortion. At this writing, however, Nepali human rights groups continue to register ongoing violations by Maoist cadres.

On July 25, 2006, parliament asked the government to sign and ratify the Rome Statute of the International Criminal Court, but at this writing the government had not acted. The government also failed to satisfy the proper accession procedures for the Additional Protocol to the Convention on the Rights of the Child, which establishes 18 as the minimum age for combatants.

The parties’ agreement to draft a new, more representative constitution provoked complaints by already marginalized groups that they were being left out of the process. The initial committee in charge of guiding the constituent assembly was composed only of men, but was broadened after protests to include women as well as those from so-called untouchable castes, or Dalits. But other groups continue to be sidelined, for instance Nepal’s beleaguered population of lesbian, gay, bisexual and transgender people.

## **Humanitarian Concerns, Internal Displacement, and Refugees**

Nepal ranks near the bottom of nearly all indexes of human well-being and development. Aggravating the problems of Nepal’s already impoverished population,

the decade of conflict seriously hampered aid distribution, health care and education. Economic disruptions caused by fighting and frequent blockades and checkpoints have curtailed food production and distribution, resulting in high rates of malnutrition and associated childhood maladies. Conditions are particularly bad for people displaced by the fighting and attendant economic problems, believed to number in the tens of thousands. After the ceasefire and the commitments made by the Maoists some displaced Nepalese returned to their homes, but thousands of others remained displaced, not returning because of a fear of reprisals or ongoing repression by Maoist forces. Unexploded ordinance and mines, mostly left behind by the Maoists, continue to injure civilians, particularly children.

Nepal continued to host more than 100,000 refugees from Bhutan. There was some hope for a resolution of the 15-year impasse in 2006 as the US offered to accept up to 60,000 refugees.

Thousands of Tibetans braved a perilous crossing over glaciers and mountain passes to escape the Chinese government's increasing pressure in their homeland, or to seek to visit the exiled Dalai Lama. The status of Tibetans in Nepal remains precarious as the Tibetan Welfare Office—which had provided assistance to refugees and served as the political representative of the Dalai Lama—remains closed since shortly before the King's usurpation of power in 2005.

### **Key International Actors**

The human rights monitoring team established by the UN Office of the High Commissioner for Human Rights in Nepal, the largest of its kind in the world, materially improved respect for human rights and provided Nepal's brave but beleaguered civil society with the ability to operate effectively. The new Nepali government and the Maoists requested assistance from the UN to establish a peace process, convene a constituent assembly, and monitor eventual disarmament and management of the parties' arms.

Concerted international pressure made a difference in promoting greater respect for human rights by both government forces and by the Maoists, both of which curtailed some of their worst behavior in order to maintain international support. Another area where international action clearly benefited Nepalese civilians was the restriction on

lethal military assistance by some of the country's biggest suppliers—including India, the United States, and the United Kingdom—which limited the access of both parties, and particularly the government, to more lethal weapons and ammunition that could have resulted in far higher numbers of civilian deaths and injuries. In particular, the US's human rights conditions for military aid helped push the military to improve its treatment of detainees and respect for the laws of war.

Major donors to Nepal, such as the United States and United Kingdom, generally supported the ceasefire and the process of revising the country's political structure, though their suspicion of Maoists at times elicited criticism from Nepalese involved in the peace process. China and India also supported the process, each anxious to maintain its influence on events while ensuring that violence did not create problems that would spill over the borders.