

Nepal bulletin 1/2005

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1. Introduction

1.1 This Bulletin has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information about Nepal obtained from a range of recognised sources. It does not contain any Home Office opinion or policy.

1.2 This Bulletin has been prepared for background purposes for those involved in the asylum / human rights determination process. The information it contains is not exhaustive. It concentrates on the issues most commonly raised in asylum / human rights claims made in the United Kingdom.

1.3 The Bulletin is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain.

1.4 This Bulletin is intended to cover major developments that have taken place in Nepal between 1st and 18th February 2005. An updated version will be issued if the situation in the country changes significantly.

1.5 This Bulletin and the accompanying source material are publicly disclosable. Where sources identified in the Bulletin are available in electronic form the relevant link has been included. The date that the relevant link was accessed in preparing the Bulletin is also included. Paper copies of the sources have been distributed to nominated officers in Asylum Caseworking Directorate and all Presenting Officer Units.

2. Background

2.1 The Nepal Country Profile (as updated 27 September 2004) on the website of the Foreign and Commonwealth Office, records that:

"Since February 1996 the Communist Party of Nepal (Maoist) have been conducting an increasingly high profile insurgency (the People's War). Initially this was in the remote Mid-West regions of the country, but it has now spread to most parts of Nepal... In May 1998 the government launched a major police offensive against the Maoists. It is estimated that over 10,000 people, including Maoists, police and civilians, have been killed since the troubles began."

"In the May 1999 general election, at which voter turn-out was over 65%, the Nepali Congress Party won a majority with 111 seats of the 205-seat Parliament [and formed a government]."

[In 2000] Amnesty International issued a report strongly criticising the Nepalese Government's handling of the insurgency, alleging widespread human rights abuses by the Nepalese police, including torture, extra judicial killings and disappearances."

"The present monarch, King Gyanendra, came to the throne on 4 June 2001 in tragic circumstances, following the murder of King Birendra and other members of the Royal Family on 1 June 2001 by Birendra's son, the then Crown Prince Dipendra, who subsequently shot and killed himself."

"[Following political infighting] Sher Bahadur Deuba was appointed Prime Minister on 22 July 2001 [heading the 11th government in 11 years]. The following day he announced a unilateral ceasefire against the Maoists, which they immediately reciprocated... The Maoists broke the ceasefire in November 2001, in response to which Prime Minister Deuba declared a State of Emergency. The conflict intensified over the following year and drew in the full participation of the Royal Nepalese Army."

"On 23 May 2002 Prime Minister Deuba, facing divisions within his own party over extending the State of Emergency in order to combat the Maoist insurgency, dissolved Parliament after a showdown with his predecessor, GP Koirala, who objected to the extension... [Deuba was expelled from his own party and called for new elections. Later in the year he formed a new political party, the Nepali Congress (Democratic).]"

"However, by October 2002 the Maoist insurgents controlled nearly half of Nepal. Prime Minister Deuba, unable to guarantee the necessary security for national elections to take place, requested that they be postponed for a further year. On 4 October 2002 the King of Nepal, citing fears over the handling of the

insurgency, announced that he had requested Deuba's resignation and that he would be appointing a transitional government of his own choosing. Elections were postponed until it was judged the security situation would allow them to be conducted in a peaceful and inclusive manner."

"On 11 October 2002 the King announced that former Prime Minister Lokendra Chand was to head a transitional government. Representatives from the main political parties were excluded from the new government and refused to work with it, claiming that the King had acted unconstitutionally. Prime Minister Chand announced his resignation at the end of May 2003 and on 4 June 2003 Surya Bahadur Thapa, another Royalist, was appointed Prime Minister by King Gyanendra.

On 29 January 2003 a cease-fire was once again agreed between the Maoists and the transitional government. However, attempts at peace talks stalled after three rounds of negotiations and the Maoists unilaterally ended the cease-fire on 27 August 2003. Since then there have been a number of clashes between the Maoists and the Nepalese Security Forces, with neither side gaining any significant military advantage.

In May 2004, Surya [Sher] Bahadur Thapa resigned as Prime Minister [following large-scale demonstrations in the streets of Kathmandu] and a month later the King re-appointed Deuba, who was able to form a coalition in July which included all the main parties except the Nepali Congress Party. Parliament remains suspended [since May 2002], and the [previous] State of Emergency lapsed in 2002." [1a]

2.2 The Economist Intelligence Unit's Nepal Country Report for February 2005 adds:

"Pressure on the political system had been increasing in late 2004 and early 2005. The number of attacks by Maoist rebels had risen, and the attacks were becoming bolder." [4] [For example, according to the BBC News 'Timeline: Nepal', Maoist rebels staged a week-long blockade of Kathmandu in August 2004 and again in December 2004, stopping supplies from reaching the capital. [5a]]

"On November 25th [2004] the high-level peace committee (HLPC) headed by the Prime Minister renewed its September 23rd call to the Maoists to join negotiations. The government gave the Maoists until January 13th 2005, saying that it would otherwise have to opt for the holding of an election. The Maoists responded on November 27th, saying that they were not interested in an offer that was both 'abstract and threat-laden'. [4] [According to an Agence-France Presse article of 20 December 2004, the Maoists want any negotiations to include their demand for an elected constituent assembly which would draft a new constitution. [6a]]

"Almost 800 people were killed in December [2004] alone. On December 31st the RNA [Royal Nepalese Army] said that the number of Maoists killed after the breakdown of the truce in August 2003 had reached 3,400, whereas the RNA had lost 336 men." [4]

2.3 Reports from Amnesty International and other organisations have detailed serious human rights violations both by the Nepalese security forces and the CPN (Maoist) insurgents since 1998 and, in particular, since the breakdown of peace talks in August 2003. [3a][8](p13-14)

3. Events of 1 February to 18 February 2005

3.1 On Tuesday 1 February King Gyanendra, in a televised address to the nation, dismissed the government of Sher Bahadur Deuba and announced that he was assuming direct (executive) power. [5b][7a][9a] According to PTI News Agency, the king accused the Deuba government of failing to restore peace and conduct parliamentary elections in the country. PTI quoted the monarch as saying: "I have decided to dissolve the government because it has failed to make necessary arrangements to hold elections by April and protect democracy, the sovereignty of the people and life and property." "I have exercised the rights given to the crown under the present constitution and dissolved the government for the larger interests of the people, country and protection of sovereignty." [9a] The king declared that a new government would be formed under his leadership that "will restore peace and effective democracy in this country within the next three years", reported PTI and BBC News. [9b][5b] Associated Press added: "The monarch, who commands the 78,000-member army, said security forces would be given more power to maintain law and order. But he insisted that human rights would be respected." [7a]

3.2 State-run television subsequently reported on 1 February that a State of Emergency had been declared and that several Constitutional provisions had been suspended [9b][5c] (see Section 4).

3.3 Communication links within Nepal and with the outside world were severed (see Section 6); press freedom was suspended (see Section 5). [3b] Armoured vehicles patrolled the streets of Katmandu, backed up by soldiers and police in riot gear. [7b][5j]

3.4 BBC News and other sources reported on 1 February that a number of senior political leaders had been placed under house arrest. [5c] A Human Rights Watch (HRW) report of 9 February noted a government acknowledgement that 27 national political leaders were either under house arrest or in detention; these included Sher Bahadur Deuba, the dismissed Prime Minister and chairman of the Nepali Congress (Democratic) party; Madhav Kumar Nepal, secretary-general of the (mainstream and non-violent) Communist Party of Nepal-UML; Girija Prasad Koirala, chairman of the Nepali Congress Party, and every former prime minister of Nepal since 1990. [2] Amnesty International (AI), in reports of 8 and 9 February, noted that the authorities had also arrested Sindhunath Pyakurel, former head of the Nepal Bar Association (see 3.17 below) ; on 4 February Bishnu Nisturi, general secretary of the Federation of Nepalese Journalists was detained and, on 9 February, Krishna Pahadi, Chairman of the Human Rights and Peace Society, was arrested. AI has expressed serious concerns for their safety. [3c][3d] Human Rights Watch (HRW) said on 9 February 2005 that at least 150 political leaders and student activists had been arbitrarily detained or placed under house arrest since 1 February. The HRW report stated: "During past crackdowns and the last state of emergency (2001-2002) the security forces arrested numerous journalists, student leaders, political activists, lawyers, and suspected Maoist sympathizers who were then 'disappeared - arrested and never seen again, and presumably killed in custody. ...We are not just concerned about the arbitrary arrests that are taking place across Nepal... Our chief concern is that some of those being arrested may never be seen again, that they might 'disappear' or be killed in custody, as happened during the last state of emergency." [2] (See paragraphs 3.10 and 3.11) The Amnesty International report of 8 February further noted: "There have been widespread reports that the homes and offices of many human rights activists have been visited by security forces personnel. Several activists have gone into hiding fearing for their safety." [3c]

3.5 The monarch's actions were condemned by the international community. [14a][19] Associated Press quoted the Indian Foreign Ministry as saying that the king had violated Nepal's constitution, which enshrines a multiparty democracy alongside a constitutional monarchy. Britain expressed similar concerns: Foreign Office Minister Douglas Alexander stated: "This action will increase the risk of instability in Nepal, undermining the institutions of democracy and constitutional monarchy in the country. We call for the immediate restitution of multiparty democracy, and appeal for calm and restraint on all sides during this difficult time" [7a][7b] Sher Bahadur Deuba alleged that the king's actions had violated the constitution and were anti-democratic. [5d][5c] Associated Press reported that three human rights groups - Amnesty International, Human Rights Watch and the International Commission of Jurists - had issued a statement expressing concern that the monarch's declarations had "put the Nepalese people at even greater risk of gross human rights abuses... Nepal's last state of emergency in 2001-2002 had led to an explosion of serious human rights violations, including increased extra-judicial killings, enforced disappearances, arbitrary detention, and a breakdown in the rule of law." [7b] BBC News confirmed on 16 February that the United States, European Union and India had recalled their diplomatic envoys from Kathmandu and were said to be reviewing their assistance to Nepal. [5m] The British Ambassador was recalled on 14 February. [1b]

3.6 The King, on 2 February, announced the names of the 10 members of his new Council of Ministers (Cabinet). It was, commented the Daily News (Dhaka), composed mainly of pro-monarchists. [14a] An International Crisis Group (ICG) report of 9 February contained further details: "The king appointed a ten-member Council of Ministers but not a prime minister because, he indicated, he would direct it. The Council is made up of Royal loyalists, many of them senior officials during the Panchayat period of absolute monarchy. It has absolute power, unfettered by any constitutional restraint, and can rule by decree. It issued a 21-point plan of action after its first meeting [on 2 February], which was chaired by the king. The focus of the meeting was on anti-corruption measures, including the stripping from politicians of assets illegally gained through corruption." [19]

3.7 According to The Independent (London) of 4 February, a general strike called by the Maoists was being observed in rural areas under their control. But it was generally ignored in Kathmandu. [16]

3.8 The Daily Star (Dhaka) announced on 4 February that King Gyanendra's government had called on the CPN (Maoist) to hold peace talks or risk 'alternative steps'. "If the Maoists do not come forward, we may have to think of alternate steps", said the new Home [Interior] Minister; but he did not elaborate on what action the government might take. There was reportedly no immediate Maoist response to the ultimatum. (The insurgents had refused to hold talks with the previous government led by Prime Minister Deuba, arguing that as it had been appointed rather than elected, only the king wielded executive power.) [14b]

3.9 BBC News reported on 6 February that Arjun Narasingha K.C., spokesman for the Nepali Congress - the country's largest political party - had been released from house arrest, but Narasingha said that many

of the party's members were in detention. "Altogether maybe it is more than 500, but we don't know where they are, how they are treated. It is not yet clear", he said. The same article stated that journalists had been arrested since 1 February, including the general-secretary of the Federation of Nepalese Journalists. [5f]

3.10 On 7 February, BBC News quoted a statement in the Nepalese state media to the effect that the government was planning to offer the Maoists unconditional peace talks. The government statement said it would appoint a team of negotiators and that the rebels' demands "can be discussed at the negotiating table". [5g]

3.11 On 9 February the Nepalese authorities were reported by BBC News to have claimed that 43 people had been detained or kept under house arrest since the State of Emergency was declared; no names were released by the authorities. [5h] However, a Human Rights Watch (HRW) document of 9 February 2005 stated that at least 150 political leaders and student activists had been arbitrarily detained or placed under house arrest since 1 February. [2] (see 3.4 above) An Amnesty International paper of 8 February noted also: "Hundreds of members of student groups and political parties have been arrested since the King took direct control. There are reports that many are being held at the headquarters of the APF in Halchowk, Kathmandu. [3c] An IRIN article of 10 February stated: "...rights activists maintain the number of politicians, student leaders, activists and journalists arrested had exceeded 1,000". [17]

3.12 The IRIN article of 10 February reported also: "A much anticipated peace rally scheduled for Thursday in the Nepalese capital, Kathmandu, ended in silence when the main organisers of the demonstration [members of the Human Rights and Peace Society] were arrested soon after their arrival. This was the first time that a mass demonstration had been organised in the capital since King Gyanendra Bir Bikram Shah declared a state of emergency on 1 February." Eleven human rights activists were arrested in connection with the planned demonstration. [17] [Krishna Pahadi, Chairman of the Human Rights and Peace Society, had been arrested the previous day - 9 February. (see 3.4 above.)

3.13 The Nepalese authorities, on 10 February, released seven politicians from house arrest, including two former prime ministers, according to BBC News. [5i]

3.14 On 10 February IRIN also reported that there had been no response yet to the government's call for negotiations from the CPN (Maoist), who have condemned the king's takeover and urged political parties to work with them to resist the monarch. The Maoists called for a nationwide blockade (of transport moving into and out of the main cities) from Sunday 13 February, the ninth anniversary of the start of their revolt. [17]

3.15 BBC News reported on 13 and 15 February that the Maoist blockade had restricted traffic and that prices of food and fuel were rising in Kathmandu and the western cities of Pokhara and Nepalganj. The government, however, stated that stocks of food and fuel were adequate. [5k][5l] According to the article of 13 February, a Maoist spokesman told the BBC that their previous demands were 'outdated' and they would now focus on the abolition of the monarchy. Both the spokesman and the Maoist leader, known as Prachanda, were quoted as saying there was 'no place for immediate talks with the authorities'. [5k]

3.16 On 14 February the king released former prime minister and communist party leader Surya Bahadur Thapa from house arrest. He appointed two deputy premiers in the new cabinet, Tulsi Giri and Kirti Nidhi Bista - both are believed to be staunch royalists. BBC News also reported on 15 February that the Nepali Congress, the country's biggest political party, was calling for a nationwide non-violent struggle for the restoration of democracy, to commence on Friday 18 February. [5l]

3.17 Amnesty International announced on 16 February that Sindhunath Pyakurel, former chairman of the Nepal Bar Association, had been released from detention on 14 February. [3e]

3.18 On 18 February Amnesty International published a report on its mission to the country of 10-16 February 2005. A full version of this report is at: <http://web.amnesty.org/library/print/ENGASA310222005> It stated, inter-alia:

During the first few days of the state of emergency hundreds of national and district level political leaders were arrested and placed in preventive detention under the Public Security Act, apparently to prevent any protest. In addition a number of trade unionists, journalists, students and human rights defenders were also detained. While some of the detainees were released after a few days, during the time of the Amnesty International visit, most of them continued to be detained and further arrests of political leaders and journalists took place in the districts.

There have been some protests against the state of emergency, most notably by students in Pokhara on 1 and 2 February, and by human rights activists in Kathmandu on 10 February. These protestors were immediately arrested and detained, although the human rights defenders were later released. It is reported

that the main political parties are considering establishing a coalition to campaign for the restoration of democracy, which most likely will result in larger and more co-ordinated demonstrations. In the current repressive climate any mass demonstrations are likely to prompt a harsh reaction from security forces, with serious consequences for human rights.

Following the declaration of the state of emergency, the CPN (Maoist) leadership denounced the King's seizure of power, announced that they would not participate in peace negotiations in the current circumstances, and called an indefinite bandh (strike) beginning on 12 February. The delegation visited Nepalgunj and Biratnagar during the bandh and observed the severe restrictions it was imposing on local communities. For example, in Nepalgunj the CPN (Maoist) had seized control of the highway just four kilometres from the town and there were no cars on the roads, while in Biratnagar commerce and traffic were light. It was reported as it progressed, the bandh was becoming increasingly strong outside Kathmandu valley.

Although the recent state of emergency and suspension of freedoms have drawn global attention to the situation in Nepal, it is this daily violence and terror inflicted on ordinary communities across the country that is the greatest and most serious human rights concern in Nepal. The conflict has already eroded the security and human rights of the rural population and now the state of emergency is undermining the rights and freedoms of the urban population who, until now, had remained largely untouched by the abuses taking place in the countryside... The delegation found evidence that such grave human rights abuses continue to be carried out by both security forces and the CPN (Maoist) in the context of the conflict. These abuses have been taking place for a number of years and have dramatically increased in scale since the breakdown of a ceasefire in August 2003. Amnesty International has consistently monitored and documented the human rights violations taking place in the conflict over a number of years. The organisation has recently issued reports on illegal killings, "disappearances" and threats to human rights defenders in Nepal.

The media has been hit hard by the state of emergency and the effect of the censorship is profound.

Under the state of emergency all legal remedies, apart from habeas corpus, have been suspended. However, although habeas corpus remains available, lawyers and human rights defenders told Amnesty International that in practice it is often ineffectual as the security forces mislead the courts and ignore court orders... However, in a welcome decision, on 10 February the Supreme Court - ruling in the habeas corpus case regarding former Chairman of the Nepal Bar Association, Sindunath Pokharel, who had been arrested in the crackdown following the state of emergency - for the first time requested that the defendant be physically produced before the court. Rather than complying with the court's orders and allowing a precedent to be set, the authorities released Sindunath Pokharel on 14 February 2005.

Human rights defenders in Kathmandu and in the districts repeatedly told the Amnesty International delegation that they are not able to carry out their normal work due to fear of reprisal from both the security forces and the CPN (Maoist).

Trade unionists are having their work impeded and some leading trade unionists have been arrested.

Impunity remains at the heart of the human rights crisis in Nepal. Both the government and military and the CPN (Maoist) leadership have failed to investigate human rights abuses or punish those responsible. The state of emergency will only reinforce the existing culture of impunity. [3f]

4. Suspension of Constitutional Rights

4.1 Associated Press reported on 2 February 2005: "The king suspended several provisions of the constitution, including freedom of the press, speech and expression, peaceful assembly, the right to privacy, and the right against preventive detention, according to a statement from the Narayanhiti Palace." [7b]

4.2 The International Crisis Group (ICG) report of 9 February stated that the following Constitutional rights were suspended: "Article 12(2)a: Freedom of opinion and expression; Article 12(2)b: Freedom to assemble peaceably and without arms; Article 12(2)c: Freedom to form unions and associations; Article 13(1): Press and publication rights ("No news item, article or any other reading material shall be censored"); Article 15: Right against preventive detention (This provision contains an exception where there is "a sufficient ground of existence of and immediate threat to the sovereignty, integrity or law and order situation"; its suspension suggests that the king wishes to be able to detain arbitrarily.); Article 16: Right to information; Article 22: Right to privacy; Article 23: Right to a constitutional remedy." [19][15]

4.3 The Amnesty International report of 18 February confirmed as follows:

"Under the state of emergency, a large number of fundamental rights have been suspended.

These include:

- Freedom of opinion and expression
- Freedom of assembly
- Freedom to form unions and associations
- Press and publication rights
- Right against preventive detention
- Right to information
- Right to privacy
- Right to a constitutional remedy

This list is actually in addition to restrictions that are already in place under anti-terrorist legislation, which allow preventive detention for up to one year. The suspension of the right to constitutional remedy under the state of emergency means that, although some rights provided in international human rights treaties to which Nepal is a party - such as freedom from torture and freedom from discrimination - are not suspended, in practice the Nepali people have no means for legally asserting these rights."

4.4 The UN High Commissioner for Human Rights said in a statement on 1 February: "I wish to recall that Nepal is a party to all key human rights instruments, and is as such obliged to ensure the enjoyment of the rights contained therein by its people. The core of these human rights cannot be suspended under any circumstances, not even during a state of emergency. [13]

5. Media Censorship

5.1 Press freedom was suspended on 1 February under the State of Emergency. The BBC News 'Nepal Country Profile' notes that the country's 40-plus private FM radio stations were ordered to limit themselves to broadcasting entertainment programmes. It adds: "Once-outspoken private publications found themselves operating under strict guidelines. In response, some newspapers left their editorial pages blank, or published editorials on deliberately bland topics." [5e] Soldiers were stationed in television newsrooms to vet broadcasts before they were aired. [5j]

5.2 BBC News reported on 3 February that, according to a notice in a Nepalese daily newspaper, press reports critical of the state of emergency had been banned for a period of six months. [5j] The New York-based Committee to Protect Journalists (CPJ) quoted Nepalese state radio as saying that the ban actually applied to 'critical reporting on government activities'. The CPJ article of 3 February commented: "Two days after Nepal's king declared a state of emergency, the independent press has been effectively shut down with blanket news bans introduced, military patrols placed at media outlets, and reprisals threatened against journalists... Soldiers are posted at Nepal's major print and broadcast outlets, are controlling television broadcasts, and are vetting news articles... Editors at the major dailies Kathmandu Post and Kantipur have been summoned by the principal press secretary of the king and warned that they may face military punishment, according to sources inside the country. Soldiers have surrounded the offices of The Kathmandu Post and officers are scanning all content before it goes to print, according to a local source." [18a]

5.3 According to a Financial Times Information article of 4 February, troops had started moving into newspaper, television and radio offices in advance of the King's television speech on 1 February, in order to direct news coverage and ban any criticism of the palace. Editors were apparently summoned to the palace and warned against any negative reporting. [12a]

5.4 The Independent (London) reported on 4 February: "Nepali Television started broadcasting again last night. But all it offered were newsreaders reciting the official propaganda line from King Gyanendra. Soldiers had been posted in every newsroom to ensure all broadcasts were suitably loyal. A country that had a lively free press just three days ago has now been reduced to Soviet-style television." [16]

5.5 An Amnesty International report of 8 February stated that Bishnu Nisturi, general secretary of the Federation of Nepalese Journalists (FNJ), had been detained (see 3.4 above). "He was reportedly arrested by security forces personnel on 4 February and it is feared he has been targeted because the FNJ released

a statement on 2 February condemning the recent measures taken by the king suppressing freedom of expression". [3c]

5.6 According to the Amnesty International report of 18 February: "A particular concern among publishers is that the suspension of press and publication rights means that publications can now have their registration withdrawn on the basis of their content, something which they are protected from under the constitution. Concern about the possibility of withdrawal of registration has reportedly led to self-censorship by publishers." [3f]

6. Communications

6.1 State-run telecommunications companies and privately-owned mobile phone networks were, on 1 February, ordered to disconnect all local and international telephone lines and mobile networks and to suspend internet services, according to a Financial Times article of 4 February. [12a]

6.2 BBC News reported on Monday 8 February that the government had restored telephone and internet lines, but that mobile phone services remained suspended. [5h]

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e. [ASA 31/017/2005] 'Bishnu Nisthuri (m), general secretary, Federation of Nepalese Journalists Hundreds of others including student activists and members of political parties... Released: Sindhunath Pyakurel (m), former chairman of the Nepal Bar Association, 16 February 2005.

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