



AMNESTY DIALOGUE

A campaign newsletter of Amnesty International Nepal

JANUARY - FEBRUARY 2009



Table of Contents

- o AMBULANCE ACTION against IMPUNITY – Page 1
- o AI Nepal's 17th National Council Meeting—Page 2
- o Newly Elected Members of National Executive Committee (NEC) of AI Nepal –page 5
- o Newly Elected Appeal Committee members Of AI Nepal –Page 6
- o Campaign of Amnesty International on First 100 days of President Obama—page 7
- o signature collection on writing letter to the President Obama-page 7
- o Visit of representative of Amnesty International Secretariat in AI Nepal-page 8
- o Trainings about Human rights and Amnesty International
- o International Human Rights Day—page 10
- o International Children Day—page 12
- o interaction programme in Gorkha-page 12
- o interaction programme among the group members-page 13

Cover Photo

Open Air assembly on 17th of February 2009 at Tundikhel, which was held before the 'ambulance action' against impunity launched by AI Nepal along with other human rights organizations and family of victims.

National Executive Committee of AI Nepal

Chairperson- Hem Kumar Khadka
Vice-chairperson- Keshab Sigdel
General Secretary- Shambhu Thakur
Deputy Gen. Secretary- Uttam Sapkota
Treasurer- Rashmila Bhochohibhoya
Members
Mamita Kumari Pun
Yashoda Kumari Upadhyaya
Chetnarayan Bhushal
Deek Prasad Ghimire
Nirmal Babu Shrestha
Rajan Prasad Kuikel
Advisors
Nutan Thapaliya
Lokesh Dhakal

Appeal Committee Of AI Nepal

Coordinator Shyamraj Ghimire
Members
Ms. Bimala Devi (Bista) Gautam
Mr. Rishikesh Khanal

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AMBULANCE ACTION AGAINST IMPUNITY

Amnesty International Nepal along with other civil society and human rights organizations including Accountability Watch Committee (AWC), Advocacy Forum (AF) and Collective Campaign for Peace (COCAP) and in collaboration with families of the 'disappeared' and survivors of human rights abuses, and with the support of OHCHR-Nepal and other human rights organizations, organized an event named "Ambulance Action" under the slogan 'Prosecutions Now! Save Justice' on 17 February in Kathmandu.



Body indicating the dying justice being taken to the programme venue.

The ambulance action was started from the Open air Theatre in Kathmandu. The aim to invigorate public action through the launch event – themed around 'dying justice' – the body of justice was taken by 'ambulance' to the Army Headquarters and Office of the Chairperson of the Constituent Assembly. The ambulance carried a delegation of survivors and family members who lost loved ones. The delegation presented at each destination a 'prescription' prescribing what each authority must do to save justice in Nepal.



Ambulance going to the office of different government bodies.

Before the symbolic ambulance departing from the Open Air Theatre, speakers including Richard Bennet, the Chief of the Office of the High Commissioner for Human Rights in Nepal, Dharmendra Jha, the President of Federation of Nepalese Journalist, human rights defender Sushil Pyakurel, President of Victim of Conflict Society Janak Raut, mother of Maina sunuwar, killed by (Royal) Nepal Army, Devi sunuwar and wife of



Assembly at the Open Air Theatre of



Participants of the programme going to submit the memorandum to the government agencies.

abducted journalist Prakash Thakuri, Janaki Shrestha had addressed the program urging government to take concrete action against perpetrators.

The 17th February 2009 was the 5th anniversary of the arrest and killing of Maina Sunuwar. To date, despite years of fearless campaigning by her mother, Devi



Meeting between Chairperson of Constituent Assembly and Representatives of the organizers.

Sunuwar, Maina's killers have not been arrested and prosecuted. Maina's story is illustrative of thousands who are obstructed from claiming justice, either for themselves as survivors, or for their family members 'disappeared' or unlawfully killed. Not only does this perpetuate the pain of the survivors and families but it is *killing Nepal's ailing justice system.*

17th GENERAL MEETING OF AI NEPAL HELD

The 17th General Meeting of Amnesty International (AI) Nepal held on 28-29 January 2009 in Pokhara. Vanushi



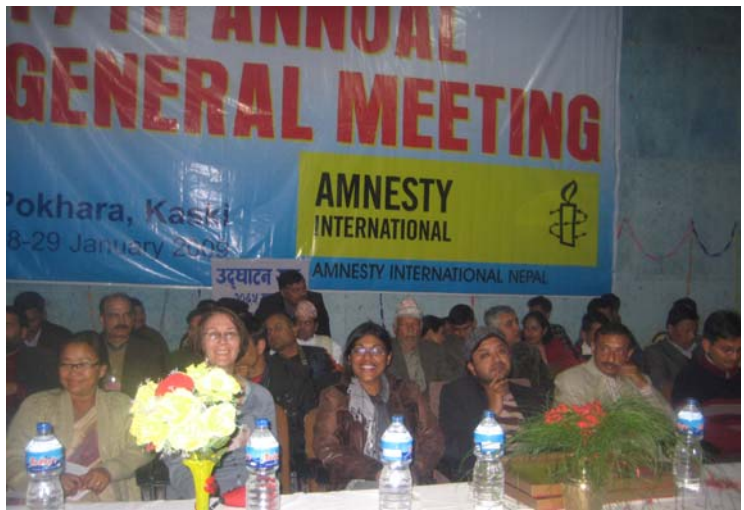
Rajanayagam Walters, the International Executive Committee Member of Amnesty International, inaugurated the meeting amidst a grand programme on 27 January.

Making an inaugural address, Ms. Rajanayagam stated that AI members all around the world have been contributing for the protection and promotion of human rights and the contribution from AI Nepal and its membership towards worldwide movement of AI has been highly recognized.

Speaking at the program, Gagan Thapa, the popular youth leader who was declared the Prisoner of Conscience by AI during Peoples Movement, gave his exciting speech highlighting human rights situation in Nepal and importance of campaign of Amnesty International.

Other speakers of the inaugural session were former chairpersons Krishna Pahadi, Binod Nepal, Krishna Kandel and Pradeep Pokharel as well as the then Acting

Chairperson of AI Nepal Dhruva Kumar Karki, General Secretary Chandra Adhikari and Returning Officer Lokesh Dhakal. Likewise, Chairperson of National Women Commission Nainakala Thapa, Member-secretary of National Dalit Commission Janaki Baraha and Secretary of Federation of Nepalese Journalist Ramji Dahal highlighted different aspects of human rights in the inaugural ceremony. Inaugural session of the programme was conducted by Rameshwar Nepal Director of AI Nepal and chaired by Dhruva Kumar Karki acting president of AI Nepal.



members and highest Youth Network Members from January to December every year.

Chief Guest of the inaugural session Ms. Rajanayagam gave away certificate of

Before the inaugural session a peace rally went out in the city centers of Pokhara with different banners and plea-cards demanding protection of human rights. It was participated by representative of local organization, teacher, student, human rights activists and others. After rally participants gathered at the program hall at Association of Nepalese Industrials situated at Gairapatan, Pokhara.



Altogether 149 delegates participated in the Business Sessions of the meeting

“Highest Membership Growth Award” and cash prize to Dhaniklal Mehta, the Convener of the accredited Group-10 and “Highest Youth Network Membership Growth Award” to Devendra Sejuwal, the coordinator of Kakrebihar Youth Network, Surkhet.



the “Highest Membership Growth Award” and the “Highest Youth Network Membership Growth Award” that is honoured to any AI Nepal groups recruiting the highest



the Committee are Shyam Raj Ghimire (Parasi) as the Coordinator and Rishikesh Khanal (Urlabari) and Bimala Devi (Bista) Gautam (Kathmandu) as the members. Lokesh Dhakal, the Returning Officer, awarded certificates to the candidates elected.

At the closing ceremony of the two days Meeting, Speakers including

representing from 74 Groups and one Group-in-formation across the country. The closed session went heavy with the discussion on annual report presented by Secretary General Chandra Adhikari, financial and audit report presented by the Treasurer Shambhu Thakur and report of the National Secretariat presented by Director Rameshwar Nepal. Similarly, Operational Plan of AI Nepal for the year 2009-2010, along with the proposed budget for the next two fiscal years also was approved unanimously by the meeting.

International Executive Committee Member of AI Vanushi Rajanayagam, Staff Member of the International Secretariat Jane East, the newly elected Chairperson Hem Kumar Khadka, immediate past

Election of the New Board and Appeal Committee

The meeting also elected 11-member National Executive Committee (NEC) for the term 2009-2010 headed by Hem Kumar Khadka. Keshab Sigdel (Kohalpur), Shambhu Thakur (Janakpur), Uttam Sapkota (Kathmandu) and Rashmila Bhochhibhoya (Banepa) respectively were elected as the Vice-chairperson, General Secretary, Deputy General Secretary and Treasurer of the Board. Likewise, Chetnarayan Bhusal (Kawasoti), Deek Prasad Ghimire (Biratnagar), Nirmal Babu Shrestha (Pokhara) and Rajan Prasad Kuikel (Nuwakot) elected as the members to the Board.

Similarly, the Council elected an Appeal Committee for the same term. Elected to



Acting Chairperson Dhruba Kumar Karki, Returning Officer Lokesh Dhakal and contestant to the post of Chairperson Bhawani Prasad Kharel, representative of local Group of AI Nepal Durga Prasad Timilsina, Bimalraj Dawadi, Ramraj Lamichhane (Group54) and Punya Prasad Poudel (Group 82) made their closing remarks.

On the occasion, the immediate past Acting Chairperson Dhruba Kumar Karki handed over the ignited candle, the emblem of AI, to the newly elected Chairperson Hem Kumar Khadka.

Training for newly elected NEC and AC members of AI Nepal



After the conclusion of the 17th General Meeting of Amnesty International (AI) Nepal, training was organized to the newly elected NEC and AC members on 30 January. On the occasion International Mobilization Programme Coordinator of the AI International Secretariat Jane East made facilitated various sessions on institutional working system of Amnesty International. The day long training was participated by the all NEC and AC members.

Newly elected NEC Members of AI Nepal



Hem Kumar Khadka
Chairperson



Keshab Sigdel
Vice-chairperson



Shambhu Thakur
General Secretary



Uttam Sapkota
Deputy General Secretary



Rashmila Bhochhibhoya
Treasurer



Mamita Kumari Pun
Woman Member



Yashoda Kumari Upadhyaya
Woman Member



Chetnarayan Bhusal
Member



Deek Prasad Ghimire
Member



Nirmal Babu Shrestha
Member



Rajan Prasad Kuikel
Member

Newly elected Members of Appeal Committee of AI Nepal



Shyamraj Bhimire
Coordinator



Bimala Devi (Bist) Gautam
Member



Rishikesh Khanal
Member

WE ARE NOT EXPECTING THE IMPOSSIBLE FROM THE PRESIDENT OBAMA IN HIS FIRST 100 DAYS.



past. But only this is not enough. President Obama has to do more works. He can do many things in his 100 days of office. Amnesty international has released a checklist and challenged him that if President Obama wants to fulfil his commitment to the humanrights, he should complete the checklist and be an example to the world.

Amnesty International has launched long campaign for closing the Guantánamo detention centre, ending of arbitrary detention, eradicating torture and ill-treatment. In last November Amnesty international recommended some issues challenging President Obama to respond terrorism through the way of justice.

President Obama within 48 hours of taking his office declared in his executive orders that the Guantánamo detentation facilities would be closed down within a year, end interrogation of military and torture and ill-treatment of all forms. The assurances of the President indicate that his action is in right track and he clearly wants to leave the bad practices of the

Therefore, President's other work should be-

- o Promptly charge Guantanamo detainees with recognizable criminal offenses or release them immediately.
- o Ensure that those detainees who are to be charged receive fair trials in US federal courts.

If you need additional information about this campaign and want to take part on this, please log on to <http://www.amnesty.org/en/news-and-updates/news/president-obama-first-100-days-latest-news>

SIGNATURE COLLECTION AT DAMAK

As a part of Obama 100 Days Action, AI Nepal's Group 60 and Progressive Youth Network both situated in Damak organized signature collection program in the second week of December 2008. The program

was organized in the venue of the Damak festival.

Letter writing was focused on to remind Obama about the commitment which he



signatures were collected. At that function Convener of AI Nepal Group 75 Krishna Prasad Bhandari, Coordinator of Youth Yetwork Keshav Dahal has also expressed their views.

On the occasion, activists distributed related material on Universal Declaration of Human Rights and Rights of the women to the people visiting festival.

has made during the candidacy of president. On the occasion activists collected signatures on the letter calling president for the closure of Guantanamo detention facilities.

According to the young activists of the Youth Netork, people took the campaigning techniques and them of the campaign in positive way.

The programme was jointly inaugurated by coordinator of Association of Damak Chambers of Commerce and Industries Indra Shrestha and Convener of AI group 60 Shesh Kumar Niroula. After that

The cloth with signature by around 10 thousands people and the letter addressed to the President Obama were sent to the US Embassy in Kathmandu.

Coordinator of International Mobilization Program of AI Nepal

Jane East visited AI Nepal office on February 1, 2009. She arrived Nepal to take part in the 17th Annual General Meeting of AI Nepal.

On the occasion NEC Vice-chairperson of AI Nepal Keshab Sigdel, General Secretary Shambhu Thakur, immediate past Acting Chairperson Dhruva Kumar Karki and staff of National Secretariat were present.

At the function, Membership Officer of National Secretariat Indira Kharel handed her the token of gift.

At the meeting Vice-chairperson Sigdel and Director Rameshwar Nepal briefed her about the activities of AINepal. She also talked with staff of different departments of AI Nepal.

East is an official who looks after the institutional development of Nepal holding her office at the International Mobilization Programme of AI's International Secretariat in London.



ORIENTATION ON HUMAN RIGHTS AND AI

ए.आई. नेपालले यसका सदस्यहरूलाई मानवअधिकार तथा एम्नेस्टी इन्टरनेसनलका बारेमा जानकारी गराउन बेलाबेलामा अनुशिक्षणहरू आयोजना गर्ने गरेको छ । विभिन्न स्थानमा रहेका ए.आई. समूह एवं युथ नेटवर्कका सदस्यहरूका लागि त्यस्ता अनुशिक्षण सञ्चालन गरिएका समाचारहरू प्राप्त भएका छन् ।

Saraswati Youth Network, Biratnagar

An orientation programme for the member of Saraswati Youth Network, formed under AI Nepal Group 11 situated in Biratnagar held on February 15, 2009. Subject matters relating to different session of the orientation were human rights and humanitarian law, historical background of Amnesty international, organizational structure, types and methods of campaign, working areas of members, work of Groups and Youth Networks. Chairperson Hem Khadka and Director Rameshwar Nepal facilitated those sessions.

In the begining of the program, NEC member Dik prasad Ghimire and Coordinator of Group 11 Bijaya Mishra expressed their views about the campaign.

At the end of the training discussions were also held on different issues. On the occasion Chairperson of AI Nepal Hem Khadka and Director Rameshwar Nepal answered the queries raised by the participants. Altogether 35 members affiliated to the Network took part in the programme.



Group - 61, Lalitpur

Bagdole Welfare Trust and AI Nepal Group-61 organized a programme on Amnesty International, human rights and, violence against women. The program was held on February 18, 2009 (in the



Democracy Day) at Bagdol community building.

On the occasion coordinator of group - 61 Dr. Watsaman Malla expressed his views about the situation of human rights, effort made by government on human rights situation of Nepal and other different aspects. Likewise former Convener of Group 61 Bibendra Pradhananga talked about establishment of AI in Nepal, and its working areas, effectiveness and the present situation. On the occasion, Secretary of the Group Arun Bajracharya expressed his views on rights of the women, concern of government on women rights after people's movement and the situation of violence against women in Nepal. He also emphasized that both man and woman should be awared for the rights of the women.

Altogether 50 participants along with 35 women took part in the programme. The programme was conducted by member of the group Nabaraj Karki, and the programme was presided over by Rajesh Karki, the vicepresident of Bagdol Development Society. The programme was coordinated by Prakash Karki, the member of AI Nepal Group 61.

Group 54, Pokhara

AI Nepal Group-54, Pokhara organized a day long training programme on Humanrights and Amnesty International on February 28, 2009. The Chief of the Western Regional Office of the National Human Rights Commission Achyut Acharya expressed his views about the worldwide work of Amnesty International for the protection of humanrights. On the occasion, National Executive Committee Member of AI Nepal Nirmal Babu



Shrestha, former Conveners of the Group Durga prasad Timilsina, Kamal Nath Kunwar and other speakers including Nil Bahadur KC, Shanti Singh Thapa, Bimalraj Dawadi, Padam Bastakoti, Chudamani Subedi and Kopila Bhujel expressed their own views. Inaugural session was chaired by Ram Raj Lamichhane, Convenor of the Group. Nil Bahadur KC facilitated various sessions in the programme.

INTERNATIONAL HUMAN RIGHTS DAY

We have more news about the activities organized by different Groups and Youth Networks affiliated to the AI Nepal on the occasion of 60th International Human Rights Day.

Walk and awareness mass meeting at Lalbandi

On the occasion of 60th Human Rights Day, a walk programme was organized at Lalbandi on 10 December 2009. The programme was jointly organized by Group 78 of AI Nepal and local organization child protection organization. The programme converted into the mass meeting after visiting the local market areas.

Addressing the meeting Chief Guest of the programme and district president of Nepali congress Sarlahi and former Parliamentarian Bhikhari Mansur, Leader of Nepal workers and peasants party Gobinda Mahat, representative of Jana

Morcha Nepal Gyanu Thapa, Treasurer of the Child Protection Organization Jamuna Acharya, representative of indigenous communities Hirkaji Yonjan, Anita Bhujel and others expressed their views about the situation of human rights at present



context. The programme was chaired of Chet Bahadur Magar convener of Group 78 Lalbandi.

Quiz contest at Itahari

On the same occasion Group 63 of AI Nepal organized a high school level quiz contest programme. The programme was inaugurated by former Deputy General Secretary of AI Nepal Raj Narayan Mandal.



Secret Heart Boarding School secured the first position while Chamunda Secondary School and Koshi Saint James School secured second and third position

Chowk and after visiting different parts of market converted into corner meeting at Birendra chowk.



respectively. Consolation prize was given to Janata Secondary School. Chief Guest Mr. Mandal provided prize and certificates to the winning schools and students.

The programme was chaired by convener of Group 63 Kabindra Mandal and programme was conducted by Shiba Rimal and Santosh Kharel. The programme, participated by 10 schools of Sunsari district was coordinated by the Convener of Itahari Youth Network Ananda Pokhrel.

Peace rally in Surkhet

Group 69 of AI Nepal and Kankre Bihar Youth Network along with other human rights organizations of Surkhet organized a peace rally in Birendranagar December 10, The rally started from Mangalgadhi

The corner meeting was conducted by the Convener of Kankrebihar Youth Network Devendra Sejuwal and chaired by the district President of Human Rights and Peace Society Surkhet Parbati Giri. Secretary of Group 69 of AI Nepal Pitambar Acharya, district president of Nepal human rights organization Govinda subedi, Representative of INSEC Durga Thapa, women rights activists Shobha Bk, district president of FNJ surkhet Shridhar poudyal expressed their views on the occasion.

Candle rally in Biratnagar

AI groups 11, 23, 41 and 73 of Biratnagar organized candle rally on December 10. Participants of the rally were representatives of different human rights organization.



INTERNATIONAL CHILD DAY

On the occasion of international child day different groups and youth networks of AI Nepal organized various programme in different parts of the country.

Debate competition in Panchthar

Pheden youth network affiliated to the AI Nepal organized debate competition programme among the students of plus 2 level on November 20, 2008. The topic of programme was Role of youth on Human Rights. Addressing the programme then centre committee member of AI Nepal Chhabi Baskota appreciated the role of youth network of Pheden on promotion the human Rights. He also emphasized other youth to do the same. He said that if the youth follow the path of AI then we can find the better future which we are looking for.

on the occasion president of Panchthar library Narendra Kumar Kerung , convener of group 45 Panchthar of AI Nepal Yadunath Pokhrel , president of FNJ Panchthar Lekhnath sikaru, convener of ICRC Hareram Bhandari, representative of Nepal Bar Association Khagendra Baskota, representative of INSEC Krishna Ojha, representative of DFID Pabitra Chemjong, teacher of Kanchanjanga higher secondary school Ekaraj Bhandari, coordinator of decisive team Nirananda

Acharya , Punya Dulal secretary of National human Rights institute, Bharat Khapangi, and member of youth network Geeta Bhattarai also expressed their well wishes according to convener of network Jyoti Neupane. Among the 12 participants of the programme Prakash Bajagain of Kanchan Junga higher secondary school secured the 1st position. Similarly, Tara Poudel from the same school secured 2nd position and Dipendra Tiwari from Phidim higher secondary school secured the 3rd position. The programme was conducted by Prakash Khatiwada and chaired by the convener Jyoti Neupane.

Interaction at Lalbandi

On the same occasion group 78 of Lalbandi affiliated to AI Nepal organized an interaction programme about child rights on November 20. The programme was concluded on the chairmanship of the group convener Chet Bahadur Magar. The joint chief guest of this programme were Abantika Sharma and Manoj Sigdel. On the occasion, live interaction among the children and other participants were also held.

INTERACTION IN GORKHA

Group 76 of AI Nepal Gorkha organized an interaction programme on the present context, constitution making procedure and humanrights, on 30 of push 2065. Chief guest of the programme was then general secretary of the AI Nepal Chandra Adhikari .According to the group, the participants were represented from Press union, INSEC, CAHURAST, Human Rights

and Peace Society, civil society, Nepal Human Rights organization, Almunai Nepal and others. The programme was chaired by the convener of the group Thakur Prasad Kandel. On the occasion then General secretary Adhikari answered the queries raised by the participants. Programme was conducted by group secretary Rabindra Kandel.

INTERACTION AMONG THE GROUP MEMBERS

Group 10 Inaruwa

Group 10 Inaruwa of AI Nepal organized an interaction on February 1, 2009. Participants were the group members and the main purpose of this programme was to inform them about the AI Campaign. Head Master of a local school Rajendra Poudel was the chief guest and he said that human rights situation of the country is now in crisis. The programme was chaired by Dhaniklal Mehata and conducted by group member Ram Prasad Chapagain. Similarly on the same programme convener Mehata informed all the participants that on the General Assembly which was held in Pokhara on 14&15 of magh 2065, group 10 received the prize for increasing the membership.

Group 18, Kathmandu.

Group 18 of AI Nepal of Kathmandu organized a get-together programme among the members. On the occasion interaction program was held about the Human Rights and AI Nepal. Chief Guest of the programme was then General Secretary Chandra Adhikari and the programme was coordinated by Om Krishna KC. At the program, members talked about the different aspects of humanrights. On the occasion Bibek Pradhananga of Group 61 Lalitpur of AI Nepal informed about the Amnesty international and its campaign. The Programme was presided by the convener of the group Trilochan Krishna Shrestha.

Banepa youth network

Youth Network of AI Nepal situated in Banepa organized a programme on February 21, 2009. On the occasion, interaction about AI campaign, signature collection for release of the prisoners of conscience was held. Newly elected treasurer of AI Nepal Rashmila BhochhiBhoya greeted everyone on the programme.

On the occasion treasurer Bhochhoya and convener of group 43 Tika Bhakta



Bhochhibhoya expressed their views about the future programme and the running campaign of AI Nepal. On the occasion participants lend their signatures on the request letter made for the release of Yuki Takasi who is prisoners of conscience.

On the occasion central treasurer Bhochhibhoya was greeted according to the convener of network Suman Dhun Shrestha .

CONFLICT-RELATED DISAPPEARANCES IN BARDIYA DISTRICT

OHCHR Nepal published a report on conflict related disappearances of individuals. The executive summary of the report excerpts -

This report sets out the findings of OHCHR's investigations into enforced disappearances and related serious human rights and international humanitarian law (IHL) violations in Bardiya District in the context of the conflict between the State and the Communist Party of Nepal-Maoist (CPN-M).

OHCHR has received information that over 200 cases of enforced disappearance after arrest by the security forces in the district, the highest number of reported conflict-related cases in one district in the country. Of these, OHCHR has investigated 156 cases so far, most of which took place following arrests between December 2001 (following the declaration of the first State of Emergency on 26 November 2001 and the deployment for the first time of the then Royal Nepalese Army (RNA)) and the subsequent ceasefire in January 2003.

OHCHR's investigations into enforced disappearances by the State authorities focus on this period, which was one of the most intense of the conflict in the district. Fourteen cases of actions tantamount to enforced disappearance after abduction by the CPNM between November 2002 and October 2004 were also documented in Bardiya District, 12 of which have been acknowledged by the CPN-M. The disappearances by both parties were part of a broader pattern of widespread human rights and IHL violations which occurred during the conflict nationwide. Many of the victims were civilians not taking part in hostilities.

Although many other serious violations of human rights and IHL were committed during the conflict - including extrajudicial executions and other unlawful killings, abductions, torture, assaults and extortion - this report focuses on disappearances because of the urgency of establishing the whereabouts of the disappeared.

The question of resolving conflict-related disappearances has remained one of the pending issues of the peace process. There have been very significant developments in Nepal since the 2006 ceasefires, including an end to hostilities, the signing of the Comprehensive Peace Agreement (CPA), the formation of a newly-elected and for the first time broadly representative Constituent Assembly, the abolition of the monarchy and declaration of a republic, as well as the formation of a new government. These developments mark a historic new phase in Nepal's peace process. The Supreme Court of Nepal, in a landmark judgment on enforced disappearances in June 2007, directed the Government of Nepal to ensure justice and redress to the victims, and the CPN-M and other political parties involved in the peace process have made repeated political commitments to take action on this critical issue. The formation of a new government and the Constituent Assembly offer a unique opportunity for the authorities to demonstrate a real commitment to human rights and ending impunity by taking concrete and effective steps to resolve conflict-related violations of the past, including the disappearances documented in this report. During the high-level debate

of the UN General Assembly in September 2008, Prime Minister Pushpa Kamal Dahal affirmed the commitment of the Government of Nepal to protect and promote the human rights of its people and to end the culture of impunity.

As this report was being finalised in November 2008, welcome steps were taken by the Government to establish the Commission on Disappearances, including the sharing of draft legislation on Extract from a statement made by Louise Arbour, the then UN High Commissioner for Human Rights, during her visit to Nepal in January 2007. Disappearances and its approval by the Council of Ministers pending referral to the Legislature, as well as a Council of Ministers decision to provide interim relief to families of the disappeared. Following the end of hostilities in May 2006, the climate of fear which had prevailed during the conflict diminished, and information started to emerge about the scale of the disappearances in Bardiya District, especially by security forces. Three units of the RNA were based in Bardiya District between December 2001 and January 2003 and were primarily responsible for arbitrary arrests, unacknowledged detention and enforced disappearances in the district: Bhimkali Company, Barakh Company (which was upgraded to a battalion during the period) and Ranasur Company – all of which fell under the command of the 4th Brigade and the Western Division of the RNA. The Nepal Police (NP) and Armed Police Force (APF), sometimes working with the RNA, were responsible for arrests in a smaller number of cases. OHCHR documented the consistent refusal by the RNA to acknowledge arrests, the systematic use of torture in at least one place of detention and secret killings in custody, suggesting that the RNA deliberately arrested and removed detainees from the protection of

the law to coerce them into providing information on the CPN-M and to eliminate CPN-M presence from the area. Given the scale of these violations and the failure to take necessary action to prevent or restrain them, the leadership of the Western Division of the RNA at that time must bear considerable responsibility, as is must for individual company commanders. There is also a need for investigations to establish broader chain of command responsibilities within the hierarchy of the security forces and the Government of the time.

Members of the Tharu indigenous group, who make up 52% of the population in Bardiya District, account for over 85% (135) of the persons disappeared by State authorities in cases documented by OHCHR. Among the victims were 123 men (including 102 Tharus), 12 women and 21 children. All the women and children were of Tharu origin. Information provided to OHCHR leads to the conclusion the majority of the disappeared was civilian villagers who were not CPN-M members at the time of arrest. Most of the victims were farmers and others were labourers, students, teachers and carpenters. In addition to their occupations, several were prominent Tharu activists. The Tharus constitute one of the several indigenous groups that are historically marginalised and discriminated in Nepal. Many of the disappeared who were not Tharu were also from economically disadvantaged sectors of the population. This report highlights that the issues of land distribution and lack of access to economic resources for marginalised groups, as well as discrimination, lack of political representation and lack of access to state services and protection are at the root cause of the conflict in Bardiya District and therefore underlie the disappearances documented. Following their deployment

in the conflict, RNA units based in Bardiya District gathered information on alleged CPN-M members and supporters, and conducted search operations near their barracks, arresting anyone suspected of links with the CPN-M. Most of the disappeared were specifically targeted and arbitrarily arrested during search operations, mainly from their homes during the night, by armed and uniformed RNA teams, sometimes together with police. The security forces also conducted one large scale operation from temporary camps constructed in the Rajapur Delta area of Bardiya District, during which at least 15 persons were disappeared. In violation of national and international law, arrests were often violent; those arrested were not informed of the reason for arrest and were taken away with little or no explanation. Security force teams often did not identify themselves during arrests. According to local sources, persons from marginalised rural communities, including Tharu civilians, were particularly harassed and humiliated by security force teams during operations, at check posts and when they approached army barracks.

OHCHR's investigations into the conditions and treatment of the disappeared in detention focused on Chisapani Barracks, which it found operated as a centre for intelligence collection, where detainees were systematically held in unacknowledged detention and subjected to torture and cruel, inhuman and degrading treatment in violation of international law, with the involvement, knowledge and/or acquiescence of commanding officers. Most detainees were held handcuffed and blindfolded almost continuously for the duration of their detention. Methods of torture to which detainees were subjected included severe beatings, including on the soles of the feet; rolling a heavy wooden

pole with pressure applied on limbs causing muscular damage; being made to lie in the sun and stare at it; having pins inserted beneath the fingernails or having fingernails pulled out; being submerged in water to produce a feeling of drowning; rape and mock executions. OHCHR has thus far gathered witness testimony which indicates that at least 21 of the disappeared were held in Chisapani barracks. Among them were men, women and children, including a 14-year-old boy who was last seen in detention in a trench.. The RNA repeatedly denied the detention of many of those it arrested, placing them outside the protection of the law. In spite of a general climate of fear and insecurity, many relatives approached army barracks and temporary military camp only to be turned away sometimes with threats or violence. In the small number of cases where the police or army initially acknowledged detention, families were not able to meet or receive information about detainees after a certain point. The fact that arrests were denied, detainees were not given access to a lawyer and detention was not reviewed by a judicial authority severely limited the ability of families to challenge the legality of detention. In particular, the courts normally dismissed *habeas corpus* writ petitions where detention was denied by the authorities and the petitions proved ineffective. Families were thus left searching in vain for any news of their disappeared relatives. Human rights defenders who intervened in such cases at the time did so at considerable risk. The fate of most of the disappeared by the State authorities in Bardiya District remains officially unknown, despite the fact that their names have been submitted to the authorities with repeated requests for clarification, by families of the disappeared and human rights organisations, including OHCHR. However, OHCHR obtained

credible witness testimonies on a significant number of cases indicating that detainees were killed in custody. OHCHR gathered independent testimonies regarding extra-judicial executions in detention. It also documented a pattern of removal of detainees from custody in Chisapani Barracks in vehicles sometimes equipped with digging equipment. On occasions, these were followed by the sound of gunshots after which vehicles returned empty. A number of the disappeared were last seen being removed from detention in this way. Information gathered indicates that others received injuries during arrest and through torture which may have led to their death. In cases where the Nepalese Army (NA) has since provided information to government commissions and OHCHR, OHCHR believes it has attempted to cover up the fate of some of the disappeared.

OHCHR received two communications from the NA, in September 2006 and February 2008 respectively, providing information on 55 persons documented by OHCHR as disappeared after arrest by the security forces. According to the NA, most victims were killed either in an encounter, in security force operations or while trying to escape. Ministry of Defence press releases issued at the time of arrest also claimed that those named were “killed in an encounter”. In other cases, the NA said the persons in question were released or living at home, handed over to the police, or that there was no record of their detention or death. However, in the cases where OHCHR was able to carry out further investigation, it received witness testimony which contradicts these claims and as such OHCHR continues to consider the persons as disappeared. By way of illustration, OHCHR’s investigations found that four young people aged 15 and 16,

whom the NA claims were killed in an encounter, were among eight persons arrested from home in front of multiple witnesses in Manau VDC in April 2002. The fact that the NA has acknowledged the death of these individuals, albeit under different circumstances, may be taken as confirmation of their deaths. Given that all were seen in security force custody, OHCHR believes that they were in fact killed in custody and their bodies disposed of in secret. The actions tantamount to enforced disappearances by the CPN-M documented by OHCHR took place within a pattern of what the CPN-M termed “party action” against persons considered to be exploiters or informants and included public executions, abductions, torture and assaults. According to the title of the Royal Nepalese Army (RNA) was changed to Nepalese Army (NA) by the House of Representatives proclamation of 18 May 2006. In the report, RNA is used when referring to the army’s operations at the time of the conflict. NA is used when referring to post-May 2006 actions. To the CPN-M, all decisions on this “action” during the period in question were taken by the district committee and were normally carried out by small groups of People’s Liberation Army (PLA) cadres known as “squad teams”. OHCHR found that most of the victims were abducted from their home or the street near their home village in the day or the night by small groups of persons in civilian clothes, sometimes with known Maoist cadres among them. The victims included 13 men and one woman, aged between 20 and around 65. Among them were three Maoist-affiliated persons and three members of the security forces (one APF and two RNA personnel) who were taken while they were on leave or off duty. None of the families of those abducted were able to meet them in CPN-M captivity. However, relatives of at least

four of those abducted heard from local people and also witnesses who had been held with them that they were beaten severely by the CPN-M, and had visible signs of wounds on their faces and bodies. In July 2008, the CPN-M acknowledged to OHCHR that it had killed 12 of the 14 persons OHCHR had documented as victims of actions tantamount to enforced disappearance by the CPN-M. While the families of some of these individuals had previously learnt through press releases issued by the CPNM or verbally from Maoist cadres between a few days and a few weeks following the abduction that they were killed, others had not received any information from the CPN-M regarding their fate. The acknowledgement of their death by the CPN-M is a positive step towards determining the fate of the disappeared. However, the full circumstances of the abductions and killings, as well as the whereabouts of the remains must be disclosed. In August 2008, the national-level CPN-M representative for human rights undertook to discuss with CPN-M leaders the issue of informing families in writing that their relatives were killed, in cases where the CPN-M acknowledged killings. He also committed that efforts would be made to identify those responsible in order to locate the victims' remains and OHCHR understands that instructions to do so have been given to district-level CPN-M leaders. The central demands of the families of the disappeared are truth, justice and reparations, which find support in international standards and the above-mentioned decision of the Supreme Court of Nepal in June 2007. Despite repeated commitments by all parties to the peace process, deadlines set to make the fate of the disappeared public have long expired and the establishment of a commission of inquiry on enforced disappearances has been

pending for two years in spite of it being one of the measures, along with criminalisation of such practices, ordered by the Supreme Court of Nepal in its June 2007 ruling. The NP has repeatedly obstructed the registration of First Information Reports for conflict-related crimes, including those related to disappearances, and failed to investigate such cases. No-one has been prosecuted and perpetrators continue to enjoy complete impunity.

The failure of the Government to clarify the fate and whereabouts of the disappeared constitutes a continuing violation of the human rights of their families which must be addressed urgently. It is therefore welcome that in mid-November 2008, draft legislation on disappearances, including the criminalization of disappearances and the establishment of a Commission of Inquiry to investigate them, was released by the Government and approved by the Council of Ministers. The establishment of the Commission has the potential to be an important step towards clarifying the fate of the disappeared, including the persons whose cases are documented in this report.

However, OHCHR suggests that the responsible agencies should not wait for the outcome of this inquiry before taking action on cases of disappearance that have been brought to their attention. This report is intended to assist both the Commission and the responsible authorities to meet their obligations under international law. Disappearances have had a deeply adverse socio-economic effect on families of the disappeared, many of whom were living at subsistence level before the disappearance. They have been left with diminished food security and lack of access to healthcare and education and vulnerable

to child labour and social discrimination. Relatives of four of the disappeared from Bardiya were among those provided with interim relief in line with the Supreme Court decision. This interim relief must be provided to all families of the disappeared as a priority, in accordance with the Council of Ministers decision of November 2008. In addition, there remains an urgent need for a comprehensive programme ensuring a full-range of appropriate reparations, including restitution, rehabilitation and satisfaction, in consultation with families of the disappeared.

Disappearances and abuses linked to them such as extrajudicial executions, torture and arbitrary detention are among the most serious violations of Nepal's international human rights and humanitarian law obligations, and especially the International Covenant on Civil and Political Rights. Lack of information about the fate of the victims prolongs the agony of their relatives over many years as they search for information. Repeated promises of

action by the parties have led to hope and then despair as these promises are not fulfilled. As the newly-elected Government of Nepal begins the process of transforming Nepal after years of conflict, dealing with past violations of the kind documented in this report will be a critical challenge. This is not only important in terms of ensuring the rights to truth, justice and redress for the victims of disappearance and their families, but for laying a stronger foundation for the rule of law in Nepal and therefore for the long term success of the peace process..

As indicated above, in his address to the UN General Assembly in September 2008, the Prime Minister assured that his Government would end the environment of impunity in Nepal. In accordance with its mandate, OHCHR stands ready to assist the Government in this important undertaking.

source-<http://Nepal.ohchr.org/en/index.html>