Politics of
People’s War and Human Rights in Nepal

Bishnu Pathak, Ph.D.

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In memory of
known and unknown martyrs
who sacrificed their lives in their prime
to liberate the people
from injustice, inequality, indignity, insecurity,
and inhibition widespread in our society.
Acknowledgement

First and foremost I would like to express my best regards and gratitude to Dr. Krishna Bahadur Bhattachan who helped me navigate through such a challenging field involving serious issues of People’s War and Human Rights toward an academic horizon. Without his inspiration, guidance, and cooperation, I could not have imagined success in my pursuit. In spite of his very tight schedules, Dr. Bhattachan had been available to me whenever I needed his comments and consultations.

I am grateful to Dr. Ram Bahadur Chhetri and Dr. Om Gurung for their forthright guidance and support to complete my dissertation in time. I am deeply indebted to Professor Dr. Madan Kumar Dahal, Head, Central Department of Economics, T.U., Mr. Dev Raj Dahal, Resident Representative of Friedrich Ebert Stiftung (FES), Mr. Ananda Aditya, political analyst, Mr. Bishnu Ojha, Central Library, T.U., Mr. Durga Pathak, Mr. Padma Ratna Tuladhar, Mr. Daman Nath Dhungana, Dr. Shyam P. Lohani, and Krishna Pathak, Human Rights and Good Governance Advisory Unit, Danida for their continued inspiration, guidance, and support to peruse the research work. I thank Professor Dr. Dilli Ram Dahal, Professor Dr. Chaitanya Mishra, Mr. Lay Prasad Upreti, and Mr. Guru Adhikari for providing me inspiration and necessary comments on my dissertation.

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I must recall that I had gained some significant insights while working with European Commission (EC) in Brussels at the Conflict Prevention and Crisis Management Unit on Rapid Reaction Mechanism (RRM) as a Senior Peace and Conflict Analyst to assist EC development projects in mitigating the impact of the conflict on the local communities in Nepal where they had been serving for a long time. Indeed, I have benefited from the opportunity and have incorporated some important points in this book.

In addition to the academic inputs, I have received support from various organizations and individuals for the completion of this study. Among them, I am indebted to the Danish Center for Human Rights, Copenhagen, for providing me grant for one-year intensive study on human rights when I also got an opportunity to collect pertinent literature on human rights, conflicts and strategies. I would like to express my deep gratitude to the Informal Sector Service Center (INSEC), Kathmandu. At INSEC, in particular, my thanks go to Mr. Subodh Pyakurel, Executive Chairman, Mr. Krishna Gautam, Mr. Prakash Gyawali, Mr. Govinda Tripathi, Mr. Bimal Chandra Sharma, and other friends for providing me the required information and literature for this study. Similarly, I am also thankful to National Human Rights Commission, Forum for Protection of Human Rights, INHURED International, CWIN, and RRN. Besides, whenever I encountered problems in my computer, Mr. Uddim Neupane (B.Sc. IT) fixed them, for which I am very much indebted to him.
My sincere thanks are due to all interviewees, political parties, and professional organizations both on land and abroad for providing valuable time in sharing of iceberg ideas and making openings for my research work possible and fruitful. I am very much indebted to all those who have directly and indirectly provided me crucial information and concrete suggestions that have propelled me going ahead with this study smoothly.

I would like to specially thank the Dean’s Office, Faculty of Humanities and Social Sciences, particularly to Professor Niranjan Sharma, Professor Ramesh Raj Kunwar, Dr. Shishir Subba, Professor Tri Ratna Manandhar and Mr. Nirmal Maharjan, and Central Department of Sociology/Anthropology, Tribhuvan University, Kathmandu for accepting me as a Ph.D. scholar on such a crucial subject matter – People’s War and Human Rights. It is my privilege to pay special thanks to Mr. J. K. Tater who has contributed to editing this academic research work.

My warm regards and special thanks are due to my esteemed parents Dhanapati and Ambika, who had, without the aid of alphabet, ingrained in me the mission to be a good man always. Their straightforward direction and sincere guidance have energized me to keep going ahead with singular commitment for the sake of people and nation.

Last, but not the least, my sincere thanks are due to my wife Meena and sons Bimip and Bimish for constantly encouraging me to finish the research work. Without their consideration and cooperation, the effort would not have been fruitful and enjoyable.

Bishnu Pathak
Bishnu Pathak has succeeded admirably in painstakingly detailing the often arcane trajectory of the Maoist inspired People’s War in Nepal within the context of the country’s frequently ineffectual efforts to adopt and adhere to the international code of human rights as it seeks to establish its claim to modernity. His lucid and evenhanded account of the communist struggle to free the people of Nepal from the constitutional monarchy established in 1990 with its attendant bureaucratic capitalism, semi imperialist, feudal society in what began as an effort to establish democratic, progressive and even prosperous People’s Republic is both revealing in its depth and dismaying in its conclusions.

The ideological origins of the Prachanda Path, an evolutionary fusion of the Chinese model of a protracted rural offensive and the Russian model of armed offensives in urban centers, are traced by Pathak from their inception. As his analysis proceeds through a decade of escalating warfare he traces the brutal reality of its impact on the very people it was intended to liberate – the poor and the powerless.

Sandwiched among the increasingly corrupt leaders of the Maoist rebellion, the vengeful and myopic monarchy which enjoys the support of the army, and the morally bankrupt leaders of political parties whose individual greed has betrayed the people who elected them, money and muscle have triumphed over progressive values on all fronts.

Pathak’s analysis does much to elucidate the nature of the complex dilemma in which the Nepalese people are caught. But unfortunately, it offers little solace to those who love their country and hope to see the killing cease and a real commitment to human rights instituted so that the majority of Nepalis who are kind, gentle and honest get what they richly deserve – freedom and successful economic development.

Professor Virginia E. O’Leary
Auburn University, USA

August 2005
Along with the end of the former USSR in 1991, the persistent competition between socialism and capitalism also disappeared and USA stood alone as the world’s superpower. The politico-ideological divide of 20th century has manifested into identity-based national or regional conflicts, socio-cultural conflicts, ethnic conflicts, and religious conflicts or resource-based domination of a developed country over developing one, as the Western versus non-Western bloc in 21st century. The emerging superpower China and its rising alliance with Buddhist, Hindu, and Islamic societies (such as North Korea, Singapore, Vietnam, Japan, India, Indonesia, Iran, Iraq, Libya, Malaysia, Pakistan, Sudan, Syria, and Yemen, Burma, Cuba, etc.) appears as a strong threshold to the Western bloc, particularly to the USA.

Despite very significant economic development and politico-ideological differences, the four Confucian countries, China, North Korea, Singapore, and Vietnam, had made a united appeal against human rights imperialism of the United States of America in the Second World Conference on Human Rights held in Vienna in June 1993. These Asian countries raised the questions related to universalism versus cultural relativism and civil and political rights versus the right to development and solidarity in reference to the origin of human rights in the West.

Due to various national and regional diversities and different historical, religious, and social, cultural backgrounds, 37 developing countries around the world are particularly suffering from violent domestic conflicts. The trend of internal confrontations had intensified immediately after the dissolution of the USSR. During the seven-year period between 1989 and 1996, 95 of the 101 ongoing armed conflicts were identified as internal violent conflicts which have been proliferating each passing year.

Armed conflict is not a new phenomenon as the commoners have always suffered from ‘elite ruling system’ and ‘feudalistic mode of society’ since antiquity. It is invariably the consequence of transverse, spiral and interwoven complex web of fundamental structural causes and their collateral factors. Armed conflicts have arisen due to: inequality in access to resources and opportunities, inadequate service delivery, injustice to the identities and politico-ideological beliefs, ineffective governance, inept transparency and accountability, intolerant political parties and their leadership, inefficient bureaucracy and technocracy, and insipid diplomacy. The dissident ideological issues, communal violence, and or conflagration among the caste/ethnic communities are common in South Asian countries. Nepal was not aligned with any bloc in the 20th century, nor is it likely to do so in the future, although the traditional society has to face major crises in identity-based, resource-based, politico-ideology-based, and armed front dimensions despite a decade-old democratic system.

The past has been witness to dozens of armed conflicts that occurred at different times and places. Prithvi Narayan Shah unified Nepal defeating many Baise and Chaubise principalities. Plunging the history into further blood and chaos of such massacres as the Kot Parba and Bhandarkhal Parba, Janga Bahadur Rana – the grand designer of both – imposed hereditary prime-ministerial autocratic rule for 104 years in Nepal during which multiple armed struggles were waged.

If we look at the socio-political upheavals, we find that throughout the 20th century Nepal has suffered either an armed struggle or a people’s movement at about each 10-year interval ranging from Makai Parba of 1920 to the People’s War at present.
The history has witnessed that Communist Party of Nepal has been fighting for socioeconomic transformation to achieve social justice, liberty, security, integrity, and dignity for the downtrodden among the poor, disadvantaged, marginalized, and vulnerable communities since its very inception in 1950. Except a few, the communist movement was often a latent armed conflict before 1990 which surfaced only periodically in the half decade between 1990 and 1995. It, however, finally emerged as an open armed conflict in 1996.

The CPN (Maoist) initiated the People’s War on February 13, 1996 with the avowed objectives to do away with the constitutional monarchy, bureaucratic capitalism, semi-imperialism, feudalistic state of society, elite ruling system, and the antiquated roots of social inequality in order to establish a patriotic, democratic, progressive, and prosperous People’s Republic of Nepal.

This book has relied on inter-disciplinary study. On the one hand, it deals with the People’s War and, on the other, the consequences in terms of human rights. The introduction briefly explains the fundamental structural factors of Nepal. Marx’s unique sociological notion of class struggle has been explained while understanding conflict. The concept and context of People’s War have been examined in light of ideological debates and differences on Marxism-Leninism-Maoism. The introduction explains the definition of human rights as moral and legal rights and as cultural relativism.

The issues of human rights are analyzed in three ideological perspectives of Marxism, western liberal, and Hindu-Buddhist thoughts. The 40-point demands concerning nationality, people’s democracy, and people’s livelihood have been analyzed with respect to three generations of human rights such as International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and the Right to Development. Similarly, the demands are also anatomized with structural politico-ideological dimensions in regard to the manifestoes of mainstream political parties.

The genesis of the People’s War passes through several stages with its course of intensification and development. This book states how the slogans of each plan did actually function in the past. It attempts to analyze the ideology, revolutionary practice, and the military strategy and tactics of the CPN (Maoist). It also elucidates how the present conflict combines the Chinese model of protracted People’s War in rural areas and the Russian model of armed struggle in urban centers. The fusion of these two models has evolved as the Prachanda Path. The theoretical as well as practical tools used by the Maoists are explored in the book. It also illustrates how the perspective knowledge transforms into rational knowledge and how the revolutionaries follow the strategy of encircling cities from the countryside and use hit and run tactics.

The fundamental dynamics and strategy of the People’s War which have been clearly stated in the book are the main findings of this analytical study. The root-causes, purposes, strategy and tactics, leadership, recruitment, organization, discipline, terrain and sanctuary of the People’s War have been clearly explained. The book analyzes how the commoners and unprivileged people are constantly discriminated and exploited by the rich and powerful in society.

Due to the constant conflict between the two warring parties and their retaliatory trends, how the human rights and constitutional rights such as the right to life, liberty, security, and dignity have been infringed are illustrated in this book. Similarly, how economic, social and cultural rights have been breached due to the intensity of the People’s War are also clearly analyzed. The book has demonstrated the reasons of the failed peace talks, the role of civil society, mainstream political parties, and agendas put forward in the talks and anatomized the actors involved in it.

The present work is mainly based upon the author’s dissertation toward Ph.D. The repetitions, at
times of entire phrases and clauses, have deliberately been made so as to facilitate the readers who are interested only in a chapter of their concern or even a part of it. However, the author would be grateful to receive comments on any aspect of the book.

I am happy to share the merits of this book with all those who have helped and guided me during the process of writing. Having said all this, the responsibility for mistakes of commission and omission is, of course, mine alone.

Bishnu Pathak

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# Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>2Ps</td>
<td>Power and Politics</td>
</tr>
<tr>
<td>3Ps</td>
<td>Power, Politics and Property</td>
</tr>
<tr>
<td>4Ps</td>
<td>Power, Politics, Property, and Prerogative</td>
</tr>
<tr>
<td>ACF</td>
<td>Agriculture Cooperative Fund</td>
</tr>
<tr>
<td>AGIL</td>
<td>Adaptation, Goal attainment, Integration, and Latency</td>
</tr>
<tr>
<td>AHRC</td>
<td>Asian Human Rights Commission</td>
</tr>
<tr>
<td>AI</td>
<td>Amnesty International</td>
</tr>
<tr>
<td>AICCCR</td>
<td>All India Coordination Committee of Communist Revolutionaries</td>
</tr>
<tr>
<td>AIDS</td>
<td>Acquired Immune Deficiency Syndrome</td>
</tr>
<tr>
<td>ALH</td>
<td>Advanced Light Helicopter</td>
</tr>
<tr>
<td>ANCEP</td>
<td>All Nepal Conference for Ethnic People</td>
</tr>
<tr>
<td>ANNA</td>
<td>All National Nationalities Association</td>
</tr>
<tr>
<td>ANNFSU</td>
<td>All Nepal National Free Students’ Union</td>
</tr>
<tr>
<td>ANNISU</td>
<td>All Nepal National Independent Students’ Union</td>
</tr>
<tr>
<td>APF</td>
<td>Armed Police Force</td>
</tr>
<tr>
<td>APP</td>
<td>Agriculture Perspective Plan</td>
</tr>
<tr>
<td>ASI</td>
<td>Assistant Sub-Inspector</td>
</tr>
<tr>
<td>ASP</td>
<td>Assistant Superintendent of Police</td>
</tr>
<tr>
<td>BC</td>
<td>Before Christ</td>
</tr>
<tr>
<td>BCN</td>
<td>Bahun, Chhetri, and Newar</td>
</tr>
<tr>
<td>BDA</td>
<td>Broader Democratic Alliance</td>
</tr>
<tr>
<td>BJP</td>
<td>Bharatiya Janata Party</td>
</tr>
<tr>
<td>BK</td>
<td>Bishwakarma</td>
</tr>
<tr>
<td>BNC</td>
<td>Broader National Consensus</td>
</tr>
<tr>
<td>BP</td>
<td>Bisheswar Prasad Koirala</td>
</tr>
<tr>
<td>BS</td>
<td>Bikram Sambat</td>
</tr>
<tr>
<td>CAT</td>
<td>Convention against Torture and Other Cruel, Inhumane, Degrading Treatment or Punishment</td>
</tr>
<tr>
<td>CBS</td>
<td>Central Bureau of Statistics</td>
</tr>
<tr>
<td>CC</td>
<td>Central Committee</td>
</tr>
<tr>
<td>CCOMPOSA</td>
<td>Coordination Committee of Maoist Parties and Organizations of South Asia</td>
</tr>
<tr>
<td>CCS</td>
<td>Citizen Concern Society</td>
</tr>
<tr>
<td>CDO</td>
<td>Chief District Officer</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
</tr>
<tr>
<td>CERD</td>
<td>Convention on the Elimination of All Forms of Racial Discrimination</td>
</tr>
<tr>
<td>CLF</td>
<td>Class Liberation Movement</td>
</tr>
<tr>
<td>CMA</td>
<td>Clinical Medical Auxiliary</td>
</tr>
<tr>
<td>CMPPP</td>
<td>Common Minimum Policy and Program</td>
</tr>
<tr>
<td>CoC</td>
<td>Code of Conduct</td>
</tr>
<tr>
<td>CPB</td>
<td>Communist Party of Bangladesh</td>
</tr>
<tr>
<td>CPC</td>
<td>Communist Party of China</td>
</tr>
<tr>
<td>CPI</td>
<td>Communist Party of India</td>
</tr>
<tr>
<td>CPN</td>
<td>Communist Party of Nepal</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>CVICT</td>
<td>Center for Victims of Torture</td>
</tr>
<tr>
<td>CWC</td>
<td>Central Working Committee</td>
</tr>
<tr>
<td>CWIN</td>
<td>Child Workers in Nepal</td>
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</tbody>
</table>
DCHR  Danish Center for Human Rights
DDC  District Development Committee
DEIP  Dalit Empowerment and Integration Project
DFID  Department for International Development
DHR  Declaration of Human Rights
DIGP  Deputy Inspector General of Police
DLMPC  Department of Labor and Manpower Promotion Center
DNF  Dalit NGO Federation
DSP  District Superintendent of Police
EC  European Commission
ECHO  EC Humanitarian Office
ELM  Ethnic Liberation Movements
EMC  Emergency Monitoring Committee
ERFCC  Ethnic and Regional Front Coordinating Committee
ESCR  Economic, Social and Cultural Rights
ESGS  Ethnic Self-Governance System
EU  European Union
EUHM  European Union Heads of Mission
FAO  Food and Agriculture Organization
FM  Frequency Modulation
FNJ  Federation of Nepalese Journalists
FNUC  First National Unity Convention
FRHRC  Foreign Relations and Human Rights Committee
GDP  Gross Domestic Product
HLMPRRC  High Level Maoist Problem Resolution Recommendation Committee
HMG  His Majesty’s Government
HLPC  High Level Peace Committee
HR  Human Rights
HRDA  Human Rights Draft Accord
HRW  Human Rights Watch
HRYB  Human Rights Year Book
HUPRES  Human Rights and Peace Society
IBHR  International Bills of Human Rights
ICCRP  International Covenant on Civil and Political Rights
ICERD  International Convention on the Elimination of Racial Discrimination
ICESCR  International Covenant on Economic, Social and Cultural Rights
ICJ  International Commission of Jurists
ICRC  International Committee of Red Cross
IDEA  Institute for Democracy and Electoral Assistance
IDSP  Integrated Development Security Program
IGP  Inspector General of Police
IMT  Integrated Mahakali Treaty
INGO  International Non-Government Organization
INHURED  Institute for Human Rights, Environment and Development
INSEC  Informal Sector Service Center
INTERPOL  International Criminal Police Organization
IRs  Indian Rupees (Indian Currency)
ISDP  Integrated Security and Development Program
ITDG  Intermediate Technology Development Group
IWMA  International Working Men’s Association
JCC  Joint Coordination Committee
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>KAR</td>
<td>Kirant Autonomous Region</td>
</tr>
<tr>
<td>KCSC</td>
<td>Kirant Chomlung Service Center</td>
</tr>
<tr>
<td>KiNF</td>
<td>Kirant National Front</td>
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<tr>
<td>KNF</td>
<td>Khambuwan National Front</td>
</tr>
<tr>
<td>KNLF</td>
<td>Kirant National Liberation Front</td>
</tr>
<tr>
<td>KRALPA</td>
<td>Kirant Religion and Literature Promotion Association</td>
</tr>
<tr>
<td>LASF</td>
<td>Limbuwan Autonomy Study Forum</td>
</tr>
<tr>
<td>LDO</td>
<td>Local Development Officer</td>
</tr>
<tr>
<td>LNLF</td>
<td>Limbuwan National Liberation Front</td>
</tr>
<tr>
<td>M</td>
<td>Marxist</td>
</tr>
<tr>
<td>MCC</td>
<td>Maoist Communist Center</td>
</tr>
<tr>
<td>MEA</td>
<td>Ministry of External Affairs</td>
</tr>
<tr>
<td>MEC</td>
<td>Monitoring and Evaluation Committee</td>
</tr>
<tr>
<td>ML</td>
<td>Marxist-Leninist</td>
</tr>
<tr>
<td>MLM</td>
<td>Marxist-Leninist-Maoist</td>
</tr>
<tr>
<td>MMF</td>
<td>Martyrs’ Memorial Fund</td>
</tr>
<tr>
<td>MNLF</td>
<td>Moro National Liberation Front</td>
</tr>
<tr>
<td>MoF</td>
<td>Ministry of Finance</td>
</tr>
<tr>
<td>MP</td>
<td>Member of Parliament</td>
</tr>
<tr>
<td>MPV</td>
<td>Mine Protected Vehicle</td>
</tr>
<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>MSF</td>
<td>Medecins sans Frontieres</td>
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<tr>
<td>NAVIN</td>
<td>Nepal Association of VDCs in Nepal</td>
</tr>
<tr>
<td>NC</td>
<td>Nepali Congress</td>
</tr>
<tr>
<td>NCDN</td>
<td>National Committee for Development of Nationalities</td>
</tr>
<tr>
<td>NFDIN</td>
<td>National Foundation for the Development of Indigenous Nationalities</td>
</tr>
<tr>
<td>NCNN</td>
<td>National Committee of Nationalities of Nepal</td>
</tr>
<tr>
<td>NEB</td>
<td>New Encyclopaedia Britannica</td>
</tr>
<tr>
<td>NEDC</td>
<td>National Ethnic Development Committee</td>
</tr>
<tr>
<td>NEFEN</td>
<td>Nepal Federation of Nationalities</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Government Organization</td>
</tr>
<tr>
<td>NHDR</td>
<td>Nepal Human Development Report</td>
</tr>
<tr>
<td>NHRC</td>
<td>National Human Rights Commission</td>
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<td>NPC</td>
<td>National Planning Commission</td>
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<tr>
<td>NPDM</td>
<td>New People’s Democratic Movement</td>
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<tr>
<td>NPW</td>
<td>New People’s War</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the Commissioner for Human Rights</td>
</tr>
<tr>
<td>OPM</td>
<td>Office of the Prime Minister</td>
</tr>
<tr>
<td>ORC</td>
<td>Organization of Revolutionary Committee</td>
</tr>
<tr>
<td>PAC</td>
<td>Public Accounts Committee</td>
</tr>
<tr>
<td>PCF</td>
<td>Public Cooperative Fund</td>
</tr>
<tr>
<td>PCLF</td>
<td>Proletarian Class Liberation Movement</td>
</tr>
<tr>
<td>PCR</td>
<td>Peru Communist Party</td>
</tr>
<tr>
<td>PFHP</td>
<td>Population and Family Health Project</td>
</tr>
<tr>
<td>PHoR</td>
<td>People’s House of Representatives</td>
</tr>
<tr>
<td>PKIF</td>
<td>Progressive Kirant Intellectual Forum</td>
</tr>
<tr>
<td>PLA</td>
<td>People’s Liberation Army</td>
</tr>
<tr>
<td>PLO</td>
<td>Proletarian Labor Organization</td>
</tr>
<tr>
<td>PM</td>
<td>Prime Minister</td>
</tr>
<tr>
<td>PPCS</td>
<td>Peace Process Coordination Secretariat</td>
</tr>
<tr>
<td>RA</td>
<td>Royal Army</td>
</tr>
</tbody>
</table>
RCN Red Corner Notice
RIM Revolutionary Internationalist Movement
RNA Royal Nepal Army
RPP Rastriya Prajatantra Party
RRADP Rapti Rural Area Development Project
RRM Rapid Reaction Mechanism
Rs Rupees (Nepalese Currency)
SA South Asia
SAARC South Asian Association for Regional Cooperation
SAHRDC South Asian Human Rights Documentation Center
SC Supreme Court
SF Salvation Front
SFI Solidarity Forum of India
SI Sub-inspector
SJM Samyukta Jana-Morcha
SLC School Leaving Certificate
SLR Self-Loading Rifle
SoE State of Emergency
SoP Superintendent of Police
SP Sadbhawana Party
SSP Senior Superintendent of Police
TADA Terrorist and Disruptive (Prevention and Control) Act
TADO Terrorist and Disruptive (Prevention and Control) Ordinance
TCA Torture Compensation Act
TNLF Tharuwan National Liberation Front
TRP Tharuwan Regional Province
UC Unity Center
UDHR Universal Declaration on Human Rights
UF United Front
UIC Union of Iranian Communists
ULF United Leftist Front
UML United Marxist-Leninist
UK United Kingdom
UN United Nations
UNHCHR United Nations High Commission for Human Rights
UNPM United National People’s Movement
UNSCR United Nations Security Council Resolution
UPF United People’s Front
UPG United People’s Government
URPC United Revolutionary People’s Council
URPCC United Revolutionary People’s Council Committee
US United States
USA United States of America
USAID United States Agency for International Development
USF Unified Security Force
USSR Union of Soviet Socialist Republics
VDC Village Development Committee
VDIS Voluntary Disclosure of Income Scheme
VUPC Village United People’s Committee
WDI World Development Indicator
WHO World Health Organization
Contents

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1. Politics of Conflict, People’s War and Human Rights

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Chapter One

Politics of Conflict, People’s War and Human Rights

“The Maoists, who have been waging terrorist activities in the country, are fostered by the Royal Palace and sheltered by India.”
- Girija Prasad Koirala

“Not just the Royal Palace and India, but also the Nepali Congress is behind the Maoist Insurgency.”
- Madhav Kumar Nepal

1.1 Introduction

After World War II, nations got largely divided between the two blocs dominated by the United States of America (USA) and the erstwhile Union of Soviet Socialist Republics (USSR). With the end of the Cold War, the international power equation unilaterally shifted towards the USA, which emerged as the world’s only super-power. Since then, the regional, ethnic, linguistic, resource, geo-political, and religious issues began to have more importance. But, whenever a state failed to properly address these problems, the latent conflicts turned violent. Poor and developing countries have been found more vulnerable to violent conflicts due to inequality in distribution of resources and opportunities, inadequate service delivery system, injustice to identities and beliefs, ineffective governance and administration, inefficient socio-political transformation and intolerant leadership. Therefore, while most violent conflicts of the twentieth century were waged between the states, almost all the major conflicts around the world that took place in the 1990s were fought within the state. As a result, the frequency and intensity of the volatile internal conflicts are significantly increasing in number around the world. Between 1989 and 1996, 95 of the 101 armed conflicts identified around the world were such internal confrontations (Harris:1998:1). Describing the intensity of the violent conflicts around the world, Bishnu Raj Upreti writes: „In 1999 there were 40 armed conflicts being fought within the territories of 36 countries, up from 36 armed conflicts in 31 countries in 1998, and 37 in 32 countries in 1997‰ (2002:ix).

The People’s War initiated in Nepal in 1996 is considered as the creation of interwoven and complex web of socioeconomic, legal and politico-ideological problems. Little attention was paid to it in the beginning both at national and international levels, but it quickly intensified across the country. It has now become Nepal’s most pressing political, socio-cultural and economic problem.

The escalation of armed violence due to the People’s War has resulted in disruption of lives, livelihoods and security; serious damage or destruction of public and private properties; possible disintegration of unity in diversity and disturbance
Politics of People's War and Human Rights in Nepal

in harmonious relationship among communities; massive exodus and displacement of people; and increased hardship for the poor, marginalized, disadvantaged and vulnerable people in getting access to basic needs, resources and services as basic rights. I agree with Upreti as he writes, "When conflict escalates into violence and civil war, persuasive despair, sorrow, and grief are the unwanted realities and irrepressible damage to society is unavoidable. Building peace in such a situation becomes far more costly and difficult than to address the root causes of social conflict before it escalates into such violence% (2002:ix). Therefore, the armed conflict or People's War has become a grave threat to life, liberty, security and dignity of poverty-stricken people and its frequency and intensity are continuously escalating the violations and abuses of human rights in Nepal.

1.2 Glimpse of Nepal

The small landlocked country, Nepal, lies in between India and China. The total area of Nepal is 147,181 sq. km. It is rectangular in shape, about 128 km. wide and 880 km. long (Nepal Family Health Survey:1997:1). Topographically, the country is divided into mountains, hills, and tarai (flat-land). Seven percent of the total population lives in mountains, 44 percent in hills, and 48 percent in tarai (National Population Census 2001:2). The Population Census 2001 National Report shows that the total population of Nepal is 23.15 million (2003:1).

Life expectancy at birth is only 58 for males and 57 for females (NESAC:1999). The infant mortality rate is 75:1,000 and under-five mortality rate remains 109:1,000 live births (World Bank:2001:115). Similarly, the maternal mortality rate is 830:100,000 live births (World Bank:2001:107), one of the highest in the world. The per capita GDP is $ 276 (World Population Growth and Development:2004) which makes Nepal one of the poorest countries in the world and the poorest among the South Asian countries. According to the NGO Working Group on International Covenant on Economic, Social, and Cultural Rights (ICESCR), the poorest 20 percent of the population in Nepal share only 7.6 percent of nation's wealth, whereas the richest 20 percent share 44.8 percent of the GDP (July 2001:20). This means, except for a few landlords, industrialists, businessmen, politicians, bureaucrats, and technocrats, everyone in Nepal is poor. The relative wealth is found in Kathmandu and other urban areas only. Because of the patriarchal society, while 54 percent of the adults are literate, 65 percent of men but only 43 percent of women can read and write (National Population Census 2001:10). However, the World Bank Report states that out of 40 percent of the adult literacy, 58 percent of men but only 23 percent of women can read and write (2001:95). Forty-two percent of the population lives below the poverty line (World Bank:2001:65).
Out of this 42 percent, 24.9 percent is ranked as poor and 17.1 percent as ultra-poor (Table No. 1.2.1). Poverty is 44 percent higher in rural areas compared to 23 percent in urban centers. It is much higher in the mid and far-western hills and mountains (Table No. 1.2.2). The majority of the people who live in the mid
and far western hills and mountains earn less than US $1 a day (World Bank:2001:65). The ongoing People’s War between the Maoists and the state means that this poverty is increasing as most of Nepal’s resources go towards security expenses—buying modern arms and ammunition, fighter helicopters, mobilization of security forces, and so forth.

1.2.1 Political Dimension

There are so many ups and downs in the political history of Nepal which began in 1768 when the Gorkha’s King Prithvi Narayan Shah unified particularly the ethnic-based petty principalities to form the Kingdom of Nepal. After the bloody massacre, Janga Bahadur Rana began an autocratic rule of hereditary prime ministers, which lasted for 104 years. Despite some socio-economic reforms, Rana rulers in general had developed an authoritarian attitude in Nepal which aimed at pleasing only the British-India government. After India was freed from the British rule, Nepal soon followed instituting multiparty democracy in February 1951 with the active participation of the then King Tribhuvan. As a result, the king became the symbol of unity of the nation. Nonetheless, instead of holding an election to the Constituent Assembly as promised by his father in 1951, King Mahendra withdrew all the ministerial powers, banned all political parties, arrested the then Prime Minister BP Koirala without warrant and took away, in effect, absolute power over the state in December 1960. The autocratic rule of the king continued for the next 30 years before it came to an end through a popular people’s movement in 1990.

After the restoration of democracy in 1990, the absolute king became a constitutional monarch by promulgating a new constitution in November 1990. The power vested in the king alone, thus, shifted towards the parliament which consists of Pratinidhi Sabha (House of Representatives or Lower House), Rashtriya Sabha (National Assembly or Upper House) and the King-in-Parliament. According to the constitution, the members of the House of the Representatives are directly elected from 205 constituencies in 75 districts of the country on the basis of adult franchise. The tenure of the elected body of Lower House is five years and that of Upper House is six years. The parliament holds its session twice annually, in summer and winter, popularly known as the budget session and bill session respectively. Out of the 60 members of the National Assembly, the king nominates 10 members from among the outstanding and distinguished persons. Thirty five members including three women are elected by the House of Representatives and 15 members come from five Development Regions through their local elected authorities.

The first general election was held on May 12, 1991 (Baisakh 12, 2048 BS) after the restoration of democracy in Nepal. A total of 1,345 candidates had contested from 20 political parties (General Election in Nepal 1991:1992:65) and 219 candidates did so independently. Of them, 80 candidates (6 percent) were women. Only one faction of the Communist Party of Nepal, CPN (Masal), boycotted the election because of its objection to the constitution (General Election in Nepal 1991:1992:65), although it later did participate in the mid-term polls in November 1994. But, CPN (Mashal) boycotted the election from 1994 afterwards. In the
first election, Nepali Congress (NC) won an absolute majority with 110 seats and formed the first democratic government under the leadership of Girija Prasad Koirala. Securing 69 seats in the House of Representatives, the Communist Party of Nepal (United Marxist and Leninist or UML) emerged as the world's largest elected Communist Opposition. Winning 9 seats in the parliament, Samyukta Jana Morcha Nepal (United People's Front Nepal or UPFN) under the convenership of Dr. Babarum Bhattachari appeared as the third force.

Because of the intra-party conflict in NC, Prime Minister Girija Prasad Koirala which is commonly known as an elected autocrat recommended and King Birendra agreed to dissolve the House of Representatives on July 10, 1994. The mid-term polls were announced for November 15, 1994. A total of 71 political parties registered their names at the Election Commission's office (HRYB1994:1995:295). Dr. Bhattarai's faction boycotted the election, arguing that the so-called democratic system could not fulfill the basic rights of the poor, ethnic groups, and downtrodden people, which would be possible only through the achievement of Janatako Naulo Janabad (People's New Democracy). None of the political parties received a majority. The main opposition party CPN (UML) turned out to be the largest party in the Lower House, winning 86 seats out of 205, and formed a minority government. The Nepali Congress secured 83 seats and became the main opposition. However, the UML's minority government was ousted through a vote of no confidence mustered by the combined force of Nepali Congress, Rastriya Prajatantra Party (RPP), and Sadbhawana Party (SP) on September 10, 1995. All three parties formed a coalition government under the premiership of Sher Bahadur Deuba on September 11, 1995. Inducting over four dozen members in the council of ministers, Deuba began to play a very dirty political game for the first time in the history of Nepal. On December 23, 1996, he sent five ministers, viz. Bala Ram Gharti Magar, Buddhiman Tamang, Shanti Shamsher Rana, Bishnu Bikram Thapa, and Mahendra Raya to Bangkok and another minister Anis Ansari to Singapore in order to prevent the passage of a no-confidence motion against him (HRYB 1996:1997:11-14). One MP Bhakta Bahadur Rokaya was abducted. It was reported in the press that dozens of members of the House of Representatives were severely influenced by the prime movers of state machinery: power, politics, and property. Moreover, the Deuba government tried to eliminate political parties, especially the faction of UPF, i.e. Dr. Bhattarai group, who were accumulating revolutionary force and awakening the most poor, disadvantaged, marginalized, and vulnerable groups. For these reasons, Deuba's period can be called the beginning of the criminalization of politics in Nepal.

Protesting against such state action and stinking political system, the delegation team of the UPF: a wing of the revolutionary party submitted a petition of 40-point demands to PM Sher Bahadur Deuba on February 2, 1996, with an ultimatum of 15 days to respond to or to accept the demands. However, the UPF announced the beginning of the People's War four days earlier than the proposed deadline, the day following the signing of the controversial Integrated Mahakali Treaty in New Delhi on February 12, 1996 by Sher Bahadur Deuba and his Indian counterpart PV Narasimha Rao.
The 40-point demands are categorized under several themes: nationality, people's democracy, and people's livelihood. Demands under nationality generally prioritize national sovereignty and integrity, denouncing in particular India's monopoly over Nepal's resources, opportunities, and political affairs. In addition, the UPF strongly denounced NGOs and INGOs for wasting aid money on expensive imported vehicles, accessories, and consultants and profiting only the elite. The demands concerning people's democracy relate to the formation of a new constitution and for holding an election of people's representatives for the establishment of a republic-state. The people's livelihood demands are concerned with economic and social rights and the right to equal opportunity for all in access to food, housing, clothing, primary education, employment, and basic health care, etc.

On February 13, 1996, under the active leadership of Dr. Baburam Bhattarai, the UPF announced the beginning of what they call the People's War - an armed struggle dedicated to sweeping away the constitutional monarchy, semi-feudalism, semi-imperialism, elitism, and bureaucratic capitalism. The aim was to replace the existing system by a new democratic state, the People's Republic of Nepal, for the accomplishment of an adequate, equitable, and effective governance system enabling the survival of the poor, disadvantaged, and vulnerable people. However, the CPN (Maoist) officially supported the People's War after the end of the ultimatum on February 18, 1996 by distributing leaflets appealing the ordinary citizens to march along the path of the People's War. The appeal was concluded with the following slogans: It is right to rebel!, Long live the People's War!, Down with the reactionary state!, Long live the new democratic revolution!, and Glory to Marxism-Leninism-Maoism! The same appeal requested all the people in general and the poor, disadvantaged, and vulnerable communities in particular to support the armed struggle to achieve gans, bans, kapas (food, shelter, and cloth) and liberation from their distresses, grievances, and pains.

The genesis of the People's War and the state response to it have resulted in grave human rights violations and abuses. It is daily reported that the state is responsible for extrajudicial killings; involuntary disappearances; arbitrary arrests and detentions; arbitrary torture; and cruel, inhumane, and degrading treatment or punishment. Many political detainees have reportedly been killed while being brought to the police posts/stations, while being transferred from one post/station to another, or while extracting confession in custody for their involvement in the alleged charges and so forth. It is frequently reported that women detainees get killed after being barbarically gang-raped and sexually humiliated in police custody. Freedom to walk and reside in any part of the country has been restricted due to the imposition of curfew from dusk to dawn in dozens of district headquarters. On the other hand, the Maoists have imposed curfew in their de facto areas of control at their epicenters. Similarly, members of the CPN (Maoist) are alleged to be accountable for deliberate killings, abductions, inhuman acts of violence, and extortion of food grains and money, mainly from the opponents in the name of bargja satru (class enemy) and surakis (informants), security forces, and their families. The alleged sexual harassment of female Maoists and the rape of village girls by the Maoist members are also matters of serious concern regarding human rights abuses. As the Maoist
People's War intensifies across the nation and their *de facto* control over the hills and mountains increases, violations and abuses keep growing at an alarming rate. The human rights situation in the present day Nepal is indeed at a critical crossroad as both the rulers—the State particularly and the Maoists—victimize the people.

The Constitution of 1990 ensures many fundamental civil and political rights. These include the right to equality (Art.11), right to freedom (Art.12), right to press and publication (Art.13), rights regarding criminal justice (Art.14), right against preventive detention (Art.15), right to information (Art.16), right to property (Art.17), cultural and educational rights (Art.18), right to religion (Art.19), right against exploitation (Art.20), right against exile (Art.21), right to privacy (Art.22), and the right to constitutional remedy (Art.23). None of the articles guarantee food, housing, clothing, unemployment, and medical treatment except for the very few economic and social rights stated in the Directive Principles and Policies of the State in Articles 25 and 26 respectively.

The Human Rights Commission Act 2053 (1997) states, „Human rights should be regarded as the rights related to a person’s life, freedom, equality, and dignity that are provided by the Constitution and other prevailing laws and the rights contained in the international conventions and treaties related to human rights where Nepal is a partner.“ In order to respect, protect, and promote the living standards of human beings, equality, justice, freedom, and dignity are interrelated and interlinked as the two sides of the same coin and one cannot exist without the other.

1.2.2 Socio-Cultural Dimension

Nepal is a multi-ethnic, multi-lingual, multi-cultural, and multi-religious country. As Nepal has resulted from the confluence of Aryan, Mongol, and Austro-Dravid races, various castes and sub-castes of the Aryan people live across Nepal particularly in the hills and *tarai*. The Aryan group who came from the Indian plains is socially partitioned along the lines of four principal castes, viz. *bahun*, *chhetri*, *baisya*, and *shudra*. Although casteism has legally been abolished, the conservative Hindu society has not accepted it fully. Casteism persists as a deep-rooted social stigma in Nepal. It is believed that the Mongoloid group came from the northern Tibetan plateau. They mostly live in the mountain and hill regions and they have their own mother tongue, social customs and structures, cultural identity, and history. According to the census of 2001, Nepal has 103 caste/ethnic groups, religious communities, and linguistic groups (CBS:2003/vol.I:115-119). But the census of 1991 stated that Nepal had 30 castes, 26 ethnic groups, three minority religious communities (Muslim, Sikh, and Jain) and one linguistic group Bengali (Sharma:May 2002:3). There are 21 major languages in Nepal. They are: (i) Indo-European (Nepali, Maithili, Bhojpuri, Tharu, Awadhi, Rajbansi, Hindi and Urdu); (ii) Sino-Tibetan (Tamang, Newar, Magar, Rai/Kirat, Gurung, Limbu, Bhot/Sherpa, Sunuwar, Danuwar and Thakali); (iii) Austro-Asiatic (Satar and Santhali); and (iv) Dravidian (CBS:2003/vol.I:141). But the National Language Policy Advisory Committee lists 60 living languages (NESAC:1998:8). However, the actual number of caste/ethnic groups and living languages is likely to be much higher.
There were high hopes and expectations that the restoration of democracy would mean the end of discrimination, exploitation, and abolition of semi-feudalism and semi-imperialism. But frustration and alienation developed immediately after the restoration of democracy, as the attention of newly elected democratic government focused on the interest of their own near and dear ones, viz. party, activists, constituencies, families, and so on. The Maoists, on the other hand, attracted the poor, disadvantaged, marginalized, and vulnerable people who had been cut off from the fruits of democracy, human rights, and rule of law as the elite continued to deprive them from the service delivery system and all the opportunities and resources of the country.

1.3 Understanding Conflict

Anthropological studies have revealed that conflict is deeply rooted in primitive customs and cultures that have integrative functions. The theory of evolution tells us about the struggle for existence and survival of the fittest. Political philosophers have considered that conflict occurs due to the competition on power, privilege, and authority. Sociologists have identified conflict into two categories - exogenous (without or between systems) and endogenous (within a society). The exogenous conflict normally develops into war between two systems (emergence of Nazism in Germany and communism in Vietnam, etc.), cultural invasion (westernization and modernization, influencing cultural frontiers, etc.), and ideological adherence (feudalism, capitalism, communism, democracy, fundamentalism, radical determinism, etc.). The endogenous conflict tends to a struggle over distribution of desirables (social rewards such as wealth, power, and prestige within a society), adherence to values (cumulative effects of technological innovation, environmental crisis, generation gap, etc.), consolidation of authority (supremacy of those giving orders over those who take them) and preponderance of the individual upon society (conflict between interests, needs, and values).

There is no unified and coherent social conflict theory. It is rather an eclectic conceptual framework and has two distinct traditions of classical work: political philosophy based on power relation and economics based on competitive struggle. It is basically a synthesis of these two traditions which has been built to primarily focus upon unequal distribution of loot and booty (rewards) in human society. During 1950s to 1960s, the theory developed as an alternative to the structural-functional perspective. Karl Heinrich Marx (1818-1883) is undoubtedly the leading architect of conflict theory. He put forward an alternative perspective, class struggle, as a basic structural phenomenon of human society. Considering conflict as an inherent and integral part of human behavior and social interaction, Marxian theory states that human survival is based upon contradictions. Through a dialectic process - thesis, antithesis, and synthesis, conflict occurs in human mind and then in actions, ie. (i) discussion, (ii) polarization, (iii) segregation, and (iv) destruction. He put forward that there is constant conflict between the two principal groups (economic classes) of owners and workers who alter property relations in society and effect social change. The central concept of Marx is that „owners exploit workers” to control the means of production. Political power is
exercised through the gains of economic power. Economic power controls society and social control is associated with the interests of particular groups or classes. Marx further says that dominant culture stems from the dominant group in society. Class is one of the major factors of clash or conflict in society.

In the capitalist society, Marx’s sociology of class struggle analyzes conflict as follows:

i. **Potentiality of Assets:** According to Marx, property determines the characteristics of society and individual’s behavior. And class is determined on the basis of individual’s relation to the means of production and its distribution. Division of property is the vital dividing line in the class structure and property tends to determine the political, legal and social status of an individual in society. The raising of class awareness and restriction over distribution of economic resources fortify class conflict. Marx says that conflict is the cause of exploitation, not the scarcity of resources.

ii. **Notion of Surplus Value:** To Marx, owners accumulate profit by exploiting the workers. The value of a commodity is determined by the amount of work force. A daily-wage worker spends the remuneration of half part of the day to recover the cost of maintaining himself and the family and the other half goes to the owner without remuneration in terms of surplus value. It means half part of the day solely goes for the sources of profit and wealth of owner. Since owners have monopoly over the instruments of production, they can force the workers to do extra hours of work and profits tend to accumulate with increasing exploitation of workers (Abraham:2002:116). Consequently, conflict begins.

iii. **Economic Determinism:** Marx says that powerful persons in a capitalist society control the means of production and distribution. The capitalists take control of political system through the means of economic power or private property. The private property influences all the state machineries, political systems, and ideological spheres. The political power based on property is merely the organized power of one class for oppressing another (Arson:1968:152). The owner class (bourgeoisie) uses state power on one hand and exploits workers (proletariat) on the other, consolidating its self-interests. It means the economic power of the owner transforms into political power and the political systems or processes control all the state institutions such as executive, legislative, judiciary and even security forces. As a result, the conflict gets reinforced among groups or classes in a society.

iv. **Polarization of Classes:** Conflict being an inherent and integral part of human behavior, entire society is divided into two hostile camps (economic classes) of owners and workers. The capitalists own the means of production and distribution, while the working classes have nothing but their own labor force (Abraham:2002:116). Marx in all his writings has repeatedly stressed upon the state of petty bourgeois, small capitalists, and the proletariat (workers). Due to the mechanization of industry, small capitalists and petty bourgeois could not compete with large-scale industries. As a result, they were gradually excluded from their property and were transformed into the ranks of workers. This
politicization, thus, fortified the conflict between the classes.

v. **Alienation:** Human distortions that are caused by the structures of capitalism fall within the bounds of Marx’s famous concept of alienation (Ritzer: 1996: 71). Because of the inherent nature of human beings, people are generally connected with their routine of production, their products (commodities), and their fellow workers. These natural connections are centered in the structures of capitalism. Work is the pioneer instrument for livelihood. A worker becomes enslaved due to the necessity of commodities. Marx says, “The more the worker expands himself in work the more powerful becomes the world of objects which he creates in face of himself, the poorer he becomes in his inner life and the less he belongs to himself” (1964: 122). Marx’s sole interest was to emancipate people from the oppressive and discriminatory structures of capitalism. The oppression and discrimination naturally have impact on the actors (workers) and the products of work (commodities) become the instruments of alien purpose between them.

vi. **Dictatorship of Proletariat:** Marx believed that only armed revolution can terminate the capitalist society and it will lead to the dictatorship of proletariat. There is no doubt that the revolution would be violent. Marx says that such revolution should not necessarily lead to extrajudicial mass killings of the owners. Marx prescribes to seize the power from the hands of the owners and transform it to the ranks of workers. Such a major political shift (power and authority transformation) as a form of workers democracy from bourgeois (owners) to proletariat (workers) is called the dictatorship of proletariat which has become a fateful bone of debate among Marxists.

vii. **Solidarity and Hostility:** With the growth of industry, not only the workers increase in number, their level of consciousness also intensifies and spreads gradually among greater number of masses despite various interests and conditions of life. The growing competition among owners severely affects the market prices and subsequently decreases the wages of the workers. On the other hand, workers are compelled to work in unhygienic condition and with old machineries. As a result, the gap widens between individual workers and individual owners. Finally, the workers unite in one forum and form a trade union to raise their voices against exploitation, oppression, and discrimination. That eventually escalates into a riot between the two classes.

The emergence of Marxist sociology in the mid-twentieth century has remained at the central axis of dialectic and conflict analysis. Dialectic process concerns with conflict and contradiction within the social world (Elster 1985; Wilde 1991). The ideological perspectives of Marx constitute the gospel of revolution. As a result, the *Communist Manifesto* has become the handbook of world’s revolutionaries including the CPN (Maoist). Conflict has a revolutionary character and qualitative (radical) changes are the products of violent upheavals. Marxism states that a conflict germinates when the most powerful (elite) members of society promulgate law (like a cat introducing the rights of rats) and ensure opportunities for themselves to monopolize power, privilege, and authority in society against the will of a great majority of poor and innocent people.
In accordance with the ideas of Marx, Lenin for the first time in the history of world organized factory workers (laborers), conducted an armed conflict and then finally established the dictatorship of proletariat. Against the urban warfare strategy of Lenin, Mao Zedong organized local peasants for an armed revolution with the principal strategy of encircling the cities from the countryside (see Chapter IV). Following the half decade old path of Mao in China, the CPN (Maoist) has started People’s War by organizing the poor, disadvantaged, and vulnerable people particularly in countryside. Marx had analyzed the class-based conflict lucidly and I owe much to his ideas to analyze the People’s War in Nepal to form a conceptual framework. Similarly, I have incorporated the wide-angle view of Hindu-Buddhist tradition and modern Human Rights approaches to analyze the implications on human rights because of the ongoing armed conflict in Nepal.

Max Weber (1864-1920) emphasizes on power, system, authority, and social change that substantially contribute to the development of the conflict theory of society. ‘Conflicts is endemic in social life and process’ is stated in his Social Action Theory. To Weber, power is unequally distributed among classes or groups and individuals in society. In any society, the superordination of powerful persons manages the social order, issues rules and regulations and enforces them through sanctions to subordinate the powerless people. Powerful persons extensively influence the social structure and normative system for their own interests instead of for the benefit of the people in general. Social changes that occur through conflicts are often disruptive to powerful persons than to ordinary citizens. Powerful people in general oppose change. According to Weber, change occurs in society as a result of collective action in general.

Another theorist George Simmel (1858-1918) focuses on microsociology, shifting from general sociological theory, but he argues over a position very similar to some of Marx’s ideas of conflict. Simmel’s microsociology presents a broad dialectical theory based upon cultural and individual perceptions and his work concerns with four basic levels: psychological, interactional, structural and institutional, and the ultimate metaphysics of life (Ritzer:1996:178). He argues that conflict occurs between individuals and social structures in general, but his greatest concern was the conflict between individual culture and objective culture. He was interested in both the expansion of culture and its destructive effects on individuals (Ritzer:1996:179) which is simply called ‘tragedy of culture’. In a broader sense of conflict, he argues that there is an inherent and inevitable contradiction between more-life and more-than-life (Oakes:1984:6; Weingartner:1958). He further says: ‘Conflict can also be functional and it promotes group solidarity’ (Dahal:2003:7). Conflict serves as a source of integration within a group and that of disintegration outside it. The People’s War of Nepal can be taken as an example. The CPN (Maoist) has good relations with the revolutionaries of the world including other social institutions or groups.

Elaborating the Marxian concept of class struggle and dialectic model, Ralf Dahrendorf argued that social structures and institutions contain two classes—those who rule and those who are ruled. The dialectical model initiates with a conflicting dichotomy of individual and society, rich and poor, lord and serf, owner
Dahrendorf conflict theory is exclusively based on the relations of authority. The authority corresponds to two positions of control (those who give orders) and subjection (those who take orders). It means every institution, even the smallest organization, consists of two classes: the ruler (boss) and the ruled (secretary or office assistant). Each institution or association has dichotomous character: those in positions of superordination and those in positions of subordination, which contradict each other in substance and direction because of their different self-interests and necessities. Dahrendorf said: „The structural origins of such conflict must be sought in the arrangement of social roles endowed with expectations of domination or subjection“ (1959:165). Society has two faces: conflict and consensus. A consensus theorist examines the value integration in society and a conflict theorist examines the conflicts of interests. He further said: „Society could not exist without both conflict and consensus, which are prerequisites for each other“ (Ritzer:1996:259). Dahrendorf emphasized upon change rather than equilibrium and conflict rather than order and showed how societal parts contribute to change rather than stability and to conflict and coercion rather than normative constraint (Ritzer:1996:269). His theory focuses on authority, position, imperatively coordinated associations, quasi-groups, interest groups, and conflict groups.

The summary of Dahrendorf theory is as follows:

i. In every imperatively coordinated group, the carriers of positive and negative dominance roles determine the quasi-groups with opposite latent interests.

ii. The bearers of positive and negative dominance roles, that is the members of the opposing quasi-groups, organize themselves into groups with manifest interests, unless certain empirically variable conditions intervene.

iii. Interest groups which originate in this manner are in constant conflict over preservation or change of the status quo.

iv. The conflict among interest groups in the sense of this model leads to changes in the structure of their social relations, through changes in the dominance relations.

Source: Adapted from Abraham:2002:126.

It is obvious that conflict is a part of social life and it functions as a social process for development. Considering social function as a central concern, many social theorists have put forward their theories. Conflict theory is developed as an alternative to structural-functionalism which was the principal theory before the initiation of conflict sociology. Functionalism looks at unity in society for the good of the whole; conflict theorists see a system made up of groups and individuals who pursue their own interests. It means that the theory of conflict contradicts with that of functionalism in many respects. The primary causes of social problems, according to the theory of conflict, are exploitation and oppression. Conflict theory views that exploitation, oppression, and inequality are wrong, but structural-functionalism sees them necessary for integration and to smoothly run society. In contrast to the structural-functionalists who argue that social order is maintained through consensus and equilibrium, conflict theorists argue that social order is maintained by power, privilege, and authority. In contrast to the structural-functionalist argument that „talented individuals occupy the highest position of society;“ conflict theorists argue that dominant groups and powerful persons monopolize power for generations keeping
away the powerless groups from opportunities, services, and resources. For example, the king, his courtiers and the privileged *bahuns* and *chhetris* of Nepal can in general be taken as superordination (dominant) groups and the ethnic communities, *dalits*, and poor and disadvantaged *bahuns* and *chhetris* can be taken as subordinate groups who have been suffering for a long time.

Talcot Parsons (1902-1979), the American sociologist, developed influential social theories in the 1940s and 1950s and analyzed the society from structural-functional perspective. Parsons’s structural-functional theory states four imperatives – adaptation, goal attainment, integration, and latency (AGIL) with all action systems.

These imperatives directly concern behavioral organism, personality system, social system, and cultural system. Parsons’s AGIL can be described as:

The behavioral organism is the action system that handles the adaptation function by adjusting to and transforming the external world. The personality system performs the goal-attainment function by defining system goals and mobilizing resources to attain them. The social system copes with the integration function by controlling its component parts. Finally, the cultural system performs the latency function by providing actors with the norms and values that motivate them for action (Ritzer: 1996:233).
Parsons's Evolutionary theory defines four types of changes: (i) system maintenance which restores a previous pattern of equilibrium and is most common; (ii) structural differentiation which increases differentiation of subsystem units into patterns of functional specialty and interdependence and is very common; (iii) adaptive upgrading which develops integration, coordination, and control having the problems through structural differentiation; and (iv) structural change having the features of system such as basic cultural values, goals, distribution etc. and is very common.

After Parsons's death one of his students Robert K. Merton supported his theory, criticized some of the extreme insights of structural-functionalism and started a debate of continued usefulness of Parsons's thoughts. Accepting the positive functions of structural-functionalism, Merton put forward dysfunctions and even nonfunctions. He further stressed upon the ideas of structural-functionalists, which should concern with both manifest (intended) and latent (unintended) functions. Even though, Merton was more positive toward Marxian theories than Parsons was.

Functionalists agree that culture is viewed as symbolic formation of ideas, values, and ideologies and these views struggle between groups and classes. Structural-functionalism and conflict theory have different values and orientations but both can lead to similar approaches against inequality and injustice. However, social theorists criticize that structural-functionalism is a historical phenomenon that cannot deal with conflict and change.

Conflict and functional theories are juxtaposed. The criticism of conflict theory and structural-functionalism led to many efforts to cope with the problems by amalgamating the two theories (Bailey:1997; Chapin:1994; van den Berghe:1963; Himes:1966). In The Functions of Social Conflict (1956), Lewis A. Coser put forward an integration of two theories to make it more powerful than either one alone. Expanding Simmel's work, he argued that conflict may serve to „solidify a loosely structured group‰ (Ritzer:1996:263). His work focuses on the role of social conflict in maintaining the status quo. In the tradition of Simmel he says: „Conflict prevents the ossification of the social system by exerting pressure for innovation and creativity‰ (Abraham:2002:135). He advocates extensively for the positive functions of conflict and suggests a number of propositions on intensity and impact of conflict. The key propositions of Coser extracted from his above noted book are:

i. Internal social conflict is concerned with goals, values and interests and tends to function positively for the social structure.

ii. In an internal conflict, the warring parties no longer share the basic values upon which the legitimacy of the social system rests and threaten to disrupt the structure.

iii. Ÿ closer the group, more intense the conflict.

iv. Conflict is less likely to be disruptive. Some groups are likely to experience a multiplicity of conflicts.

v. In flexible social structures, multiple conflicts crisscross each other and thereby prevent basic cleavages along one axis. Thus, segmental participation in a multiplicity of conflicts constitutes a balancing mechanism within the structure.

vi. In loosely structured groups and open societies, conflict aims at a resolution of tension between antagonists and is likely to have stabilizing and integrative functions.
for the relationship.

vii. Social systems tolerate or institutionalize conflict to different degree.

viii. The need for safety-valve institutions increases with the rigidity of the social structure, i.e. with the degree to which it disallows direct expression of antagonistic claims.

Source: Adapted from M. Francis Abraham:2002.

Two schools of thoughts exist on conflict (Rubin et al:1994; Rubestein:1993; Sanddelin:1997) such as negative (destructive) and positive (constructive). M. Warner and P. Jones (1998) state that the negative school of thought considers conflict as pathological, dysfunctional and generally irrational and it is opposite to cooperation and peace. The other school of thought interprets conflict as one of the most powerful positive factors for change in society (Harris Peter and Ben Reilly:1998:32). Both positive and negative forms of conflict exist in society with differences on attitude, behavior, values, needs, and interests of people. On the one hand if one loses, the other wins. For example, in the People’s Movement, a great majority of common folks won and the king and his courtiers lost power. The winner believes the movement as a constructive one and the loser as destructive. The People’s War can be taken as another example. The CPN (Maoist) wants to settle the armed conflict by holding an election to a constituent assembly believing that the people have the real power; they are more powerful than any other superpower armed with lots of guns. But the king, his courtiers, and other mainstream political parties strongly denounce it fearing that the people would defeat them and their role in society would be minimized or wiped out.

On the other hand, there is no doubt that all civil wars, ethnic wars, religious wars, world wars and wars within or between the nations are destructive.

A summary of positive and negative outcomes of conflict would be as follows:

a. Positive conflict can:
   • motivate people to try harder to win;
   • increase commitment and enhance group loyalty;
   • increase clarity about the problem;
   • lead to innovative breakthroughs and new approaches;
   • clarify underlying problems and facilitate change;
   • focus attention on basic issues and lead to solutions;
   • increase energy level and make the key values visible;
   • sharpen approaches to bargaining, influencing, and competing by being involved in conflict; and
   • finally contribute to agrarian reform and social change.

b. Negative conflict can:
   • lead to anger, avoidance, sniping, shouting, frustration, fear of failure, and sense of personal inadequacy;
   • withhold critical information;
   • cause lower productivity;
   • sidetrack carriers and ruin relationships;
   • disrupt patterns of work;
   • consume money and time with little productivity; and
   • escalate violence and disintegrate social harmony to cause society collapse.

Source: Adapted from Uprety:2003.
Conflict is caused by a clash of socio-cultural, psycho-social, economic, political, constitutional and territorial interests between persons, groups and nations and it has its own dynamics of escalation and de-escalation. "The main areas of dispute often appear to dovetail with identity-related issues: economic security, cultural conflicts, and territorial disputes" (Harris and Ben 1998:33). Conflict is a common pattern of behavior on the part of involved parties, their attitude toward each other, their fears, and their interpretation of events (Burton:1974:338). There are a number of visible (armed manifest confrontation) and invisible (latent, cultural, natural and structural violence) conflicts which have been intensifying around the world in one form or another. In regard to an armed confrontation within a country or between the states Johan Galtung states: "Violence has occurred, in collective form of a war, with one or more governments participating, or in the family, or in the streets" (2003:3).

Conflict is a universal phenomenon. It is a fact of human life, inevitable, and paradoxically often creative. It occurs due to human behavior, values and interests and it has become an integral part of our existence. Different people in different society and culture interpret it differently. Two types of conflicts, intra-conflict and inter-conflict, are found within and between individuals, families, communities, groups, organizations, nations, and international institutions as inherent elements (Pathak:2003a:3). Conflicts arise because of beliefs (ideologies, values, norms, etc.), identity (race, color, sex, age, caste, nationality, religion, culture, social origin, political, social or other status), and resources - competition for scarce natural, human, and other resources (Pathak:2003b:5 & 2003a:2).

Conflict has its own life cycle like an ecosystem and it generally has three phases - before violence, during violence, and after violence. I agree with Galtung where he states: "A conflict has its own life cycle; almost like something organic. It appears, reaches at emotional, even violent climax, then tapers off, disappears - and often reappears" (2000:1). Conflict attracts a wide audience in both sociology and anthropology and lays down foundation for theories especially to Marx's work. But, conflict theory never succeeds in liberating itself sufficiently from its structural-functional roots.

In the light of relevant literature and experiences, I have come to the conclusion that conflict is (i) unregulated as terrorism and sabotage; (ii) regulated by social norms as in parliamentary debates, competition for scarce resources, and marketplace competitions; (iii) intense when it has high degree of mobilization, commitment, and emotional attachment; (iv) violent such as People's War; (v) pluralized (not necessarily related for social process or change); and (vi) superimposed such as ethnic cleavage. Similarly, the result of conflict tends to lead to (i) lose-lose, (ii) lose-win, (iii) win-lose, and (iv) win-win dimensions.

There is no doubt that Marx is the master theoretician of conflict sociology. Existence of different social classes in society is the major source of inevitable conflict. The changes in social structure occur through violent turmoil affecting class composition. The initiation of People's War is also a violent upheaval that aims for radical and qualitative changes in our social structure and normative system. As a result, I have chosen Marxist conflict theory as a principal theoreti-
The academic discipline of anthropology is concerned with humanity and it encompasses all aspects of political, psychological, social, economic, religious, and cultural dimensions. The rise and development of different institutions, facts and figures, arts, literatures, beliefs, religions, laws, customs, and other capabilities of mankind lie under the purview of culture that constitutes as the subject matter of anthropological thoughts. Culture is rather a process of social learning to a certain extent than an evolutionary outcome of biological inheritance.

In general, anthropologists, sociologists, psychologists, and other social theorists consider human behavior as a central, inherent, and integral factor of conflict and it is examined at all levels in different groups, social organizations, social classes, cultural systems, political and religious movements, ethnic entities, alliances, coalitions, etc.

All types of conflicts, more specifically the armed ones within or between societies, cultures, and nations significantly affect all kinds of human rights - civil and political rights; economic, social and cultural rights; and right to development. The state of ongoing conflicts in different parts of the world including Nepal has, therefore, affected the right to life, security and dignity, right to fair trial and right of prisoners, right to participation in political life, right to freedom of association, right to freedom of opinion, right to freedom of peaceful assembly and right to liberty of movement among the civil and political rights. Similarly, it affects other opportunities such as the right to work, the right to an adequate standard of living and to social security, the right to health, the right to families and mothers, the right to participate in cultural life, and the rights of indigenous and minority people. The non-compliance of these issues adversely affect the silent culture and the trend of human rights violations and abuses suddenly increases.

Conflict also affects peace, solidarity, brotherhood, sisterhood, and development. Last, but not the least, I use conflict as an instrumental tool to analyze the People’s War on the one hand and its impact on human rights in Nepal on the other.

1.4 Understanding the People’s War

Based on the contributions of Karl Marx and Frederick Engels, the global communist movement still believes in and works towards the communist revolution. Despite many ideological debates and differences of opinion, the revolutionaries around the world believe that the communist manifesto is still applicable even in the present day modern world. The communists used the ideological perspective of Marxism for (i) establishing a social state, (ii) class struggle and (iii) dictatorship of the proletariat. Deriving inspiration from this perspective, Mao Zedong and Che Guevara developed the military science and strategies of revolutionary warfare, which are currently being applied by the CPN (Maoist) in the 21st century in Nepal.

Vladimir I. Lenin developed Marxism to the new stage of the proletariat revolutionary movement in former USSR, which opened up the gates for a new age of
worldwide proletariat revolution, called Global Proletariat Revolution Era. He defended the Marxist theory of class and people and practically revolutionized the toiling laborers of factories and industries. Lenin, for the first time in the history of the world, translated the Marxist revolutionary political ideology into practice and established the dictatorship of proletariat in the former USSR in 1917 after the October Revolution.

Mao Zedong applied the ideology of Marx and the revolutionary practice of Lenin to achieve progressive, economic and social transformation among the Chinese masses. The doctrine of Maoism is composed of the ideology of Marxism, practice of Leninism and the methods of armed revolutionary military science of guerrilla warfare developed by Mao and his associates in the Chinese Communist Party from the 1920s until Mao’s death in 1976 (New Encyclopaedia Britannica [NEB]:1999:vol.7/805) and by Che Guevara for Latin America. The principle, strategy and tactics of guerrilla warfare were exercised to revolutionize the peasants to achieve New Democracy in China. The main theme of Mao’s military science is, „Political power grows out of the barrel of a gun‰ (Long Live Marxism-Leninism-Maoism:1993).

Marxism-Leninism-Maoism (MLM) is understood to be an integral whole. It is Maoism synthesized with Marxism-Leninism that has developed as Marxism-Leninism-Maoism. MLM believes in the weapon of proletariat, which is a living scientific ideology, universally applicable, constantly developing, and being further enriched through its application for revolution as well as through the advancement of people’s general knowledge (Long Live Marxism-Leninism-Maoism:1993). Mao’s victory in China in 1949 established him as the prophet of revolutionary warfare, successfully transforming Marxism-Leninism from the industrial areas to the countryside (NEB:1993:vol.6/689), especially towards the toiling peasants.

In the Cuban Communist Movement, unlike Chinese revolutionary warfare where revolutionaries diffused with general masses in the countryside, the freedom fighter and military science strategist Che Guevara selected an unfamiliar terrain · vegetated inaccessible hills, mountains and deep forests. Cultivating crops quickly and strengthening the guerrillas’ power, Che Guevara moved towards cities defeating the authoritarian regime by following Mao’s strategy and tactics. He adopted the principles, strategy and tactics of guerrilla warfare and struggled to liberate the whole Latin America. However, he was killed in Bolivia by an American spy before achieving his goals16.

In general, any political party or communist leader who adopts the ideology of Marx and practice of Lenin and wages a people’s war adhering to the path of Mao, the party, the army and their united front are called Maoists and adherents of Maoism. I agree that Maoism is the elevation of Marxism-Leninism to a third, new and superior stage in the struggle for achieving the dictatorship of proletariat. It is the development of the construction of socialism and continuation of the revolution. It invincibly upholds, defends, and applies the ideology of dictatorship of proletariat. Maoism is not the sole philanthropy of Mao-Zedong’s contributions; it is rather a comprehensive and overall development of Marxism-Leninism-Maoism.
Adhering to the politico-ideology of Marxism, the practices of Lenin, and the military strategy and tactics of guerrilla warfare of Mao primarily and those of Che Guevara as well, one revolutionary faction, the CPN (Maoist) started the People's War in Nepal. The members of CPN (Maoist) diffuse themselves among the peasants in the countryside in favorable situation as in Mao’s Chinese warfare and hide themselves in nearby jungles following Che’s strategy, if and when they see a threat from the enemies or the state authorities. Analyzing the geo-political situation, the CPN (Maoist) adopts both Mao’s and Che Guevara’s military science, ensuring for a universal and invincible revolutionary warfare principle. The protracted nature of guerrilla warfare ensures the strategy of encircling the urban centers from the countryside by developing mobile warfare to situational positional warfare following hit and run tactics.

The CPN (Maoist) is involved in a new kind of insurgency which follows the principle, strategy and tactics of the revolutionary warfare. It has adopted the strategy and tactics of (i) a long term protracted war, (ii) class struggle and (iii) dictatorship of the proletariat. The protracted nature of the People's War consists of three stages: (i) strategic defensive, (ii) strategic stalemate, and (iii) strategic offensive. Strategic defensive covers the period of enemy’s strategic offensive and the CPN (Maoist)’s strategic defensive. Strategic stalemate is a period of enemy’s strategic consolidation and the CPN (Maoist)’s preparation for the counter-offensive. Similarly, strategic offensive is the last stage which consists of the enemy’s strategic retreat and the CPN (Maoist)’s strategic counter-offensive.

1.5 Understanding Human Rights

In light of the relevant literature and practical experience, the understanding of human rights may further be divided into human rights as moral rights, human rights as legal rights, and human rights as cultural relativism.

1.5.1 Human Rights as Moral Rights

The ideology of human rights being moral rights is that every man, woman, and child possesses inherent and inalienable rights. These rights are: (i) universal, (ii) individual, (iii) paramount, (iv) practicable, and (v) enforceable (see Macfarlane:1985). Maurice Cranston states that human rights are the rights of all people at all times and in all situations (1973:21) even in times of conflict and national emergency. It is universally true to respect life, to respect for one’s dignity, to be dealt with honestly, to have one’s interest, to be freed from coercion and intrusion, and to have one’s distress cared for.

Human rights are the rights of individuals to meet their needs and purposes (Macfarlane:1985:6). Ronald Dworkin argues that rights of individuals are „political trumps” that can be held against decisions made by specific institutions (Encyclopedia Americana:1996:552d). The needs and purposes of an individual are to associate together and the right of associations they form to manage freely under the law to safeguard their interest against the adverse decisions made by specific institutions or concerned authorities. Every man, woman, and child has para-
mount importance for the basic needs for daily life. There are things which we all need for survival such as food, health, education, etc. in addition to social welfare and moral sovereignty. These needs are paramount for a worthy living.

Human rights need to be practicable as the rights to an adequate livelihood as per the resources and opportunities of a nation. Practicability not only implies economic and social rights, but it also includes liberty and non-interference in our individual or group rights. Finally, enforcement mechanisms of human rights both inland and abroad depend upon the execution of real power through international courts, regional courts, and judiciaries. I use the concept of moral rights which are inalienable, inherent, and non-derogatory. The nature of moral rights is universal. It is to respect, protect, promote, and strengthen the individual or group rights for which the human rights framework was developed.

1.5.2 Human Rights as Legal Rights

The concept of human rights as legal rights is there because these are the rights to which all men are entitled under international, domestic or customary laws which constitute a legal system based on the rule of law. Since 1948, three types of international human rights instruments have been promulgated, which include: (i) legally binding with a complaint mechanism, (ii) legally binding without a complaint mechanism, and (iii) not legally binding.

First, legally binding instruments with a complaint mechanism are those listed in the (i) International Covenant on Civil and Political Rights 1966 (First Optional Protoco, (ii) International Convention on the Elimination of All Forms of Racial Discrimination 1965 (Optional Protocol), (iii) Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT) (Article 21 and 22), and (iv) Convention on the Elimination of All Forms of Racial Discrimination (Article 11 and 14). However, as Nepalese government has taken reservation on Article 4, the complaint mechanism of the ICERD to the human rights committee has been suspended.


Third, not legally binding instruments are those which consist of Universal Declaration of Human Rights 1948, Declaration of the Rights of the Persons belonging to the National or Ethnic, Religious and Linguistic Minorities 1992, and Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief 1981.

Macfarlane states, „Human rights as enforceable domestic legal rights require a domestic legal system based on the rule of law, affording protection to individuals in the enjoyment of rights under the law (1985:13). However, human rights in international law express three propositions: All states have a duty (i) to respect fundamental rights and freedoms of all persons within their territories; (ii) to prevent discrimination by reason of sex, race, religion, and language; and (iii) to promote universal respect for human rights and to cooperate with each other (Shaw:1997:199). Ensuring the international human rights norms and values, sev-
eral fundamental human rights have been guaranteed by the Constitution of the Kingdom of Nepal 1990 and the state has ratified or acceded to 16 international human rights instruments (see Chapter VI).

1.5.3 Human Rights as Cultural Relativism

The doctrine of human rights as cultural relativism is concerned with the existing knowledge, truth, and morality in relation to culture, society, and historical context, and they are not universally the same. In this study, I have used three prominent worlds: (i) First world, (ii) Second world, and (iii) Third world. All these are classified based on their international, regional, and national interests.

The first world norm or the western approach asserts and emphasizes upon civil and political rights that particularly prioritize the individual and one’s private property more than the people in general or public property as is widely practiced in capitalist societies. These rights are also called the first generation rights but sometimes considered as the "negative" rights because they correspond to liberty or freedom from all kinds of state coercion and interference.

The second world order or the socialist approach emphasizes upon economic and social rights as the collective property rather than simply the private property of individuals. Besides the socialist bloc, the Scandinavian countries also prioritize on economic and social rights. The second generation rights of the second world refer to economic, social, and cultural rights as "equality/equity or social/economic justice" that tend to expand the state’s responsibilities for the allocation and delivery of resources. Such economic and social rights are also called "positive" rights which ensure "equal access to and control over distribution of resources and opportunities," for instance food, housing, clothing, primary health, and civic education for all.

The third world approach, also called the third generation rights, emphasizes upon the right to self-determination, autonomy, peace, solidarity, and fraternity in general and economic development in particular, often raised as slogans by the poor in developing countries like Nepal. Both the second and third world conceptions are primarily oriented towards collective rights approach, in contrast with the fundamental individualism of the western model.

1.6 Understanding of Central Concepts

For the definition of key concepts, I use the following divisions: (i) People’s War, (ii) Human Rights, (iii) Equality/Equity, (iv) Freedom, (v) Human Rights Violation, and (vi) Human Rights Abuse.

1.6.1 People’s War

The term People’s War brings together two important and different terms: people and war. The term people is frequently, if vaguely, used in political and rhetoric connotations and thus in a sense makes a claim about who and why the war is being waged for. Development experts speak of the terms: listening to the people, people centered development and putting the people first. Sociologist Dr. Bhattachan states: “Politician and legal professionals talk about the aspirations and will of the
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people, people’s mandate, sovereignty of the people, and people’s movement (1993: 29-30). Webster’s Dictionary defines: „People are the body of enfranchised citizens of the state“ (1989:1068). The Constitution of the United States begins with, „We, the people of the United States. The Constitution of Nepal declares, „Whereas we are convinced that the source of sovereign authority of the independent and sovereign Nepal is inherent in the people. Discrimination is found all over the world in one form or another, which has resulted in classification of people such as marginal people, indigenous people, minority people, black people, white people, and so forth. Without an adjective, the term people denotes ordinary persons without any special rank or position in society. However, on the whole, „people“ is the universal phenomenon of human beings, notwithstanding the terminologies we use.

War is defined as a conflict carried on by force of arms as between nations or between parties within a nation; as a warfare by land, sea or air (Webster’s Dictionary:1989:1608). Evara notes, „War means the imposition of the will of the stronger on the weaker by force. But if their relative strength is already known, a trial of strength is unnecessary. The weaker will yield to the stronger without going through the torments of conflict to arrive at the conclusion foreknown from the beginning (1999:14-15) (www.bartleby.com/65/wa/war-ent.html). „War is an armed conflict between states or nations (international war) or between factions within a state (civil war), prosecuted by force and having the purpose of compelling the defeated side to do the will of the victor is stated in the website (www.bartleby.com/65/wa/war-ent.html). Thomas states: „War refers to organized, premeditated, socially approved action involving groups of men in relatively complex operations of aggression and defense, and it is pursued in a rational fashion in order to accomplish certain goals (www.csf.colorado.edu/forums/peace/96/oct96/0032.html). So far, it is known that there are a variety of wars which have been launched by people in different times in the history of the world, for instance revolutionary wars, civil wars, rebellions, revolts and insurrections, bandit wars, partisan/orthodox wars, and World Wars I and II. War is the continuation of politics and political games indeed.

When two separate terms „people“ and „war“ are put together, we simply get „people’s war. In heterogeneous societies like Nepal, the word „people“ refers to one or all of such words as bahun, chhetri, baisya, shudra, nationalities, minorities, marginal, vulnerable and indigenous populations, i.e. referring to all the citizens of the country.

Therefore, by naming their struggle as the People’s War, the Maoists have included all of Nepal’s various social, ethnic, and economic populations. I use the term „people“ to mean the citizens as the part of a nation, sex, caste, race, tribe, community, and society in Nepal in general. Wars are destructive and expensive devoid of any exception. In this study, I will use „war“ to be understood as a form of politics and political action. The Maoists particularly believe that war is essential to liberate the people from all kinds of exclusions, deprivations, marginalizations, injustices, and inequalities. Therefore, I will apply the term the People’s War to mean the act of revolutionary people who have been waging armed conflict since
1996 with revolutionary communist ideology, following the military science and guerrilla warfare strategies and tactics of Mao Zedong and Che Guevara in Nepal.

1.6.2 Human Rights

The western conception of international human rights emphasizes upon the basic civil and political rights of individuals that determine the power of government over the governed (Shaw:1977:198). In Encyclopedia of Human Rights, Edward Lawson writes:

„Human rights are entitlements due to every man, woman, and child because they are human. They include the rights pertaining to the security of person, including the right not to be deprived of life or liberty without due process of law; the right not to be tortured or subject to cruel, inhumane, or degrading treatment or punishment; and the right not to be held in slavery or servitude. The violation can never be justified, even by a state of national emergency‰ (Lawson:1996:xix).

In the last quarter of the 20th century human rights became an important international legal and political discourse. Human rights refer to the well-being and dignity of individuals and groups. Some philosophers and human rights thinkers believe that the notion of human rights originated in the western tradition of natural law of individualism. Some non-western philosophers, however, argue that the idea of human rights was already there in well-developed form in the Hindu-Buddhist tradition. Indeed, „the concept of human rights can be traced to antiquity.... Religious, moral, and philosophical origins can be identified not only in biblical and classical history but also in Buddhism, Confucianism, Hinduism, Judaism, Shinto, and other faiths‰ (Newman:1996:2).

The New Encyclopaedia Britannica (NEB) states that the centuries-old debates over origins and definitions of human rights confirm that there has been close connection and interdependence between the idea of natural rights and the idea of the natural rights of man (1993:vol.8/1183). „Man as man would have the right to an exceptional place in being and, by that very fact, one that was exterior to the determinism of phenomenon: the right to independence, or freedom of each recognized by all‰ (Levinas:1999:46). Jack Donnelly writes, „The term human rights indicates both their nature and their source: they are the rights that one has simply because one is human‰ (1998:18). Natural law theorists, among others, regard these rights as moral or ethical rights. Functional and analytical theorists denounce the utopian nature of aspirations which are claimed as rights. The socialist conception of the rights and freedoms of individuals rests on the principle of „Everything for the sake of man, for the benefit of man‰ (Kuritsyn:1987:7). Legally, these rights are based on national constitutions, laws, and constitutional treaties (Encyclopedia Americana:1996:vol.14/552c) that force governments to compliance with certain rights and duties of human beings. Alison argued, „Rights and duties are, in fact, flip sides of the same coin (Renteln:1990:43). Human rights means a conglomeration of the rights which one needs to live as a human being (Sakya:1998:15).

According to Rolf Kunnemann, „Human rights are a special kind of rights. Each human right is a relation between the person and the state, or more specifically, between vulnerable persons and groups (beneficiaries) and the state or com-
munity of states%0 (duty-holders)%18. „The term human rights is relatively new, first appearing in the documents of post-war... The more traditional term for human rights is the Rule of Law%0 (Brownlie:1988:1). Even in the United Nations, the concept of human rights goes beyond the original notion of the Rule of Law to both in terms of jurisdiction and content. Brownlie writes:

„(i) Human rights invoked the checking of the performance of national legal systems against external standards, and the consequent erosion of the reserved domain of the domestic jurisdiction of states, and (ii) Whilst the Rule of Law in its classical form involved a static model of equality before the law, with the accent on procedural justice and civil rights, the concept of human rights has been as the least equally and perhaps more concerned with equal access to resources and education, that is to say, with a more dynamic concept of economic justice and substantial equality%0 (Brownlie:1988:1). Human rights are the rights possessed by all persons, by virtue of their common humanity, to live a life of freedom and dignity (UNDP:2000:16). Human Rights could be generally defined as those rights which are inherent in our nature and without which we cannot live as human beings (Zamir:1990:1). Leah Levin states:

„The concept of human rights has two basic meanings: (i) the first is that inherent and inalienable rights are due to man simply because of being man. They are the moral rights which are derived from the humanness of every human being, and they aim at ensuring the dignity of every human being, and (ii) the second meaning of human rights is that of legal rights, established according to the law-creating processes of societies, both national and international%0 (1998).

The concept of human rights that I will use in this study is neither a western approach nor eastern only. It is a holistic approach to both western and non-western (Hindu-Buddhist) thinkers. In Hindu-Buddhist conception, human rights mean good governance originated from dharma and dharmasastras which were originally used as „science of law%0 and „science of social justice%0 and are still revered so in Hindu-Buddhist countries. Dharma and dharmasastras refer to the privileges, duties, and obligations of human beings. The Constitution of the Kingdom of Nepal has been developed and enriched by deriving from the moral standards established by dharma and dharmasastras in the areas of politics, religion, and social justice. This has also fulfilled many of the prerequisites of the western liberal approach to human rights and fundamental freedom.

I use the term human rights to mean inherent, inalienable, non-derogatory, and indivisible rights that should be entitled to every man, woman, and child. Human rights include the right not to be deprived of life or liberty without due process of law, the right not to be tortured or be subjected to cruel, inhumane or degrading treatment or punishment, and the right not to be held in slavery, bondage or servitude. Human rights are to respect, protect, promote, and fulfill everything for the benefit of man, woman, and child.

1.6.3 Equality or Equity

„Equality%0 is the state of being equal, especially in status, rights, etc. (Hornby:1996:388). It is considered as in opposition of majority and minority
The Human Development Report 2000 has said, „The universalism of life demands that all people treat all others equally, without discrimination” (UNDP:32). The prominent theorist of justice, John Rawls, says: „Equality lies in the context of the justice” (2000:507). Equality or equity ensures justice to all quarters so that everyone · irrespective of race, color, sex, age, class, language, and religion · has equal opportunity for expressing and utilizing one’s potential resources. Indeed, the concept of equality in view of the majority is opposite to that in view of the minority.

The Preamble of the Charter of United Nations mentions about, „...equal rights of men and women and of nations large and small.” Article 1 of Universal Declaration of Human Rights (UDHR) states, „All human beings are born free and have equal dignity and rights.” Coming from the literatures, it is known that equality or equity ensures the rights to have an adequate standard of living and freedom from hunger and shelter, to work without exploitation, to enjoy favorable conditions of work, to have education and health, etc. The chief of United Nations High Commissioner for Human Rights (UNHCHR) Mary Robinson states that social progress and better standards of life no longer work if human beings are deprived of the basic human rights to food and clean water, clothing, housing, medical care, and some hope of security in old age (1999:427).

The term equality or equity advocates for both haves and have-nots. I use the terms of equality or equity to mean equality against political absolutism, repression, and regression; economic exploitation and deprivation; social discrimination; and cultural intolerance. In this study, the terms refer to pragmatic principles of justice that particularly recognize and respond to the difference of an individual’s ability and needs. For example, while distributing three-meter long piece of fabric to two persons of unequal heights, the two-meter tall person should receive two-thirds of the fabric and one-third of the clothing be given to the one-meter dwarf, against an idealistic principle of equal distribution. Regarding equality, Marx once said, „From each according to his abilities to each according to his needs.”

In Hindu-Buddhist philosophy, equality or equity is basically centered on the principles of justice, morality, and dharma (good governance). The dharma protects weak from the strong, which later helped to develop into legal methods and even the Constitution of the Kingdom of Nepal. Article 11 (ii) of the Constitution ensures that no state shall discriminate citizens on the grounds of religion, race, sex, caste or ideology or any of them.

1.6.4 Freedom

Freedom means non-coercion and non-interference in the affairs of all human beings. The Human Development Report 2000 states that human freedom is the common purpose and common motivation of human rights and human development (UNDP:2000:112). Freedom is the right of every individual to express his or her values, beliefs, convictions, and opinions. Macfarlane says: „The right to freedom of belief as a liberty right is best understood in terms of individual rights to non-coercion and rights to non-interference” (1985:61). Stressing upon the im-
importance of education, the Nobel Laureate in Literature Nadine Gordimer writes, “Freedom of expression is an empty phrase unless education equips every individual with the ability to read and write” (Daniel:1995:vii). The World Conference of Human Rights held in Vienna in 1993 declared, “Human rights and fundamental freedoms are the birth rights of all human beings and should be treated as mutually reinforcing.”

For the well-being and dignity of every individual, it is necessary to have freedom from all kinds of injustices and restrictions. Some of the freedoms I consider very important are:

- Freedom from discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
- Freedom of thought, speech, association, and publication;
- Freedom from insecurity and fear owing to threats to life, torture, arbitrary arrest, and similar violent acts;
- Freedom to move and reside in any part of the nation and to feel and consider innocent until proven guilty;
- Freedom from injustices and violations of the rule of law;
- Freedom from the wants of basic needs;
- Freedom of participation in decision-making process, cultural life, and other social events;
- Freedom for work without exploitation; and
- Freedom to realize one’s human potentiality and to develop solidarity.

1.6.5 Human Rights Violation

Everyday violence increases in the lives of human beings. Pitirim Sorokin writes, “War, the outstanding type of modern violence, is killing more people in an increasingly efficient manner, and terror has been increasing in intensity and frightfulness” (1937:324). *Encyclopaedia of Human Rights Violence and Non-violence* states, “Violence is the willful application of force in such a way that it is physically or psychologically injurious to the person or group against whom it is applied” (Kumar:1998:2). They are categorized as: (a) violations resulting from actions, policies, and legislation on the part of the government; (b) violations related to patterns of discrimination; and (c) violations related to the state failure to fulfill minimum core obligations of enumerated rights (Kumar:1998:2).

I agree with the definition forwarded by Arvind Kumar cited above. War is the principal cause of violence. Violence is the principal cause of loss of beloved ones, tragedy in family, loss of nation · identity, resource and culture, and loss of national harmony. Extrajudicial and arbitrary killing of any individual is the principal cause of violence. Violence begets violence. Opposing the deliberate killings of civilians, American President Woodrow Wilson in a special session of the Congress held on April 2, 1917 said:

“I am not now thinking of the loss of property involved, immense and serious as that is, but only of the wanton and wholesale destruction of the lives of the non-combatant men, women, children engaged in pursuits. Property can be paid for; the lives of peaceful and innocent people cannot be” (1917:3-8).
But, the state and its security forces violate the right to life, freedom, dignity and personal security through the misuse of the state resources, power, and machineries. The human rights violations include: extrajudicial and arbitrary execution; custodial death; torture including rape and other cruel, inhumane or degrading treatment or punishment; arbitrary arrest and detention; enforced and involuntary disappearance; and slavery or servitude. In this study, the terminologies such as exclusion, deprivation, discrimination, intoleration, exploitation, oppression, suppression, injustice, restriction, extortion, etc. are also used as the terms of human rights violations.

1.6.6 Human Rights Abuse

Abuse involves deliberate use of something such as power or authority for wrong purpose in cruel or violent manner (Contemporary English Dictionary:1998:6). Webster’s Third New International Dictionary states that abuse is a physical and harmful treatment (1961:8). Because of the male supremacy and male dominant society, abuse is frequently reported, and it is not surprising when some men rape, some commit incest, some sexually harass, and some make obscene phone calls, etc. (Bast:1993:1). It is true that abuse is committed for a bad effect or for a bad purpose. It means treating a person with cruelty or violence regularly or repeatedly. It includes insulting speech and offensive behavior to anybody.

However, I use the term abuse for an act committed by any non-state actors such as individuals, groups or communities with the use of force or influence that infringes the rights to life, liberty, dignity, and security of other individuals, groups or communities. In this study, the term, abuse, is specially used for the CPN (Maoist) when they have committed offenses to individuals or groups in very rough and cruel manner since the initiation of the People’s War. Therefore, in reference to human rights, „abuse‰ means deliberate killings, involuntary abductions and disappearances, humiliations, tortures, extortion of money and private properties from people alleging them as deceivers, feudals, informants, or enemies of the revolution.

The definition of human rights has been categorized into many perspectives in general. Philosophical meaning of human rights is based on the concepts of human dignity, universality, paramountcy, and the natural rights of man. Political meaning of human rights is the respect for the integrity of life, the right to liberty of movement, freedom, and participation in political life. Legal meaning of human rights is a rule of law, equality before and under the law, and protection from all kinds of injustices. Social meaning of human rights is the right to an adequate standard of living, the right of family, fraternity, solidarity, non-discrimination, and self-determination. Economical meaning of human rights is the right to work and distribution of resources for the adequacy of basic needs such as food, housing, and clothing. Cultural meaning of human rights is the right to participation in cultural life, the right to minorities, and the right to education. Human rights are, of course, a child of law which is continuously enriching through the needs and demands of human beings.
Endnotes

1 Speech at a photographic exhibition of Life and Times of BP Koirala: A Struggle for Democracy on September 6, 2001 (Kathmandu Post: September 7, 2001).
3 In Nepal, the minimum age for voting has been fixed at 18 years.
4 The authorities include chairmen and vice-chairmen of the VDCs, municipalities, and members of the DDCs.
5 In Nepali calendar, BS means Bikram Sambat, which is 56 years 8 months and 16 days ahead of the Gregorian calendar.
6 Both the factions, CPN (Mashal) and CPN (Masal), had actively participated in the People’s Movement 1990 demanding to hold the election for a constituent assembly. As the triumvirate consisting of the King, the NC, and the ULF did not hear the voices of other communist factions nor were they included in the interim government and constitution-drafting committee, all the revolutionary factions, including CPN (Mashal) and CPN (Masal), boycotted the Constitution.
7 What is United People’s Front Nepal (UPFN)? Nepali Congress and United Left Front (alliance of seven communist parties) agreed to jointly launch the People’s Movement in 1990 for the achievement of democracy, human rights, and rule of law. Other remaining five factions of the communist forces - CPN (Mashal) led by Prachanda; CPN (Masal) led by Mohan Bikram Singh (Masal and Mashal both mean „torch” with alternate spellings for the same Nepali word); Communist League by Shambhu Shrestha; CPN (MLM) by Krishna Das Shrestha; and Proletarian Labor Organization (PLO) by Rup Lal BK - formed together the United National People’s Movement (UNPM) and actively participated in the People’s Movement demanding the election for the constituent assembly. CPN (Masal) got separated in the Fourth Convention in 1983. But, in 1985, it again fissioned into Mashal under the leadership of Prachanda (see Hofstun et al:1999:119). UNPM appointed Dr. Baburam Bhattarai as the spokesman. When the People’s Movement was going ahead but swerving off the track from the hands of political leaders, King Birendra proclaimed freedom for all political parties and restored democracy at 11 PM on April 8, 1990 after a meeting with Krishna Prasad Bhattarai, Girija Prasad Koirala, Sahana Pradhan, and Radha Krishna Mainali. The following day, hundreds of thousands of people gathered at Tundikhel to chant slogans in a mass meeting organized by both NC and ULF jointly. Two days later, the third alliance of left forces UNPM organized an open mass meeting at Tundikhel on April 11, 1990 and expressed their dissatisfaction with the other political leaders by branding the newly restored democracy as „conspiracy against the people” and appealed the people to continue to struggle against the „premature and fraudulent democracy”. After a long discussion, Nirmal Lama (Fourth Convention), Mashal, PLO, and a splinter from Masal „Sital Kumar” formed the Unity Center (UC). Later, another splinter of Masal led by Dr. Baburam Bhattarai fused with UC. Its first convention was held on November 1, 1991 (see Utschig:1992:81). The UC created the „legal left wing” - UPF to participate in the forthcoming first General Election 1991. In the beginning, UPF did not support the constitution, but to improve its relations with the people and to propagate the bad functioning of the democracy, it decided to participate in the election, arguing that „it did not believe in the forthcoming election but wanted to use it in order to tell the people not to accept the so-called democracy”. However, due to the personality clash and ideological differences in strategy and tactics of movement, in 1994, UC disintegrated into NCP (Mashal) led by Prachanda and CPN (Unity Center) led by Lama. Similarly, UPF was also divided into UPF (Vaidya) and UPF (Bhattarai). The Election Commission accepted UPF (Vaidya) as the legal political entity. However, the Supreme Court legalized UPF (Bhattarai) but only after the mid-term polls. Bhattarai faction was close with CPN (Maoist) and had boycotted the election, while Vaidya faction participated in the mid-term election in 1994.
8 Even in the General Election 1991, the election manifesto illustrated that „the fundamental problems encountering the country are nationality, democracy and livelihood” and „the other
specific problems are complete eradication of feudalism, protection of national independence against any forms of imperialism, and construction of self-reliant economy and full political freedom by eliminating foreign dependence and control (see Bhattachan:1993:232).

9 He was elected on behalf of the Nepal Workers and Peasants’ Party. Many newspapers at the time reported that he was kidnapped for a ransom of US $ 272,109. Later, he joined in the Nepali Congress and immediately became a minister.

10 Feudalism tends to stagnate the socio-economic system that has existed since the middle ages in rural Nepal where fertile lands have been controlled by the kings and elite families and the ordinary people have to work sometimes free of cost and somewhere for one-third or half of their total agricultural production.

11 Imperialism means a powerful country like India has increased its influence over Nepal through business, culture, power, politics, etc.

12 Elite class is the group of people considered to be the best in Nepali society in terms of power, politics, talent, and property.

13 An economic and political system in which a country’s resource are controlled by bureaucrats for their selfish interests rather than for the sake of the nation and people.

14 In Hindu society, caste is divided into Bahun (Brahmin), Chhetri (Kshatriya), Baisy (Vaishyas), and Sudra (Shudra). According to the Rig Veda, Bahun came from the mouth, Chhetri from the arms, Baisy from the thighs and Sudra from the feet of Brahma · the creator of the universe. The fourfold division of caste is called chaturvarna. In this society, Bahun is called the priest, Chhetri is a warrior, Baisy is a businessman, and Sudra is untouchable or downtrodden. Professionals such as the shoemakers, tailors, goldsmiths, ironsmiths, and so on belong to Sudra caste and are considered untouchable. (Also see Basil:May 8, 2000).

15 Such ethnic non-Aryan communities are Bhole, Sherpa, Thakali, Limbu, Rai, Lepcha, Gurung, Jirel, Tamang, Magar, Newar, Dhimal, Ranjabansi, Gangai, Meche, Majee, Raute, etc.


18 A right is a relation that involves duties (or obligations) and benefits. It exists between two entities · beneficiary and duty-holder. A relation is defined by the content of the right, that is by the claims which the beneficiary has on the duty-holder and the obligations that the duty-holder has to carry out in order to meet the beneficiary’s claims (Kunnemann:1999. pp. 32-33).
Manoranjan Mohanty states, „Ideology is the statement of the ends, means, and method of analysis‰ (1967:10). It is a „form of social or political philosophy in which practical elements are as prominent as theoretical ones; it is a system of ideas that aspires both to explain the world and to change it‰ (New Encyclopaedia Britannica:1993:vol.20/768). The word ideologie first originated in French at the time of French Revolution in 1796 from the works of philosopher A.L.C. Destutt de Tracy who said: „The science of ideas is a science with a mission; it aims at serving men, even saving them by ridding their minds of prejudice and preparing them for the sovereignty of reason‰ (New Encyclopaedia Britannica:1993:vol.6/241). Based on his science of ideas, several other philosophers such as Auguste Comte, and movements such as communism, socialism, fascism, and Nazism developed their ideology designs to improve the world. Ideologies are a body of ideas that exist in culture. There would typically be one or several kinds of ideologies which would articulate what and how people can think about religion, politics, and art (Marxism and Ideology:1997). Ideology is the thinking of a society which incorporates the forms of social realization that exist at any meticulous period. In fact, ideologies furnish all the presumptions and frameworks that each individual applies to understand his or her particular object, which supplies all the things for people to accept and also to act upon. Ideology is based on a comprehensive theory of human nature and politics; it is used as a hypothetical tool for social change in society.

The then scholars had used ideology in religion, political philosophy, and the sociology of knowledge. Marx, however, used the word as part of the "superstructure" generated by an economic base which refers to capitalists who exploit labor and work to justify that base: the ideologies present in a capitalist society that explain, justify, and support the capitalist mode of production (Marxism and Ideology:1997). Marx developed the „German Ideology‰ as a part of his criticism of ideology‰. He did not consider himself as ÂMarxist. E Ideology of Marxism develops through the conceptions, contributions, and works of Karl Marx and Frederick Engels. The Marxist ideology divides the whole world‰s population into two classes: bourgeois and proletariat, focusing particularly on the theory of man and society.
2.1 Human Rights in Marxist Perspective

"A state cannot be a free state without man being a free man."

-Karl Marx

"Freedom and equality should be proclaimed human rights."

-Frederick Engels

Lenin says: „Marxism is the system of views and teachings of Marx‰ (Lenin:1967). Marxism is a set of theories, or a system of thought and analysis, developed by Karl Marx in the 19th century in response to the western industrial revolution and the rise of industrial capitalism as the predominant economic mode (Marxism and Ideology:1997). Lenin states, „Marx was the genius who worked and completed the three main ideological concepts of the nineteenth century belonging to the three most advanced countries of mankind: (i) Classical German Philosophy, (ii) Classical English Political Economy, and (iii) French Socialism together with French revolutionary doctrines in general. I agree with the Marxist theory that has directed towards social change, driving away injustices and inequalities created by the capitalist mode of society. As the creator of a new thought on communist society, Marx developed dialectic materialism. The socialists believe that the most comprehensive and profound doctrine of development is the theory of class and the world’s historic revolutionary ideology is the dictatorship of proletariat. The first communist manifesto states:

„In the course of history, freemen and slaves, patricians and plebeians, lords and serfs, guild-masters and journeymen · in a word: the oppressor and the oppressed · have stood in constant opposition to one another, carrying on an uninterrupted, now hidden, now open fight, a fight that each time has ended, either in a revolutionary reconstruction of the society at large, or in the common ruin of the contending classes‰ (Marx and Engels:1948:Bourgeois and Proletarians).

As Lenin argues in Marx’s account for history, social antagonisms occurred between the two rival groups: the haves and the have-nots. The former had always tried to keep their juniors suppressed through irrational superstition and semblance of power, the culture of silence, and by maintaining class hegemony on knowledge, power, resources, and opportunities. Thus, in the ancient ages people were divided into patricians, knights, plebeians, and slaves; in the middle ages, they were divided into feudal lords, vassals, guild-masters, journeymen, apprentices, and serfs; and in the modern ages as bourgeois and proletarians. The have-nots or juniors suffered from all kinds of deprivation, exclusion, marginalization, discrimination, and intolerance throughout the history of the world to date in one form or another.

The communist revolutionary program focuses on socioeconomic improvement and political goals and it can adopt the widest possible means of struggle including violence. It has the identity and solidarity of an organization that provides the universal guardianship to the strategy in social democratic movement. The ideology, organization, and strategy thoroughly influence the humans and human rights of a country in politico-social state, identity, and resource movement.

The word „human‰ denotes every man, woman, and child and „rights‰ refers to the guarantees to respect, protect, and fulfill the basic needs as basic rights of
humans. The term "human rights" means the inherent, non-derogatory, and inalienable rights of human beings. The development of human rights concept is a recent one, but it is a very significant phenomenon in the history of civilization of the twentieth century. The universality of human rights was officially declared by the United Nations General Assembly in the aftermath of the World War II. Long before the proclamation of the Universal Declaration on Human Rights 1948, Karl Marx and Frederick Engels had written about similar ideas in their various writings, stressing upon freedom and equality instead of the present day world's phrases: the civil and political rights and the economic and social rights. In general, the civil and political rights advocate for liberty and the economic, social, and cultural rights advocate for equality that includes basic rights such as rights to basic requirements of food, housing, clothing, education, healthcare, and participation, etc. To establish an egalitarian society, freedom and equality should be treated equally as two sides, head and tail, of the same coin.

Karl Marx writes, "A true, honest patriot is unable to suppress his feeling that constitution and freedom of the press exist not for the welfare of the people, but to satisfy the ambition of individuals and for the domination of parties" (Marx:1942:Freedom in General). The patriotic feeling and honesty of an individual cease only after death. If the state rules over the mainstream people without regard to their interests, freedom turns into another category of business. The emancipation of arms and legs has meaning only when there is emancipation of the brain. Freedom includes discretion to human beings in all spheres farming, justice, culture, religion, and politics, etc. Freedom is the individual liberty of humans whose sole interest is to be free from all kinds of bonds and constraints. Marx says, "What would happen if the cat itself introduces the rights of the mouse? Can the rats receive the right that is guaranteed by the cat?" (Marx:1942:Freedom in General). It means, the assessment for formulation of any legal right should be given to an expert who comes from the same group or community or organization and that particular person have had the legal authority to act. The authorized person might draft rules against the wishes of authorities, but a non-expert must take prior permission from the concerned high-ups.

Marx has also talked about the freedom of press. It means freedom from censorship of newspapers and magazines. When a part of freedom is restricted, the whole freedom in general is rejected. The state servant (duty-holder) believes that every restriction on freedom is valid. But injustice is prone to be inflicted anywhere when justice is restricted.

There are irrefutable proofs to show that those who have held power even for once get somehow convinced that freedom must be restricted and this conviction serves them as a guiding principle for their later views (Marx:1942:Opponent in a Free Press) against the interests and voices of mainstream people for freedom in all quarters. The restrictions on press and the draconian press laws imply that the government is imperfect and so is every other sphere of human existence. Hence, if one of these spheres ought not to exist because of this imperfection, none of them has the right to exist (Marx:1942:On the Assembly of the Estates). But, since the emergence of human civilization, all-powerful authorities have been concerned with
their own freedom and liberties instead of those for the mainstream people.

Marxism contributed a lot to building equal respect to all people. Marxists strongly denounced extrajudicial killings of poor, disadvantaged, and vulnerable communities in the name of equality. When the Russian General ordered his soldiers to kill the poor and distressed backward Tatar tribe of the Yomuds in 1873, his loyal armies eliminated them by burning their tents, butchering their women and children and finally said that the massacre was a good ethnic cleansing and that it was done for equal rights (Engels:1878:Anti-During Philosophy). Similarly, Stalin also extrajudicially killed thousands of people who were against the communists, their ideology, and their working styles. Indeed, what level of brutality can man inflict against man in the name of equality? How can s/he be so cruel and inhuman? This is barbarous, prejudicial, and perverse! However, both Marx and Engels strongly denounced such inhuman acts in the name of equality as they were in favor of pragmatic principles of justice for an individual as per his/her abilities and needs.

It was felt necessary to free the proletariat from the acts of barbarism and slavery and to unite them to develop the concept of global village. The First International Working Men’s Association (IWMA) was founded in London under the active participation of Karl Marx on September 28, 1864 with the principal aims: „That all societies and individuals adhering to it will acknowledge truth, justice, and morality as the basis of their conduct toward each other and toward all men, without regard to color, creed, or nationality‰ (Marx:1864:General Rules of the International Working Men’s Association). Thus, Marxism prioritized non-discrimination and equal justice to all workers and distressed people and freedom to slaves. Marx says, „The proletarian took the bourgeoisie at its word: equality must not be merely apparent, must not apply merely to the sphere of the state, but must also be real, must also be extended to the social and economic sphere‰ (Marx:1848:Communist, Revolution, and a Free Poland). In the French Revolution, the bourgeois raised the voice of political freedom on one side and on the other side, the proletarians demanded social and economic equality. Likewise, the tenants or toiling peasants also launched agrarian movements raising their voices against the social injustices and inequalities between rich and poor, the feudal lords and serfs, and so forth. Marx says:

„Slavery cannot be abolished without the steam-engine replacing mule and spinning-jenny, serfdom cannot be abolished without improved agriculture, and that, in general, people cannot be liberated as long as they are unable to obtain food and drink, housing and clothing in adequate quality and quantity ....‰(Marx:1832:Feuerbach:Philosophic and Real Liberation).

Thus, the idea of equality for both proletarians and peasants is the necessary condition for launching a revolution. Except during World Wars I and II and a few other conflicts, whenever the revolutions have been launched throughout the history of the world, there have been fights for identity, resources, and politico-ideology against injustices, inequalities, and restrictions. The present day world’s conflict · ethnic war or civil war · is caused by inequality and lack of social justice when the state authority or elite group of people try to suppress, exploit,
and discriminate the majority people's voices by means of money, power, and opportunities.

Marx was against the division of labor force. He said that the greatest division of material and mental labor is the separation of town and country. The antagonism between town and country begins with the transition from barbarism to civilization, from tribe to state, from locality to nation, and runs through the whole history of civilization to the present day (Marx:1832:The German Ideology). According to Marx, the division of labor force intends to divide the population into several groups or classes. It creates conflict between classes for acquiring necessities related to the betterment of life. He noticed that the division of labor force creates casteism and rules that favor the elite and privileged persons (Marx:1866:The Philosophy of Poverty). However, the capitalists favor the division of labor force for fast production of goods and to improve the quality of goods. Division of labor force also improves the skills of an individual; otherwise a person is likely to become a 'Jack of all, but master of none.'

Labor is the source of wealth and all culture (Marx:1870: Critique of the Gothe Programme I). The sophisticated and modern technology that we have now is the creation of labor force, which is used in the society and through it by the societies all over the world. Thus, no society exists without deriving benefits of labor force; no society is free from the exploitation of labor force. Labor force produces all sorts of products to be utilized by the society in one form or another. However, laborers should be kept happy both in terms of physical and mental conditions. Non-discrimination makes human beings happy and consequently they become more productive. For the welfare and happiness of laborers, the duty-holders should ensure all kinds of human rights and fundamental freedoms.

However, Marxism does not mention about the present day world's civil and political rights; economic, social and cultural rights; constitutional rights; and fundamental human rights. Marx tried to treat equally both freedom and equality but emphasized more on economic and social freedom, the „resource transformation, service delivery, and social justice.”

Karl Marx tried to reform by focusing upon the great majority of world's most disadvantaged, poor and active groups - factory workers and toiling peasants, the proletariats. Based on the pragmatic principle of equality and social justice in accordance with the dictum „from each according to his abilities to each according to his needs,” Marx tried to ensure for equitable society, putting the last first. Allocating the people's rights and food (socioeconomic nexus) first to the needy people, Marx's opponents in capitalist bloc later introduced a concept of human rights, known as western liberal approach, which is widely practiced in the world since 1980s. But this approach invariably concentrates upon civil and political rights and practically overlooks the economic, social, and cultural rights of the multitude. Poor, hungry and downtrodden people are, nonetheless, raising their voice to secure top priority for the basic needs such as food, housing, clothing, and shelter.

A man, woman, and child should be equal before and under the law. Marx incessantly fought for the welfare of whole society, though he never looked into his
own family. Because of extreme poverty, he lost his children and wife. When he died, nothing was left for the funeral ceremony. So, the communist revolutionaries believe that Marx was the greatest freedom fighter of mankind especially for those who are poor, disadvantaged, marginalized, and vulnerable. As almost half of the population of Nepal live under absolute poverty, the CPN (Maoist) raised a slogan to emancipate them from all kinds of discrimination, exploitation, and intolerance. As a result, they attracted them toward the People’s War following the Marxist theoretical approach of “equality, dignity, and justice to all for ever.”

2.2 Human Rights in Western Liberal Perspective

“If a free society cannot help the many who are poor, it cannot save the few who are rich.”

During the period of the Cold War, the world was divided into three blocs consisting of capitalist, socialist, and developing countries. The western countries, especially the USA, which constituted the capitalist bloc had given high priority to civil and political rights, whereas the communist bloc headed by the USSR focused on economic and social rights. Developing countries centered on the right to development such as collective community rights, fraternity, peace, and self-determination, as well as the duties and responsibilities of the state toward individuals. After the end of the Cold War, cultural and religious differences began to develop between the developed and developing countries, rather than between the capitalists and communists. The United Nations World Conference on Human Rights 1993, Vienna, finally addressed the controversy over the universality of the Declaration of Human Rights (DHR) due to the differences of religio-cultural relativism.

2.2.1 Evolution and Development of Human Rights

A group of barons and church leaders met at St. Albans in 1213 to protest against the injustices of English King John Locke and finally pressured him to grant a list of rights. Twice he refused to grant these rights. Then, the barons raised armed rebellion against the king to force him to meet their demands. When the king found that he could not defeat the army, he agreed to some of the issues on June 15, 1215 and four days later, these issues were endorsed as a Royal Charter – Magna Carta (World Book Encyclopedia:1966:vol.13/50). It ensured the freedom of English Church as well as the right to freedom of all heirs to the British Kingdom. It contained 63 articles guaranteed by the King and approved as the law.

Article 1 of the Charter states, “The English Church shall be free, and shall have her rights entire, and her liberties inviolate..." The same article ensured the freedom to the British Kingdom by stating, “We have also granted to all freemen of our Kingdom, for us and our heirs forever, all the underwritten liberties, to be had and held by them and their heirs, of us and our heirs forever. Article 7 assured the rights of a widower or a widow and her re-marriage rights, although no one should be compelled to marry a widow as stated in Article 8. Otherwise, very limited rights had been ensured for women in Article 54 that stresses, “No one shall be arrested or imprisoned upon the appeal of a woman, for the death of any other than her husband.” It also defined the rights of nobles. These rights
were soon asserted by the middle class and then by all free men. For the peaceful
and faithful service to the hostages, Article 49 emphasizes, „We will immediately
restore all hostages and charters delivered to us by Englishmen, as sureties of the
peace of faithful service.” It was also guaranteed that no particular tax could be
increased without the permission of the barons. The Charter assured that the King
must attempt advice and sanction of the barons in all matters significant to the
Kingdom. No freeman shall be imprisoned, deprived of property, sent out of the
country, or destroyed, except by the lawful judgment of his peers or by the law of
the land.

In the Charter, several articles were projected in order to oblige the king to
keep his promises. A council of barons was formed to minimize the right of the
king as per the charter which if he ignored would be forced by the army to fulfill
the provisions. This was especially designed to transfer the king’s power to the
barons and the English Church. The barons and other feudal class people mainly
benefited from the charter rather than the people on the whole.

However, a few articles also ensured benefits to the middle class families living
in town. The major population of England consisting of freemen and peasants
was hardly cited in the charter for their rights. The confrontation between the
king and the parliament, especially in regard to the dictum that „no freeman shall
be imprisoned without due process of law,” had a long debate in history in which
the parliament had finally triumphed. The tussle continued till King John’s death in
1216. After his death, other English kings agreed to implement all the terms of the
charter. The charter, however, was neglected during the period of 1500s. But, the
British Parliament brought the charter into life again in 1600s. Notwithstanding
that, none of the articles ensured social justice and equality to the commoner.

Despite its drawbacks, the Magna Carta placed the King under the law for the
first time in the history of England and conclusively checked the royal power in
the 13th century. The Charter was an answer to the questions of crime and pun-
ishment and it was a landmark triumph of parliament for establishment of the rule
of law. As a written document, it marked a decisive step toward the development
of constitutional rights throughout the world. Magna Carta in Latin means „Great
Charter” and it had guaranteed individual liberties to all the people.

### 2.2.1.1 Petition of Rights 1628

The Petition of Rights 1628, popularly called the "Great Charter of the Liberties of
England," guarantees individual rights and liberties after the Magna Carta and it is
also called the Second Great Charter of Human Rights. It declared and constituted
that no freeman may be imprisoned, or be denied his liberties or customs, or be
illegitimated or exiled. Concerning several rights and liberties of the freeman, King
Edward III promulgated that no person should be pressured to give any loans to
the king against his will, none should be charged and be compelled to pay any tax,
aid, or what was not set by common consent in parliament. He declared by au-
thority of the parliament that „no man, of what estate or condition that he be,
should be put out of his land or tenements, nor taken imprisoned, nor disinherited,
nor put to death, without being brought to answer by the due process of law.”
(Petition of Rights 1628). Edward declared and enacted:

"...No man shall be forejudged of life or limb against the form of the Great Charter and the law of the land and, by the said Great Charter and other laws. No man, hereafter, be compelled to make or yield any gift, loan, benevolence, tax, or such like charge without common consent by act of parliament; and that none be called to make an answer, or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof; and that no freeman, in any such manner as is before mentioned, be imprisoned or detained; to be executed as aforesaid, lest by color of them any of the subjects be destroyed or put to death, contrary to the laws and franchise of the land."

Likewise, to ensure personal liberty and justice in the land, Habeas Corpus Act in 1640 was initiated. Habeas Corpus means "bring the prisoner (of conscience) before the court."

2.2.1.2 English Bill of Rights 1689

The English Bill of Rights was designed to control the arbitrary powers of the kings and queens and to subject them to the laws passed by the Parliament. This bill was an ancestor to the American Bill of Rights as well as the French Bill of Rights and it began strict limitations on the Royal Family's legal prerogatives and it also outlawed the arbitrary adjournment of Parliament. Furthermore it significantly shifted the right to raise money through taxation to the Parliament (English Bill of Rights: 1689). The Bill was read to both King William and Queen Mary. "We thankfully accept what you have offered us," King William replied, agreeing to become a subject to law and be guided in his actions by the decisions of the Parliament. The agreement of the Bill of Rights stated that without the consent of the Parliament, the power of the king was restricted in suspending and executing the laws, levying money, raising and keeping a standing army, violating freedom of elected members to serve in Parliament, executing prosecutions in the Court of King's Bench for matters and causes cognizable only in Parliament and other arbitrary and illegal courses, overthrowing the partial corrupt and unqualified persons from the service on jury in trials, imposing excessive fines, inflicting illegal and cruel punishments and confining all which are utterly and directly contrary to the known laws and statutes and freedom of this realm (English Bill of Rights 1689). This concession granted by the royal family is popularly called the "bloodless revolution" or the "glorious revolution."

2.2.1.3 American Bill of Rights 1791

The American Bill of Rights comprises some of the first amendments of the United States Constitution ratified in 1787. The American constitution is "the Supreme Law of the Land" just as the rights granted by the previously discussed Magna Carta. Freedom of religion and military force as well as the right of the people to bear arms are stated in Amendment I and II respectively. "No person shall ... be deprived of life, liberty or property, without the due process of law and ... the accused shall enjoy the right to a speedy and public trial by an impartial jury" have been amended in Amendments V and VI. Certain rights are reserved for Federal,
State or Local governments in Amendment IX and the issues of public interest and civil service are dealt with in Amendment X.

The American Bill of Rights was inspired by the third President Thomas Jefferson (1743-1826) and was adopted in 1791 in the Constitution's first ten amendments (The Bill of Rights: A Brief History). Jefferson, the author of the Declaration of Independence and the Virginia Statute, is probably the most conspicuous champion of political and spiritual freedom in the history of USA (Encyclopedia Americana:1966:vol.20/200). Jefferson argued, „A bill of rights is what the people are entitled to against every government on the earth, general or particular, and what no just government should refuse, or interfere (The Bill of Rights: A Brief History).” Individual rights are the oldest and most traditional of American values. In the beginning, the concept of human rights prioritized the white male landowners only but gradually it was transferred toward black people and women. From the beginning to date, America has prioritized civil and political rights over economic, social and cultural rights.

2.2.1.4 Declaration of the Rights of Man and the Citizen 1789

France adopted the Declaration of the Rights of Man and the Citizen 1789 into its constitution through the National Assembly on August 26, 1789. The Preamble of the Bill states, „The representatives of the French people, organized as a National Assembly, believing that the ignorance, neglect, or contempt of the rights of man are the sole cause of public calamities and of the corruption of governments, have determined to set forth in a solemn declaration of the natural, unalienable, and sacred rights of man ... based hereafter upon simple and incontestable principles, shall tend to the maintenance of the constitution and rebound to the happiness of all.”

Considering equality and freedom, Article 1 states: „Men are born and remain free and equal in rights.” Article 2 stresses liberty, property, security, and resistance to oppression and the principle of sovereignty is addressed in Article 3. For freedom of participation, it states that every citizen has a right to participate and no person shall be accused, arrested, or imprisoned in the absence of prescribed law. If human beings are allegedly charged of an offense, all persons are held innocent until they shall have been declared guilty as stated in Article 9. Article 11 addresses freedom of communication and states, „Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law.”

2.2.1.5 United Nations and Origin of Human Rights

After the widespread damages of World War II, the world’s states determined to constitute an international system of laws and treaties to protect the world from any more ravage. The world’s nations, therefore, created the United Nations (UN). The preamble of UN proclaimed the intention to save successive generations from the torment of war to maintain international peace, to take action against aggression, and to develop friendly relations among nations. It aimed at solving the international problems of economic, social, cultural, and humanitarian character,
in addition to promoting and encouraging respect for human rights and fundamental freedoms\textsuperscript{10}.

Article 1 (3) of the Charter of the United Nations affirms to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion\textsuperscript{11}. Similarly, Articles 55 and 56 of the Charter state the obligations of member States, particularly to promote human rights „without distinction of race, sex, language or religion” (Quinn:1999:15).

UN introduced the International Bills of Human Rights (IBHR) which consist of three documents: the Universal Declaration on Human Rights (1948), the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Similarly, the implementation of protection of civilian persons, unarmed combatants and hostages has become the sole international concern at the time of war. Thus, human rights have become an international concern rather than sternly domestic issues only. Gradually, the United Nations has also codified the rights concerning the requirements of men, women, children, refugees, and minorities.

### 2.2.1.6 Universal Declaration on Human Rights

The United Nations General Assembly in its 183rd session on December 10, 1948 adopted Resolution 217 A (III) (Savic:1999:3) and proclaimed the first comprehensive human rights instrument called Universal Declaration on Human Rights (UDHR). This date is widely observed as Human Rights Day. The preamble of UDHR recognizes that the inherent dignity and equal and inalienable rights of all members of the human family are the foundation of freedom, justice, and peace in the world and it is essential to promote friendly relations among nations. The United Nations Charter has also reaffirmed faith in fundamental human rights, in the dignity and worth of human person, in the equal rights of men and women, and is determined to promote social progress and better standards of life.

The UDHR is one of the greatest documents of human liberty securing its place along side the Magna Carta, France’s Declaration of Rights of Man and the Citizen, and America’s Declaration of Independence. Its 30 articles address civil and political rights as well as economic, social and cultural rights. The Preamble of the document clearly states its intent: „Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief, freedom from fear and want has been proclaimed as the highest aspiration of the common people.” It is also stated in the Preamble that human rights should be protected by the rule of law.

The UDHR is based on the principle of non-discrimination in regard to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, if any. It is the foundation of all human rights. Banning of slavery is assured in Article 4 which says: „No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their
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forms. Article 5 prevents mental and physical abuse by declaring: „No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment.“ Similarly, the equality before law is assured in Article 7 (first paragraph): „All are equal before the law and are entitled without any discrimination to equal protection of the law.“ Prohibition of discrimination in Article 7 (second paragraph) states: „All are entitled to equal protection against any discrimination in violation of the declaration and against any incitement to such discrimination.“

Due process of the constitutional remedy is adopted in Article 8: „Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him/her by the constitution or by law.“ Article 9 ensures, „No one shall be subjected to arbitrary arrest, detention or exile.“ Protection in respect of conviction for offenses is laid out in Article 11, „(i) Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense. (ii) No one shall be held guilty of any penal offense on account of any act or omission that did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.“

Freedom to walk, reside and leave is adopted in Article 13, „(i) Everyone has the right to freedom of movement and residence within the borders of each state. (ii) Everyone has the right to leave any country, including his own, and to return to his country.“ Freedom of religion is secured in Article 18: „Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.“ Considering the freedom of expression, Article 19 says, „Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.“ There is equal opportunity for the citizen to participate in the government as stated in Article 21: „(i) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (ii) For free and impartial elections ensuring the adult franchise, Article 21 (iii) guarantees, „The will of the people shall be the basis of the authority of government; this will be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

Economic, social and cultural rights are ensured in Articles 22 to 29. Protection and security to each member of society in each state is assured in Article 22, „Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.“ Equal employment opportunity to all in favorable conditions is provided in Article 23 (i) which states, „Everyone has the right to work, to free
choice of employment, to just and favorable conditions of work and to protection against unemployment. Right to equal pay for equal work to both sexes has been ensured in Article 23 (ii). Freedom of trade union is assured in Article 23 (iii), “Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.” Equality for basic rights is secured in Article 25 to each individual, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” The guarantee to free education and access to higher education is provided in Article 26 (i) which states, “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.” Similarly, free participation in the cultural life of the community and free and full development of personality have also been clearly mentioned in Articles 27 and 29.

In general the UDHR tends to:
- Right to equality (Art. 1, 2, and 7);
- Right to freedom (Art. 3, 6, 13.2, 16, 18, and 19);
- Right against exploitation (Art. 4);
- Right against torture (Art. 5);
- Right to tribunal (Art. 8, 9, 10, and 11);
- Right to privacy (Art. 12);
- Right to asylum (Art. 14);
- Right to participation (Art. 15, 20, and 21);
- Right to own property (Art. 17);
- Right to social security (Art. 22 and 23);
- Right to rest and leisure (Art. 24);
- Right to adequate living standards (Art. 25);
- Right to education (Art. 26);
- Right to culture (Art. 27);
- Right to realization (Art. 28); and
- Right to personal duties (Art. 29 and 30).

The declaration is not a treaty, which means that it is not a binding document as such. However, the UDHR is the father of all kinds of treaties or enforcement of law concerning human rights and fundamental freedom. The International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination 1965 are legally binding with complaint mechanism. The International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child 1989, Protection of Civilians during Hostilities such as Geneva Convention Relative to the Protection of Civilian Persons in the Time of War 1949, Protocol Additional to the Geneva Convention of August 12 and Relating to the Protection of Victims of International Armed Conflicts
(Protocol of June 1977), Vienna Declaration, etc., and other human rights authoritative treaties that were taken on in succeeding years do place responsibilities on its signatories, and are known as obligatory treaties with enforcement mechanism.

2.2.1.7 *Geneva Convention 1949*

Geneva Convention relative to the Protection of Civilian Persons in Time of War, i.e. Laws of War were completed on August 12, 1949 and came into force on October 21, 1950. Perhaps the greatest humanitarian law of war over the centuries has to incorporate the care that is granted to prisoners of war, which reached the zenith in the Geneva Convention of 1949. The articles of the convention are extremely detailed and give full attention to the rights of prisoners at the time of war. Broadly speaking, the convention provides benevolence to the belligerents· state, party or nation. Part I, Article 3 stresses that in cases of armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth, health, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) harms upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court. Besides, the detainees will be afforded all the judicial guarantees which are recognized as indispensable by civilized peoples. The wounded and sick shall be collected and cared for.

The high contracting parties may ask the Red Cross for social service in wartime. The underlying principles of the convention state that combatants, non-combatants, and followers are to be considered with humanity and protected against violence and fierceness. In general, the laws of war ensure:

- Right to protection and respect for prisoner of war (Art.27);
- Right to aid or relief (Art.29);
- Right to freedom from murder, torture, etc. (Art. 32);
- Right to leave the territory (Art.35);
- Right to repatriation (Art.38);
- Right to employment (Art.39);
- Right to freedom from death penalty (Art.68);
- Right of the hostages (Art.71);
- Right to a fair trial (Art.72);
- Right to attain evidence and call witnesses for safeguard (Art.73)
- Right to appeal (Art.74);
• Right to petition against a death sentence (Art.75);
• Right to provide sufficient nutritional food (Art.89 and 90);
• Right to health (Art.91 and 92); and
• Right to manage enough goods (Art.97 and 98).

Fair working hours and conditions must be provided to the internees out of the areas of war operations, and dangerous work is prohibited. Sick and wounded persons are to be returned to their own country and dead bodies should be buried with distinct marks notifying their families and relatives. International relief societies such as the Red Cross shall help execute the rules for prisoners of war, exchange of prisoners, and repatriations.

2.2.1.8 International Covenant on Civil and Political Rights

The General Assembly Resolution 2200A (XXI) adopted the International Covenant on Civil and Political Rights (ICCPR) on December 16, 1966 and opened it for signature, ratification, and accession which finally came into force on March 23, 1976 in accordance with its Article 53. The ICCPR strictly limits the absolute rights of any state. It includes: „The right to life · no arbitrary killing; freedom from arbitrary arrest, torture, cruel, inhumane or degrading treatment and punishment; freedom from slavery, slave trade, forced servitude and forced labor; and freedom from punishment.‰ Article 6(v) prohibits death sentence for crimes committed by persons below 18 years old and pregnant women. The right to a fair trial consists of „equality before the law, free trial, hearing and non-retroactivity of law.‰ Equality before the law means non-difference among groups and individuals with regard to skin color, sex, language, religion, race, caste, ethnic background, wealth and property, and social or national origins. Article 3 of ICCPR undertakes to ensure the equal rights of men and women to the enjoyment of all civil and political rights. The ICCPR guarantees against arbitrary expulsion of foreigners and states that all persons shall be equal before courts and tribunals. Similarly, it also protects the family and children as the natural and fundamental group unit of society.

The ICCPR guarantees „the right to participate in public affairs and voting rights to freely choose the representatives through adult franchise.‰ The right to freedom of opinion ensures the right to privacy, freedom of religion and freedom of expression. In Article 19 (i), it is assured, „Everyone shall have the right to hold opinions without interference.‰ The political rights protect personal liberty and security which assure freedom of association, freedom of peaceful assembly, and freedom of movement and reside within the country. A summary of the article is given below:

• Right of self-determination (Art.1);
• State obligations against discrimination/inequality (Art.2);
• Equal rights to men and women (Art.3);
• Individual rights even in public emergency (Art.4);
• Right against restriction or derogation (Art.5);
• Right to life (Art.6);
• Freedom from torture (Art.7);
• Freedom from slavery and slave trade (Art.8);
Freedom from arbitrary arrest or detention (Art.9 and 11);
Tribunal rights (Art.10);
Right to liberty of movement and freedom to choose (Art.12 and 13);
Equal rights before the tribunals and courts (Art.14, 15, and 26);
Right of privacy and secrecy (Art.16);
Religious rights (Art.17);
Right to freedom (Art.19, 20, 21, and 22);
Marriage rights (Art.23);
Child rights (Art.24);
Rights to political participation (Art.25); and
Ethnic and linguistic rights (Art.27).

The Optional Protocol on Civil and Political Rights 1966 has a complaint mechanism to which Nepal has been a state party.

2.2.1.9 International Covenant on Economic, Social and Cultural Rights

The General Assembly Resolution 2200A (XXI) adopted the International Covenant on Economic, Social and Cultural Rights (ICESCR) and opened it for signature, ratification, and accession on December 16, 1966 which finally came into force on January 3, 1976 in accordance with its Article 27. The preamble of ICESCR and the Charter of the United Nations have proclaimed the inherent dignity and equal and inalienable rights of all members of human family as the foundation of freedom, justice and peace in the world. The economic rights of ICESCR recognize the right to work under just and favorable conditions and include, „the right to freely choose to work to earn one’s living, the right to an adequate remuneration with equal pay for equal work for both sexes, freedom from slavery, the right to strike by joining or and uniting international trade-union organizations.”

The social rights include the protection of family by means of special statutes for children and for mothers before and after child-birth, and the protective right to an adequate standard of living including „adequate food, housing and clothing.”

The social rights also include „the right to enjoyment of the highest attainable standard of physical and mental health.”

The cultural rights emphasize upon the „right to education – compulsory and free primary level education, generally available vocational and technical secondary education and equal access to all on the grounds of merit and capacity in higher level education,” the right to participate in cultural life and to enjoy the benefits of scientific progress. The rights of minorities to enjoy their own culture, religion, and language are also included in the cultural rights.

The ICESCR requires that each affirming state must promise to respect, protect, and ensure all individuals with the rights inside its colony and reveal its jurisdiction of the rights recognized in the existing covenant, in case of default of any kind. Both ICCPR and ICESCR stress upon the common rights of all people for self-determination and free disposal of natural worth and resources „based on the fundamentals of mass benefit and international law” The ICESCR contains 52 articles, but only 15 listed below are generally applicable to all.

- Social and cultural rights (Art.1);
- State obligations (Art.2, 3, and 4);
Right against restriction or derogation (Art.5);
Right to work (Art.6);
Equal pay for equal work (Art.7);
Right of everyone to form unions, associations and join them (Art.8);
Right to social security (Art.9);
Protection to children (Art.10);
Right to adequate food, clothing and housing (Art.11);
Right to health (Art.12);
Right to education (Art.13 and 14); and
Patent rights (Art.15).

2.2.1.10 Convention to Eliminate Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) adopted by General Assembly of the UN as Resolution 2106 A (XX) of December 21, 1965 entered into force on January 4, 1969. It contains 25 articles. Racial isolation and discrimination are outlawed by ICERD and "any distinction, exclusion, restriction, or preference based on race, color, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedom in the political, economic, social, cultural or any other field of public life" as stated in Article 1 are prohibited. "This definition has been interpreted by the International Court of Justice as being an authoritative definition of the United Nations Charter's non-discrimination clause" (Quinn:1999:26).

The convention does not apply to the relations between national citizens and foreign citizens. State parties ensure and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms by any person, group or institution. The signatories also declare the following as an offense punishable by law: all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another color or ethnic origin. Everyone without distinction as to race, color, national or ethnic origin is empowered to "equality before the law and equal treatment before the tribunals and all other organs administering justice." Social security provides "the right to security of person and protection by the state against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution." Similarly, political rights ensure "the rights to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the government as well as in the conduct of public affairs at any level and to have equal access to public service."

Out of 25, seven articles are very much important, which contain:
• Definition of caste/racial discrimination (Art.1);
• State obligations to abolish caste-based discrimination (Art.2);
• Eradication of caste-based/racial segregation and apartheid (Art.3);
• Eradication of all incitement to, or acts of, caste/racial discrimination (Art.4);
• Civil, political, economic, social and cultural rights (Art.5);
• Effective protection and remedies (Art.6); and
• Education, culture and information (Art.7).

The government of Nepal has ratified the ICERD with a reservation on Article 4. As a result, the government is not obliged to implement the provision of the convention. On the other hand the reservation has suspended the complaint mechanism.

2.2.1.11 Women’s Rights

The rights of women have been ensured by the (i) Convention on the Political Rights of Women adopted by the General Assembly of the United Nations as Resolution 640 (VII) of 20 December 1952 which came into force on July 7, 1954; (ii) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted by the General Assembly of the United Nations as Resolution 34/180 of 18 December 1979 and entered into force on September 3, 1981; and (iii) Declaration on the Elimination of Violence against Women adopted by the General Assembly of the United Nations as Resolution 48/104 of 20 December 1993. The Convention on the Political Rights of Women consists of 11 articles that have guaranteed voting rights in all elections, eligibility for election to all publicly elected bodies, ability to hold public office and to exercise all public functions, etc. on equal terms with men, without any discrimination.

Similarly, the CEDAW consists of 30 articles and has ensured various women’s rights. The Preamble of the Convention reaffirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and have rights without distinction of any kind, most specifically the distinction based on sex. It also states that men and women are equal to enjoy all kinds of rights such as economic, social, cultural, civil, and political rights. The Declaration on the Elimination of Violence against Women consisting of 6 articles has emphasized upon the urgent need for universal application of women’s rights with regard to equality, security, liberty, integrity, and dignity of all human beings.

In summary, CEDAW articles consist of:
• Definition of discrimination (Art.1);
• State obligations to get rid of discrimination (Art.2);
• The development and advancement of women (Art.3);
• Special measures for substantive equality (Art.4);
• Women roles and stereotyping (Art.5);
• Right against trafficking and sexual exploitation (Art.6);
• Women’s participation (Art.7);
• Women’s representation (Art.8);
• Nationality (Art.9);
• Education (Art.10);
• Employment (Art.11);
• Health (Art.12);
• Social and economic benefit (Art.13);
• Rural women (Art.14);
• Equality before and under law (Art.15); and
• Marriage and family life (Art.16).

The Optional Protocol to CEDAW convention has ensured a complaint mechanism.
2.2.1.12 Convention to Protect the Rights of the Child 1989

The Convention on the Rights of the Child (CRC) adopted and opened for signature, ratification and accession by the General Assembly of the UN as Resolution 44/25 on December 20, 1989 had entered into force on September 2, 1990. Prior to the Convention on the Rights of the Child\textsuperscript{13}, the general human rights standards set forth in various conventions, covenants and declarations were applicable to all members of human society. After the establishment of children’s rights\textsuperscript{14}, a single legal instrument has brought together all the concerned rights to be approved by the international community and to spell out in a complete manner the rights to which every child is entitled, regardless of where it is born or to whom and regardless of sex, religion, or social origin. It contains 54 articles. Article 2 affirms, „State Parties shall respect and ensure the rights set forth in the present convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or its parents’ or legal guardian’s race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disparity of birth or other status.” The convention stresses upon best interests of the child in Article 3, maximum survival and development of the child in Article 6, and child participation in any judicial and administrative proceedings in Article 12.

The rights to freedom of expression; freedom of thought, conscience and religion; freedom of association and freedom of peaceful assembly are clearly mentioned in Articles 13, 14, and 15 respectively. No child shall be subjected to arbitrary interference with his/her privacy, family, home or correspondence, as ensured in Article 16. Similarly, it is stated that parents have the primary responsibility for the development of the child. State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, abuse, etc. Likewise, the issues of child adoption, refugee children, disabled children, child labor, social security, education, child rest and leisure are also mentioned in the same convention.

In general, the CRC clarifies the following:
- Definition of children (Art.1);
- Right to non-discrimination (Art.2);
- Best interest (Art.3);
- Implementation of the rights (Art.4);
- Guidance of parent and evolving capacity of children (Art.5);
- Right to life and development (Art.6);
- Right to name and nationality (Art.7);
- Right to preservation of child identity (Art.8);
- Right to live with his/her parents (Art.9);
- Right to be reunited with the family (Art.10);
- Protection to children (Art.11);
- Freedom of expression (Art.12 & 13);
- Freedom of thought, conscience and religion (Art.14);
- Freedom of association (Art.15);
- Protection of privacy (Art.16);
- Access to information (Art.17);
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- Responsibilities of parents (Art.18);
- Protection from abuse and neglect (Art.19);
- Right to live with his/her parents (Art.20);
- Adoption (Art.21);
- Protection to refugee children (Art.22);
- Protection to handicapped children (Art.23);
- Right to health (Art.24);
- Periodic review of children (Art.25);
- Social security (Art.26);
- Standard of living (Art.27);
- Right to education (Art.28 and 29);
- Children of minorities (Art.30);
- Right to leisure and participation in cultural activities (Art.31);
- Child labor (Art.32);
- Protection from drug abuse (Art.33)
- Protection from sexual exploitation and abuse (Art.34);
- Protection from sale and trafficking (Art.35 & 36);
- Freedom from torture (Art.37);
- Armed conflicts (Art.38);
- Rehabilitation (Art.39); and
- Administration of juvenile justice (Art.40).

2.2.1.13 Second World Conference on Human Rights 1993

The First World Conference on Human Rights was held in Tehran in 1968 and it had mainly focused on the rights to self-determination, fundamental freedom from colonialism, and protection of natural resources.

The Second World Conference on Human Rights was held in Vienna from June 14 to 25, 1993. The conference was able to carry out a comprehensive analysis of the international human rights system, considering the promotion and protection of human rights in the international community. The Vienna Conference was organized to fulfill and universally respect and observe human rights and fundamental freedoms for all without distinction of race, sex, language or religion or nation. The conference confirmed its adherence and respect toward the principles of equal rights and self-determination of people, peace, democracy, justice, equality, rule of law, pluralism, development, better standards of living and solidarity. As Article 56 of the Charter of the United Nations emphasizes upon the development of effective international cooperation, hundreds of state representatives actively participated in the conference.

The speedy and comprehensive elimination of all forms of racism and racial discrimination, xenophobia and related intolerance was a priority task for the international community. All the governmental, inter-governmental, and non-governmental bodies were urged to intensify their efforts against such evils. To abolish the terrorist activities, the convention affirmed that „the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism. % Eradication of all forms of discrimination such as political, civil, economic, social, sexual, and cultural was objectively prioritized. The conference
also reaffirmed the obligations of states to ensure the minorities’ rights, equality before and under law in accordance with the declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities. Prevention from genocide, ethnic cleansing, systematic rape of women in war times, and rights of migrant workers were also ensured by it. Considering the defense and protection of children, it stated, “national and international mechanisms and programs should be strengthened for the defense and protection of economically deprived children, sexually exploited children (including child pornography, child prostitution), sale of organs, children victims of diseases including acquired immune deficiency syndrome (AIDS), refugee and displaced children, children in detention, children in armed conflict, as well as children victims of famine and drought and other emergencies.” Children rights reiterated the principle of “First Call for Children,” the right of the disabled persons, and freedom from torture. The conference also stressed upon continued dialogue and cooperation between governments and non-governmental organizations.

Considering upon enforced disappearances, the conference assured, “The World Conference on Human Rights, welcoming the adoption of the declaration on protection of all persons from enforced disappearances by the General Assembly, calls upon all states to take effective legislative, administrative, judicial or other measures to prevent, terminate and punish acts of enforced disappearances.”

Because of the differences between the West and other nations over human rights, the conference could not achieve consensus. On the one hand, North American and European countries appeared as one bloc; on the other hand, fifty non-western countries appeared as a strong threshold in the conference. Out of 50, 15 countries such as Cuba from Latin America; four Confucian countries such as China, North Korea, Singapore, and Vietnam; nine Muslim countries, viz. Indonesia, Iran, Iraq, Libya, Malaysia, Pakistan, Sudan, Syria, and Yeman; and Burma were very active. Despite very significant economic development and politico-ideological differences, the four Confucian countries made a united appeal against “human rights imperialism” of the United States of America. The Asian-Islamic countries raised questions of universalism versus cultural relativism and civil and political rights versus the right to development. Two months before the Vienna Conference, the Asian countries met in Bangkok and endorsed a declaration which emphasized that human rights must be considered in the context of “national and regional particularities and various historical, religious, and cultural backgrounds,” that human rights monitoring violates State sovereignty, and that conditioning economic assistance on human rights performance was contrary to the right of development (Huntington:1996:196). The Vienna Declaration contained no positive endorsement of the rights to freedom of speech, press, assembly, and religion, and was, thus, in many respects weaker than the UDHR, except regarding the endorsement of women’s rights.
2.3 Hindu-Buddhist Perspective

"Praja Sukhe Sukham Rajya: Prajanam Cha Hite Hitam, Natmapriyam Hitam Rajya: Pragyanam Tu Priyam Hitam (If people feel happy, the king feels happy; if people benefit, the king too benefits. When he himself likes to work, there is no benefit to the king; but if people like to work, there is benefit to the king)."

- Kautilya Arthasastra (Gairola:1996:64).

The western developed democratic states, except the Scandinavian and a few other highly developed European countries, prioritize civil and political rights (individual liberty), whereas the non-western traditional societies and developing countries stress upon the economic, social, and cultural rights (collective rights) to primarily ensure "social justice." The non-western or Asian notion of human rights envisages an individual as an integral part of the collective whole, which is based in cultural norms, values, and customs such as a kinship system, a tribe, a local community, and so forth. The great majority of the world's population raises its voice in support of collective basic rights such as food, housing, clothing, education, and primary health care. Lal Deosa Rai states:

"The Third World countries directly confronted the western assumptions on human rights at the United Nations by passing the Resolution 32/130 on alternative approaches ... for improving the effective enjoyment by the overwhelming majority, which placed collective rights - including national sovereignty over natural resources - ahead of civil and political rights (1995:26).

"The irrelevance of the western conception of human rights founded on natural rights doctrines is not rooted solely in traditional cultural patterns, but is also a consequence of the articulated modernization goals of the Third World countries (Pollis and Schwab:1979:117). Non-western societies have primary linkage on the "socio-economic nexus," redefined in the concepts of human rights.

Cultural dimensions, ideological perspectives, and goals of development have greatly influenced the norms, values, and principles of human rights in traditional non-western societies. Khanal said: "The administrative reforms and social justice are directly or indirectly related with religious myth and realities since the beginning of human civilization in the under-developed or developing Asian Hindu-Buddhist countries like Nepal. Classical Hindu philosophy is basically centered on the principle of justice and morality (2000:1). Nepalese society has developed through the ancient tradition and culture of Hindu-Buddhist origin. The theology of Hindu-Buddhist conception, i.e. "good governance," has originated from what is called dharma. Dharma is also called sacred law. It is a science of law and social justice. It has been said that the science of law, justice, and rational principles were the rules responsible for promoting social, economic, and moral values in the universal order (Khanal:2000:1).

The governing principle of dharma - rights and duties of individuals with respect to different classes, communities, and castes have been dealt with in many scriptures such as Vedas and its revelations. Rig Veda cites three civil rights, that of tana (body), skridhi (dwelling place) and jibhasi (life) (Kumar:1998:60). Mahabharat tells about the importance of the freedoms of individual (civil liberties) in the state (Kumar:1998:60). Arthashastra elaborates on civil and legal rights first formulated by Manu which also included economic rights (Kumar:1998:60).
The principles of dharma in Manu-Smriti delivers the classification of law and its punishment such as quarrels, theft, payment, and debt, etc. Dharma is also synonymously concerned with paramatma (soul of god), brahmanda (universe), swarga (heaven), and narka (hell). Historically, the concept of dharma was the prominent governing rule of the Hindu-Buddhist tradition. In general, civil and criminal laws had developed only after the emergence of Vedic period (6th century B.C.).

According to Gandhism, dharma has a place even higher than moksha (eternal emancipation) (Rai:1998:50). Broadly speaking, the traditional, cultural, and spiritual dimension of dharma is based on artha (power), karma (action), and moksha (salvation). Surya Dhungel writes, „The word dharma refers to the privileges, duties, and obligation of man, his standard of conduct towards God, to society and to himself, and the concept of dharma was a moral standard against which all religious, political, and social actions were to be tested, thereby defining relations between man and his society‰ (1998:14).

Buddha stresses upon the performance of creative process which occurs into effective dharma; it is not an individualistic approach but rather a collective one. There is an intimate and vital relationship of the Buddha dharma with human rights (Robert Traer:1995:5). Ambedkar argued that for Buddhists, the dharma is the universal doctrine which protects the weak from the strong, which provides common models, standards and rules, which safeguards the growth of the individual and it is what makes liberty and equality effective (Traer:1995:5). D.R. Jatava states that the nature of dhamma (dharma) can be summarized as: (i) to maintain purity is dhamma, (ii) to reach perfection in life is dhamma, (iii) to live in the state of nirvana is dhamma, (iv) to give up craving, egoism and greed is dhamma, (v) to believe in impermanence is dhamma, and (vi) to believe in karuna as the instrument of moral life is dhamma (1998:93). The Hindu-Buddhist theology directly concerns itself with the divine concepts of dharma (law and governance). However, the followers of Gautam Buddha15, who himself was a Hindu prince, later developed Buddhism as a religion from the works and contributions of Buddha.

Nepal is heavily influenced by the diversity of its races, religions, and cultures and primarily by its Hindu-Buddhist conceptions. The concept of law and governance rose with the development of monarchy in Nepal, which has always been an indigenous institution16.

The concept of dharma developed and flourished with the development of the institution of monarchy in the kingdom of Nepal. It is believed that the king is the incarnation of the god Bishnu who functions as „creator” and „preserver” of the universe, man, and society. Dharma was governed by Rajdharma (KingEs code) and dandaniti (the rules of punishment). Thus, the Hindu-Buddhist society consisting of both the rulers and the ruled people accepted the constitutionalism through the means of dharmasastras. The dharmasastras function as the directive principles of usage and custom of the country. The responsibilities and duties of the kings were clearly mentioned in the dharmasastras as per the customary law, practice, and usage. There is no written and clear-cut legislative power of the king
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in any of the dharmasastras, but it is used as customary law, ordinance, and obedience. Rai writes, „Dharmasastras did not contain systematic exposition of legal and political principles, they did indicate clearly that the king administered organized criminal justice of the assumption that a crime is the violation of dharma … penalty is the form of fine‰ (1995:74). Any violation of dharma was a sin, liable to penalty according to the gravity of sin (Dhungel:1998:16). Thus, the dharmasastras had become the most powerful directive principles and integrating force in Hindu-Buddhist society. In fact, Nepalese kings ruled throughout history by administering justice based on Vedas and religious epics. The social hierarchy in the Varna (caste) system comprised of Bahun, Chhetri, Baisya, and Sudra was formed for the division of labor in the beginning of the Hindu-Buddhist society. However in later stages, it merely transformed into a deep-rooted superstition and developed into a semblance of the order in society that continues even today.

People of Nepal are divided into two sects based on Hindu-Buddhist beliefs. The Indo-Aryan people believed in Hinduism and the Mongoloids in Buddhism. „Generally, the Aryan people were the adherents of Hindu religious faith and they had been divided into different sects and the Mongoloid people were the adherents of Buddhism and its different sects‰ (Thapa:1995:4). However, both developed their notion of rights from ethical principles. There is a clear junction between Hindu-Buddhist ethics and the modern liberal concept of human rights, particularly responsibility and indivisibility or interdependence. The principal teachings of Buddhism are: kindness, non-violence, and compassion. The Buddhist concept recognizes dignity and equal rights of all human beings. All human beings, according to Buddhism, are equal and each has the potential to realize the truth by his or her own will and endeavor, and each can help others to realize it (Vesakh Human Rights Day:1998). The teachings of Buddha recommend a universal spirit of brotherhood and sisterhood. Buddhism is widely considered as the most merciful of all religious traditions. On the whole, Buddhism is the way of peace and non-violence, not only individually, but also in collective practice.

Robert Aitken agrees, „The Buddha’s own teaching was egalitarian and democratic to the core‰ (1988:77). Gautam Buddha has primarily focused on liberty, equality, and fraternity. Fraternity is another name for democracy, which is essentially an attitude of respect and reverence towards [one’s] fellow men (Saheb:1979:3). Fraternity is another form of morality of brotherhood and sisterhood.

To be liberated from the basic problem, of life, i.e. duhkha (suffering), sukha (contentment, happiness, joy, etc.), and trishna (desire) come as obstacles in the spiritual path. The problem of suffering and its cause can be ended by following the eight-fold path which is the core of Buddhist discipline: First, shila (morality) which includes right speech, conduct, and right livelihood. Second, samadhi (mental discipline) which provides right effort, right mindfulness, and right concentration, and finally prajna (intuitive insight or wisdom) which includes right views and intentions (New Encyclopaedia of Britannica:2001:vol.4/690). The Encyclopaedia states:
Out of three, *shila* is very important in terms of human rights perspectives in Buddhism. Right speech means refraining from lies, malicious talk, and abusive language, while right conduct refers to not stealing or killing and to the prohibition of unchastity. Right livelihood signifies refraining from earning a living by improper means, that is, by killing, astrology or fortune-telling. It also implies the positive virtues of friendship, compassion, sympathetic joy, and equanimity (New Encyclopaedia of Britannica:2001:vol.4/690).

The diversity of cultures and civilizations, beliefs, and traditions, histories and aspirations reflected in the politico-legal system gives rise to ever-changing meaning to such terms as human rights and fundamental rights (Rai:1995:35). Indeed, Nepal is a country of unity in diversity, which has a variety of "flowers in a garden".

Buddha appeared in the world for the good and happiness of many, for the benefit, for the advantage, and for the happiness of gods and men (Payutto:1994:Buddhism and Human Rights). If a man speaks or acts with a good thought, happiness follows him like a shadow that never leaves him (Payutto:1994:Buddhism and Human Rights). Broadly speaking, religion helps people to live together in peace. Payutto states: "All men are born equal in some respects. In many respects, no man is born equal to any other man. Man's mistreatment of, or wrong attitude towards, this equality and inequality has given rise to all kinds of problems, from the social to spiritual ones" (Payutto:1994:Buddhism and Human Rights).

Buddhism believes that freedom of self-development and happiness is the perfect foundation for the Buddhist ethics for everyone for the right to self-determination. A Hindu Buddha, frequently refutes the caste system of Hinduism for the equality of human beings in all communities and classes, which ultimately comes under the law of *dharma*.

Despite the traditional caste discrimination and deep-rooted social evils, Buddha transformed attitudes of respect and obedience as per the Hindu notion of *dharma* into universal morality and reality. Ambedkar states, "By admitting members of lower casts and women into the Bhiskhu Sangha, the Buddha took concrete steps to destroy the gospel of inequality" (1980:7). Indian scholar Y. Balaramamoorty says:

"Buddha raised the slogan of revolt. Everything changes. Nothing is permanent. Buddha openly attacked in hundreds of his sermons - brahminical tyranny, the *Varna* system, the monarchy, and inequality. His heart melted at the sufferings of the poor. When the Buddha announced that his mission in life was to liberate humanity from suffering, it had a great significance. All the oppressed and downtrodden - the low castes, the women, the poor, the indebted, and the slaves looked upon the Buddha as a great liberator" (Asian Human Rights Commission:1999:vol.9/no.9).

In *Manu-Smriti*, the caste privileges and disabilities were reflected in criminal as well as civil law (Rai:1995:75). However, caste discrimination is still widespread in all Hindu-Buddhist societies. Buddha not only rejected the prevailing caste system, but the notion of authoritarian rule in the new community. In many respects, caste discrimination is worse than slavery and apartheid. The undisputed leader of *dalits* Dr. Bhim Rao Ambedkar (1881-1956) recalling his rudimentary aspect of daily life speaks:
"I would like to tell you some of the reminiscences of my childhood. One day, I remem-
ber, I was very thirsty. I was not allowed to touch the water tap. I told my master that
I wanted to drink. He called the peon and asked him to turn the tap and drink water.
Whenever the peon was absent I had to go without water. Thirsty I had to return home
and then only I could quench my thirst% (Fernando:2000:5).

Emancipation lies in destroying caste enclosure. Without changing the attitude
of human beings through the process of socialization, the breaking of caste dis-
crimination is impossible. According to Buddhism, social liberation requires a fund-
amental change in the way of thinking. What is needed is an ,,inner revolution that replaces the currently dominant tendency% (Kakol:2000:A Socially Engaged
Process Buddhism). Ensuring Hindu-Buddhist spiritual philosophy of freedom,
equality, and fraternity, Nepalese kings were compelled to rely upon the law stat-
ing that all human beings are equal in terms of caste and sex. However, caste
discrimination is still prevalent in one form or another in Nepal.

2.3.1 Human Rights in Kirant and Lichchhavi Period

The concepts of human rights were addressed in the ancient period by the Hindu-
Buddhist conception of the *dharmic* system of ,,collective good. Unlike the present
day rule of law, however, there was no political freedom in the Kirant and Lichchhavi
periods, but there were good relations between the sovereign authority of the king
and the people. In the Kirant period (before 250), the holy text *Mundhum* was
used to maintain law and order in the country. According to it, ,,God is the source
of everything and human beings are the creation of the Almighty% (Khanal:2000:4).
*Mundhum* was the only law in the early Kirant period. The ongoing principles of
,,might is right was to some extent banned while the king developed some legal
and judicial reforms. During the Lichchhavi period (250-1140) a hereditary mon-
archy began to be organized. The kings relied upon the *dharmasastras* to learn
about the creator, protector, preserver, and promoter of the general people. The
concept of ,,collective freedom legitimized the framework of check and balance
on the principle of *dharma* that ensured social justice and freedom. The
*dharmasastras*, customs, and traditions were specifying the check and balance
for the monarchial liberal system. Ensuring *dharma* as the supreme law, the
Lichchhavi kings and the people were bound together by the nexus of duties

The Lichchhavi kings adopted the policy of collective whole by instituting the
*panchali, gosti*, and *sangha*. The *panchali* dispensed the highest level of justice.
Amsuvarma (588-621 A.D.) attempted to bring religious tolerance and equality by
adopting appropriate policies and programs. As he was constantly guided by
Kautilaya’s *Arthashastra*, he seemed to have believed in liberal monarchy and
*Dharmanaya* of the Hindu-Buddhist tradition (Rai:1995:127) to fulfill the needs of
collective faith and freedom. With the principles of *dharma* such as justice, equal-
ity, and freedom, Amsuvarma further strengthened and reformed the institutions
of *panchali, gosti*, and *sangha*. Similarly, he also decentralized some administra-
tive powers to the body of *panchayat* (Chalise:1992:64).

On the whole, the human rights had flourished in Lichchhavi era within the
realm of dharmic principles. However, many complications had arisen at all the levels of Hindu-Buddhist society. The traditional population was undermined when Buddhists showed weakness over religious purity. The people under the leadership of Narendra Dev waged a war against the ambitions of Abhira Gupta (Rai:1995:140-141) in which many people were extrajudicially and atrociously killed.

2.3.2 Human Rights in Malla Period

During the medieval Malla period (1140-1768), Jayasthiti Malla (1354-1395) legislated many rules and made a number of notable social and religious contributions to the foundation of social structure in Nepal. These can be categorized into: (a) the formation of social rules and regulations completely on the basis of Hinduism and (b) the creation of many castes and allotment of separate professions to them (Thapa:1995:4). Jayasthiti, who was a bahun too, gave high priority to Hinduism over Buddhism in reorganizing the state. Due to long-term rule of Hindu kings like Jayasthiti, Nepali society slowly lost the Hindu-Buddhist religious balance. And it subsequently formed into a Hindu state. The Varna system consisting of bahun, chhetri, baisya, and sudra was divided further into multiple castes according to the professions, which brought social discrimination and social injustices. Sudra belonged to the downtrodden class, widely known as untouchables or dalits, for example scavengers, goldsmiths, tailors, and cobblers, etc. Jayasthiti developed new regulations so that if a man married a woman of lower caste, he would be converted into the caste of the woman he had married (Thapa:1973:62). This has continued even to the present day in Nepal. Moreover, Jayasthiti imposed restrictions on the dress the untouchables could wear. He introduced the system of fines for offenses as a form of punishment, and tightened and regulated the entire caste system in general.

The Malla kings also introduced some social and economic reforms. The king of Kantipur Mahendra Malla (1529-1560 A.D.) would often take his meal only after the people have had theirs. He banned gambling. "Always benefit the people and speak truth" (Thapa:1973:244-245) was his principle. During the Malla regime, trade, industry, art, and architecture flourished greatly. The Mallas developed a civil code which benefited the society. Except during the rule of Jayasthiti Malla, both Hindus and Buddhists had harmonious relations between their creeds. People from both sects worshiped the same idol with their own rituals. Muslims were allowed to settle in the Valley when they came from India as refugees. But, they were not allowed to convert Hindus or to slaughter cows, as the Hindus worship cows even today. Similarly, Mallas allowed the Catholic missionaries and also granted them some land as birta (Thapa:1973:113-115). During the medieval period of Mallas, all religions seem to have fused together; that is why people of all religions worked together to enrich the Nepalese art even outside of Nepal. Hundreds of temples, religious edifices, monuments, and Buddhist stupas were built with exquisite architectural designs, woodcarvings, and sculptures. On the whole, Mallas accomplished a lot of social and economic reforms in Nepal, except the reinforcement of casteism.
2.3.3 Human Rights in the Shah Period

During the Shah period (1559 onwards), Ram Shah, the king of Gorkha introduced a lot of economic, judicial, administrative, and religious reforms. In the absence of standard weights and measurements for food grains, rich people used to take advantage of the poor village people. Ram Shah, therefore, introduced *mana*, *pathi*, *muri*, *tula*, and *dhak*, etc. as the measuring units of food grains. Considering the very lengthy and expensive judicial process for decision making, the king decentralized his powers to the *panchayats* which could decide on various offenses at the village level. Similarly, if a woman was accused of witchcraft, she would be banished from the village if found guilty. But if she was not found guilty, the accuser would be fined (Thapa:1973:143-144). In regard to corruption, he proclaimed that if anybody bribes the judge, he would be exiled. He also categorized capital punishment for serious crimes and offenses. A royal family member would be exiled but senior officials would be executed if the allegation in regard to capital punishment was proved. On the contrary, a *bahun* would not be put to death in any kind of offense and this had continued until 1950. The saying during his reign is still popular in Nepal, *dharma haraye Kashi janu ra nyaya napaye Gorkha janu* (If dharma is lost, go to Kashi and if justice is denied, go to Gorkha – the palace of Ram Shah). Likewise, he also made rules and regulations regarding disputes concerning water, irrigation, interest on loans, etc. (Regmi:1979:181-192). In fact, he was a very kind hearted man and he became very popular because of his views on equality and social justice.

As Prithvi Narayan strongly believed in Hindu religion and culture, he tried to impose the belief on the people (Mulyankan:2048:year10:no.1). He tried to make one nation and one caste. That may be the reason why he ordered to slash the tips of nose and ears of the people of Kirtipur, especially his opponents, that eventually weighed 18 Dharnis (Bhattachan:2000:140). Promulgating an act in 1803, he banned slavery and bonded labor for *Bahun* and *Thakuri* (Tamang:2000:22). Cow slaughtering and adoption of the wife of deceased elder brother or deceased uncle were banned. He tried to free the slaves, but did not succeed. He also tried to restrict the *sati pratha* (the custom in which the widow burns herself to death in her husband’s pyre). Nonetheless, seven or nine wives had committed *sati* on his funeral pyre.

Since then, the structure of political opportunities in Nepal has been unduly favorable to *bahun* and *chhetri* against other castes and ethnicities. When we look at the history of 240 years, we find that persons belonging to these two castes alone were able to capture about 80 percent of the seniormost position in all political, executive, judiciary, legislative and security dimensions. That has widened the gap between ethnic ruler and non-ethnic people of Nepal and it still continues.

Bhimsen Thapa also tried to introduce many reforms during his premiership. He made a lot of reforms in civil administration and courts. During his regime, land was surveyed and land tax was assessed. He also tried to abolish slavery, but could not succeed (Thapa:1973:196-97). As he was a religious man, he built the *Dharahara* and *Sundhara* as monuments.
After the Kotparwa20 bloodshed (mass massacre) of 1846, Janga Bahadur Rana became the prime minister and commander-in-chief of Nepal. He snatched all the political powers from the absolute king and vested them with the premier and the premiership was confined to the family of Ranas with the eldest brother succeeding the deceased Rana prime minister according to the roll of succession. During his regime from 1803 to 1834, he tried to introduce some constructive social reforms after his return from overseas visit where he had been greatly influenced by the British Parliament and the Napoleon Code. Ludwig Stiller writes, „The first Rana Prime Minister of Nepal, Janga Bahadur Rana promulgated the National Civil Code in 1854 after his return from France and Britain% (Stiller:1973:17) which became the first written law that repealed the old primitive laws as well as the directives of administrative bodies. This Civil Code is known as Muluki Ain, which is considered similar to the Magna Carta 1215. In Fundamental Rights and Their Constitutional Safeguards in Nepal, Tripathi states, „The preface to the Code declared that it was enacted so that everybody, high or low, could be given the same punishment for the same offense and no discrimination in the quantum of punishment could be made% (2000:20). There was high prevalence of child marriage in both sexes (a 7-year-old girl would be married to a 70-year-old man) before the time of Janga Bahadur who got it restricted through some provisions21.

While a large number of girls and women were being trafficked toward India and Tibet, he made laws prohibiting widows to go to foreign countries. Similarly, Hindu women’s civil rights, which had been severely curtailed in post-Vedic and medieval times, were advocated by a number of Hindus, including many bahuns during 19th and 20th centuries. Likewise, paternal property rights even to daughters, official recording system of workers, and judiciary systems were established during his rule (Yadav:1990:195-196). The British notion of rule of law, freedom, and equality had been guaranteed in limited scale by Muluki Ain, but could not be implemented. He made regulations to preserve the Hindu temples and Buddha bihars (monasteries). Unlike the economic and social rights, the enjoyment of civil and political rights was, however, completely banned.

Janga Bahadur was against the sati pratha and he declared it illegal, but due to the opposition from „religious quarters% he was obliged to make a provision in the legal code to the effect that the ladies who wished to commit sati could do so in the presence of the chief officer of the court (Thapa:1995:12). According to the Muluki Ain if a widow was below 16 or if her youngest son was below 16 or if her daughter was below five or if she was pregnant, she could not be allowed to commit sati. However, the sati custom was formally prohibited on July 9, 1920 (Ashad 25, 1977 BS) by the then Prime Minister Chandra Shamsher promulgating capital punishment to one who compelled a widow to commit sati. He had also performed many socioeconomic reforms such as in the judiciary, administrative, economic, and social sectors.

During the period of Rana rule, the system of kamara (male slave) and kamari (female slave) was highly practiced in feudal and aristocratic families. „The prevalent law recognized the children of slaves as born slaves doomed to serve the masters of their parents. Even a person of lower caste convicted of raping some
girl of a higher caste as well as one who defaulted to pay the government tax or revenue was also forced to serve as a slave (Tripathi:2000:33). Such inhuman and degrading practice of slavery was prohibited and the concerned masters/owners were forced to free altogether 51,519 slaves. However, a total of NRs. 500,000 (Thapa:1995:27-29) (US $ 6,667) was paid to the masters/owners on February 1925 by the government of the then PM Chandra Shamsher. Although Gautam argues that a total number of 59,873 (1995:95) slaves were freed to lead normal lives like other citizens.

In the 19th century, Bir Shamsher, for the first time, made a lot of administrative, social, economic, and judicial reforms, when he opened the Darbar High School (later turned into Bhanu Bhakta Secondary School), *Bir Pustakalaya* (Bir Library), *Bir Aspatal* (Bir Hospital), *Ghantaghar* (Clock Tower) for the sake of people's rights. Likewise, Dev Shamsher tried to construct a written constitution even in the times of autocracy, through the help of British Government, but his rivals murdered him soon. He also fixed office hours from 10 AM to 5 PM for the first time in the history of Nepal. However, Ranas administered capital punishment to Shukra Raj Shastri, Ganga Lal Shrestha, Dharma Bhakta Mathema, Dasharath Chand, and several others who opposed the *Ranaism* and sought to establish democracy in Nepal.

### 2.3.4 Evolution of Constitutionalism in Nepal

The history of constitutional law of Nepal is not very old compared to that of developed countries in the world. When the then Prime Minister Padma Shamsher Rana was pressured to construct a system for democracy, human rights, and parliament in Nepal on the British model, he expressed readiness for the establishment of political liberalization, independent judiciary, etc. in a historic speech on May 16, 1947. In regard to the formation of constitutionalism in Nepal, Joshi has outlined the following objectives: (i) establishment of a reform committee to consider plans for political liberalization; (ii) establishment of elected municipalities and district boards; (iii) establishment of an independent judiciary; (iv) authorization of seven new schools in the Kathmandu valley; and (v) publication of an annual budget for the country (1996:62). After taking opinions from the family members, courtiers, and senior officials to implement these plans, Padma Shamsher promulgated the Government of Nepal Act 1948 on April 1, 1948 (Tripathi:2000:33), which became the first written constitutional document of the Kingdom of Nepal excluding the *Muluki Ain* of 1854. It guaranteed some civil and fundamental rights. Section 4 of the Act illustrates the fundamental rights such as freedom of individual, freedom of speech, freedom of press, freedom of assembly and discussion, complete equality before the law, cheap and speedy justice, free compulsory basic education, equal adult franchise, etc. However, Prime Minister Padma Shamsher refused to usher in multi-party democracy and parliamentary system of government.

The Government of Nepal Act 1948 never came into force as Prime Minister Mohan Shamsher, Padma Shamsher's successor, showed half-hearted attitude toward the implementation of the Act. The die-hard Ranas opposed the funda-
mental rights and created suspicion among the common masses, political parties, leaders and members of C class Rana families. Democracy stalwart BP Koirala called for joint action and succeeded in merging the Nepali Democratic Congress with his own democratic socialist Nepali National Congress to form the Nepali Congress (Dhungel:1998:21). The newly formed NC and Communist party including other national forces agreed to launch massive and violent attack against the absolute state authority. King Tribhuvan himself played a very significant role by taking political asylum in India on November 6, 1950. After the tripartite agreement among the King, NC, and Ranas under the mediation of India in New Delhi, King Tribhuvan returned to Nepal on February 15, 1951 with the NC leaders and declared multi-party democracy on February 18, 1951 (Falgun 7, 2007 BS), and so ended the 104-year-old long autocratic hereditary rule of the Ranas. Thus, according to Dhungel et al, the armed movement ended achieving the following objectives: (i) The members of the constituent assembly should be elected by the people for the formation of first Democratic Constitution of the Kingdom of Nepal; (ii) The first democratic interim government should be led under the leadership of Rana Prime Minister and as per the popular aspirations of the people; and (iii) Restoring the total power from the Ranas, King Tribhuvan should continue as a symbol of unity of the nation (1998:21).

According to the advice of the council of ministers, the Interim Government of Nepal Act 1951 was promulgated by King Tribhuvan on March 30, 1951 (Chaitra 17, 2007 BS). It formally transferred all the political powers to the people, which is popularly known as the political manifesto of transferring of power. The Act is also called as Interim Constitution. During the eight years of its existence between 1951 and 1959, seven amendments were made. The second, fifth, and sixth amendments were made by the king on the advice of the council of ministers, but the rest were made by him in exercise of his extraordinary powers (Dhungel:1998:21). As the king used his extraordinary powers to amend some of the articles in the constitution by himself, he did not show honesty with his own commitment to democracy which caused dissatisfaction amongst the people.

Stressing upon social justice and freedom, the Directive Principles of State Policy of the interim constitution in Part II, Article 4 states, The state shall strive to promote the welfare of the people by securing and protecting as effectively as it may y institutions in the national life. Article 5 had given high priority to equal rights for women to create a conducive social environment. Similarly, under the same Article 5, it had ensured education, health facility, and remuneration to all. It had also protected child laborers and old-age, sick, and disabled people. Article 14 guaranteed equality before the law and equal protection of the law. No discrimination shall be made against any citizen on the grounds of religion, race, caste, sex, birth place or any of them, was stated in Article 15. Equal job opportunity to all citizens had been mentioned in Article 16. And Article 17 seems very significant in terms of the fundamental rights to all citizens:

- Freedom of speech and expression;
- Freedom to assemble peacefully and without arms;
- Freedom to form associations and unions;
• Freedom to move freely in any part of Nepal;
• Freedom to reside and settle in any part of Nepal;
• Freedom to acquire, hold, and dispose of property; and
• Freedom to carry on any profession, occupation and trade or business.

Article 18 which deals with criminal justice, states that: „(i) No person shall be punished for an act which was not forbidden by law when the act was done, nor shall be subjected to a punishment greater than that prescribed by the existing law when the offense was committed; (ii) No person shall be prosecuted or punished more than once for the same offense in a court of law; and (iii) No person accused of any offense shall be compelled to testify against himself.‟

Similarly, Article 19 guaranteed, „No person shall be deprived of his life or personal liberty except according to the procedure established by law or the rules to be made by His Majesty’s Government for public good, or for the maintenance of public order or for the security of the state.‟

Thus, Articles 18 and 19 significantly prioritized the rule of law and personal freedom. Article 32 mentions about the formation of Pradhan Nyayalaya (the Supreme Court). However, there was some confusion because the fundamental rights were under the directive principles of the state policy. After the death of King Tribhuwan, it was very difficult to apply the interim constitution properly and systematically when the successor of the throne, King Mahendra aimed to exercise active leadership as per the Hindu tradition of dharma and dharmasastras.

2.3.4.1 Parliamentary Constitution of the Kingdom of Nepal 1959

To settle inter and intra party disputes, King Mahendra successfully promulgated the third Constitution of the Kingdom of Nepal 1959 on February 12, 1959. Instead of being drawn up by the elected representatives of the people as was vowed by King Tribhuwan in 1951, King Mahendra directly formed a constitution drafting committee under the chairmanship of Bhagawati Prasad Singh. The constitutional expert of U.K. Sir Ivor Jenneings had in fact framed the constitution (www.infoclub.com.np/nepal/history_mahendra.htm). The preamble of the constitution reads:

Whereas His late Majesty King Tribhuwan Bir Bikram Shah Dev, Father of the Nation and revered descendant of the illustrious King Prithvi Narayan Shah, adherent of Aryan culture and Hindu religion, having led a great revolution for the rights and welfare of His subjects, earned immortal fame in the history of the world and was firmly resolved to establish real democracy in Nepal by giving fundamental rights to the people;

And whereas we also being firmly resolved to help our subjects to attain all-round progress and achieve the fullest development of their personality; to ensure them political, social, and economic justice; and cement the unity of the nation by bringing about political stability through the establishment of an efficient monarchial form of government responsive to the wishes of the people;

And whereas for the said purpose it is desirable to enact and promulgate a constitution for the sovereign Kingdom of Nepal, I, King Mahendra Bir Bikram Shah Dev in the exercise of the sovereign powers of the Kingdom of Nepal and prerogatives vesting in us in accordance with the traditions and customs of our country which devolved on us from
our august and respected forefathers, do hereby enact and promulgate this fundamental law entitled, „The Constitution of the Kingdom of Nepal.”

The preamble itself guaranteed political, social, and economic rights to the people. Nonetheless, it magnified the importance of Aryan culture and Hindu religion. If the king himself advocates for Aryan culture and Hindu religion, how can he treat equally or provide social justice to the non-Hindu people? The preamble proclaimed that the King granted the constitution as a „royal offer to the people.” In addition, the prerogative rights and provisions of emergency powers of the king might mean a return to autocracy. „Under the emergency provisions, the king could suspend or abrogate, in times of both war and peace, part or all of the constitution, except the constitutional provisions relating to the Supreme Court” (Dhungel:1998:25).

Part III of the constitution contains seven articles guaranteeing various fundamental rights to the people. Article 3 ensures for personal liberty, banning the sale of men, slavery, and forced labor. „No person shall be prosecuted or punished more than once for the same offense in a court of law and no person accused of any offense shall be compelled to be a witness against himself” is stated in Articles 4 and 5 respectively. In regard to the rights of a criminal, it is stated in Article 7, „A person arrested and detained in custody shall be produced before the nearest judicial authority within 24 hours of such arrest, excluding the period of journey from the place of arrest to such authority, and no person shall be detained in custody beyond the said period except on the order of such authority.” The constitution ensured equal rights without any discrimination on the grounds of religion, caste, sex and tribe in general life as well as in civil services and that a person shall have the freedom to profess and practice his own religion but shall be restricted to convert the religion of any another person. It had also ensured property rights. Each citizen was also ensured the following rights:

- Freedom of speech and press;
- Freedom to assemble without arms;
- Freedom to form associations and unions; and
- Freedom to reside and settle in any part of Nepal.

According to the constitution, the prime minister could be appointed by the king, but he would have to prove a majority in the lower house. On the recommendation of the prime minister, the king appointed ministers. The first democratic constitution based on the parliamentary system was formed. The constitution ensured for two houses: Pratinidhi Sabha (the House of Representatives or Lower House) consisting of 109 members and Mahasabha (the Senate or Upper House) with 36 members. Nepal was divided into 109 constituencies, one member to be elected to Pratinidhi Sabha from each constituency. Half of the members of Mahasabha were to be elected by the members of lower house and the remaining half to be nominated by the king.

As King Mahendra was unwilling to accept the British model of monarchy and the first elected PM BP Koirala was trying hard to keep himself put as representative of the people, sharp differences emerged between them. The king wanted to
actively hold power and restore the absolute monarchial powers while BP Koirala strongly desired to minimize the king's role as per the newly formed constitution. Invoking the emergency power of the constitution of 1959, King Mahendra arrested PM Koirala without any warrant on December 15, 1960, dissolved the parliament, banned the parties, and suspended the fundamental rights along with most of the key articles of the constitution.

### 2.3.4.2 Constitution of Nepal 1962

King Mahendra promulgated a new constitution, "Constitution of Nepal," on December 16, 1962. This is known as the Royal Panchayat or simply Panchayat constitution. This was the fourth constitution for Nepal within a span of fourteen years. In accordance with some of the norms of parliamentary democracy the preamble states, "partyless democratic Panchayat system rooted in the life of the people in general, and in keeping with the national genius and tradition and as originating from the very base with the active cooperation of the entire people, and embodying the principles of decentralization," the King restored his active leadership of the nation and tried to crush the political opposition which was in favor of multi-party democracy and opposed to the indirect electoral system for national legislatures. However, Part III of the constitution under the heading of Fundamental Duties and Rights, besides enlisting some fundamental duties of a citizen, ensured the right to equality, the right to freedom, the right against exile, the right against exploitation, the right to religion, the right to property, and so forth.

In regard to sovereignty, integrity, unity, and national harmony among different groups in Nepal, Article 9 (d) directed "to maintain harmony in the society by refraining from taking action on grounds of caste, tribe, region, race, sect, class, religion or on similar grounds which results in hatred, enmity, contempt or destruction or damage to public or private property that undermine the sovereignty, integrity and unity of Nepal." To check social evils and to provide equal rights, Article 10 (ii) ensured that "no discrimination shall be made against any citizen in the application of general laws on the grounds of religion, race, sex, caste, tribe or any of them." Similarly, freedom of speech and expression, freedom to assemble peacefully and without arms, freedom to form unions and associations, etc. were guaranteed in the topic of right to freedom in Article 11 (ii). However, such freedoms were severely restricted through Article 11(iia) which directed, "Notwithstanding anything contained in Clause (ii), no political party or any other organization, union or association motivated by party politics shall be formed or caused to be formed or run." Keeping all the opposition leaders in jail, the Panchayati government prioritized economic and social rights to all the people at the expense of their civil and political rights.

### 2.3.4.3 Constitution of the Kingdom of Nepal 1990

For the restoration of democracy, a popular mass movement was started on February 18, 1990 (Falgun 7, 2046 BS) which was subsequently called off on April 9, 1990 (Chaitra 26, 2046 BS) when the king agreed to free all the political parties and to overthrow the three-decade-old non-party system. On April 24, 1990, in
view of the formation of a new constitution, Nepali Congress and United Leftist Front jointly issued the following 8-point directive which had been published in *Nepal Press Digest* of April 1990:

- The new constitution must be fully democratic;
- The king must become a constitutional monarch;
- The king must act only on the advice of the council of ministers;
- All institutions and laws not conducive to democratization must be repealed;
- Democratic rights must be ensured for all citizens;
- Institutions and processes must be developed for the protection of democracy;
- A free election must be held as soon as possible, and independent election commission must be formed for this purpose; and
- There should be press and academic freedom and equal rights for women.

The Preamble of the Constitution of the Kingdom of Nepal 1990 has ensured the following rights, which can neither be amended by the parliament nor by a constitutional commission:

- Sovereign authority to the people;
- Guarantee of fundamental rights to every citizen of Nepal;
- Consolidation of adult franchise;
- Consolidation of parliamentary system of government;
- Consolidation of constitutional monarchy; and
- Consolidation of multiparty system.

The Constitution contains a total of 133 articles in 23 parts which are as follows:

i. Preliminary (Art.1 to 7);
ii. Citizenship (Art.8 to 10);
iii. Fundamental Rights (Art.11 to 23);
iv. Directive Principles and Policies of the State (Art.24 to 26);
v. His Majesty (Art.27 to 33);
vi. Raj Parishad (Art.34);
vii. Executive (Art.35 to 43);
viii. Legislative (Art.44 to 67);
ix. Legislative Procedure (Art.68 to 72);
x. Financial Procedure (Art.73 to 83);
xii. Abuse of Authority Investigation Commission (Art.97 & 98);
ixi. Auditor General (Art.99 & 100);
xiv. Public Service Commission (Art.101 & 102);
xv. Election Commission (Art.103 to 108);
xvi. Attorney General (Art.109 to 111);
xvii. Political Organization (Art.112 to 114);
xviii. Emergency Power (Art.115);
xix. Amendment of the Constitution (Art.116);
xx. Miscellaneous (Art.117 to 127);
xxi. Transitional Provision (Art.128 to 131);
xxii. Definition and Integration (Art.132); and
Nepal is a multi-ethnic, multi-lingual, independent, indivisible and predominantly a Hindu-Buddhist country. Nepal has a variety of social systems, cultural values, customs and traditions. Based on the spiritual principle of egalitarian Hindu-Buddhist society, several legal measures have been developed in Nepal. The evolution of constitutionalism and subsequent formation of the Constitution of the Kingdom of Nepal 1990 are the products of social system, cultural values, customs and traditions of Hindu-Buddhist society.

The modern day phenomena of human rights are, essentially, as old as the origin of human civilization. In the ancient period, human rights were pronounced differently and were continuously enriched from one form to another depending upon spiritual and material needs of human beings, their interests and desires in the context of socio-cultural, political and development based dimensions. In the present day world, the practice of human rights has, consequently, become a common phenomenon throughout the world, which is directly linked with the practice of democracy from one country to another. A liberal democratic country ensures more human rights to her citizens. Adopting a liberal attitude, Nepalese Constitution 1990 guarantees fundamental human rights to every citizen. However, the state has not been able to implement them properly and systematically. The non-implementation of the provisions of the constitution, disagreements with the constitution and odd social and economic conditions have made the Nepalese democracy more problematic.

The fundamental rights and freedoms have now been incorporated in the constitutions of all democratic countries of the world, but there are questions of compliance in letter and spirit. Based on the norms, values, customs, and principles of Hindu-Buddhist tradition, the dharmasastras (rule of law and governance) and ethics of fraternity had been developed, which, in turn, helped construct the new Westminster-style democratic constitution in 1990 that guaranteed many fundamental rights and freedoms. Although, a great majority of poor, disadvantaged, marginalized, and vulnerable people are excluded from the fruits of democracy, human rights, and rule of law.

Endnotes

1 New Encyclopaedia Britannica:1993:vol.6/241
2 Destutt de TracyEs original conception may be identified by five characteristics: (i) it contains an explanatory theory of more or less comprehensive kind about human experience and the external world; (ii) it sets out a program in generalized and abstract terms of social and political organization; (iii) it conceives the realization of this program as entailing struggle; (iv) it seeks not merely to persuade but recruit loyal adherents, demanding what is sometimes called commitments; and (v) it addresses a wide public but may tend to confer some special role of leadership to intellectuals (New Encyclopaedia Britannica:1993:vol.6/241 and vol.20/768).
3 The nineteenth century was famous as the „century of ideology„. And in the eighteenth century many scholars such as Jean-Jacques Rousseau (1712-1778), John Locke (1632-1704), Adam Smith (1723-1790), Voltaire (1694-1778), Montesquieu (1689-1755), and Jeremy Bentham (1740-1832), etc. had given considerable new concepts on human rights.
Bourgeoisie refers to the class of modern capitalists, owners of the means of social production and employers of wage labour (www.marxists.org/archive/marx/works/1840/com-man/ch02.htm).

The proletariat is that class in society which draws its means of livelihood solely from the sale of its labour and not from the profit from any kind of capital; whose weal and woe, whose life and death, whose whole existence depends on the demand for labor and hence, on the alternations of good times and bad in business on the vagaries of unbridled competition. The proletariat or the class of proletarians is, in a word, the working class of the nineteenth century (www.gate.cruzio.com/..max2mao/M&E/PC47.html).

Last means poor, vulnerable, disadvantaged, and marginalized people.

After the death of Marx in March 1883, the students of the Petrovsky Agricultural Academy in Moscow wrote a letter to Engels, requesting him to tell the address and cost of funeral ceremony and wreath (www.marxists.org/archive/marx/works/1883-death/dersoz2.htm).

Four originals of the 1215 Charter remain in England. Two are in the British Library in London, one in Salisbury Cathedral, and one in Lincoln Cathedral. For many years, the document was commonly known as Magna Carta (World Book Encyclopedia:1996:vol.13/50).

The English elite had just succeeded in ousting the catholic King James who had offended the protestant Church of England by aggressively promoting the Roman Catholic religion, in spite of the laws that the Parliament had passed. William and his wife Mary were crowned as the King and Queen of England (Mary was actually the daughter of the deposed King James II) in Westminster Abbey on April 11, 1689. As part of their oaths, the new King William III and Queen Mary were required to swear that they would obey the laws of Parliament. The Bill was formally passed through the Parliament after the coronation. On December 16, 1689, the King and the Queen gave it the Royal Assent, which represented the end of the concept of divine rights of a king (1689:English Bill of Rights).

For the achievement of the above principle and purpose, the UN first recognized the sovereign equality of all nations. Second, the members, in their turn, were to fulfill the obligations assumed by them. The members of the UN undertook to settle their international disputes by peaceful means (Sen:1995:213-221).


The convention (No. IV of the Geneva Red Cross Convention for the Protection of Victims of War) was adopted on August 12, 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, convened in Geneva by the Swiss Federal Council with the cooperation of the International Community of the Red Cross. The Conference was held at Geneva from April 12 to August 12, 1949. The convention entered into force on October 21, 1950 (Encyclopedia Americana:1996:vol.7/600)

Probably this would be the biggest document amongst the conventions which has been divided into four parts. Articles 1 to 12 contained in Part I include: General provisions such as respect for the convention, application of the convention, conflicts not of an international character, definition of protected persons, derogations, beginning and end of the application, protecting powers, activities of the international committee of the Red Cross, substitutes for protecting powers and so forth. Articles 13 to 26 contained in Part II are: General protection of populations against certain consequences of war; field of application of hospital and safety zones and localities; neutralized zones; wounded and sick; general protection, protection of hospitals and staff; transport; consignments of medical supplies, food and clothing; measures relating to child welfare; family news and dispersed families.

Articles 27 to 141 included in Part III are concerned with the status and treatment of protected persons. Among them, Section I includes: Provisions common to the territories of the parties to the conflict and to occupied territories; applications to protecting powers and relief organizations; prohibition of corporal punishment, torture, etc.; individual responsibility and hostages. Section II regarding the aliens in the territory of a party to the conflict encompasses: right to leave the territory; method of repatriation; persons in confinement; non-repatriated persons; general observations, means of existence, employment, and assigned residence; transfer to another power; and cancellation of restrictive measures. Section III comprehends: occupied territories; inviolability of rights; special cases of repatriation; deportations; children enlistment; labour; protection of
workers; judges and public officials; food and medical supplies for the population; hygiene and public health; requisition of hospitals; spiritual assistance; relief; penal legislation; penal procedure; treatment of detainees and right of appeal. Section IV contains: regulations for the treatment of internees, which is further divided into Chapter I to XII. Section V consists of information bureau and central agency. Articles 142 to 159 include execution of the convention in Part IV.

13 The UN General Assembly ratified the Convention Resolution 44/25 on November 20, 1989, although a proposal for a legally binding treaty such as the Declaration of the Rights of the Child had been adopted in 1959. However, it was not a legally binding instrument as the two international covenants were. For child rights to carry the weight of international law, a convention or a covenant was required. Thus, in 1978, on the eve of the United Nations-sponsored International Year of the Child, Poland formally proposed a draft text for the Convention on the Rights of the Child. The following year, the United Nations Commission on Human Rights formed a working group to review and expand on the original Polish text.


14 The Convention on the Rights of the Child defines in Article 1: „a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier. However, the State Parties must specify whether national statute differs from the Convention with regard to the defining ages of childhood.

15 Siddhartha Gautama, the son of King Shuddhodhan and Maya, was born in Kapilbastu, Nawalparasi district, Lumbini, Nepal about 566 B.C. His mother died after seven days of his birth and he was brought up by his aunt and stepmother (Prajawati). Gautama got married at the age of 16 to a beautiful girl named Gopa from whom he had a son called Rahula. One night he quietly left the palace at the age of 29 to lead the homeless life. After wandering in search for the truth of life for six years, he was still nowhere. He had studied, practiced the most rigid penance for fifty days and yet he was where he had started. He was about to give up but by instinct he sat under the shade of a pipalbot (Bo tree), and after some concentration of his mind, the truth flashed upon him. He was from then onwards called Gautam Buddha, the Enlightened One (Thapa:1973:17).

16 The earliest kings were the chiefs of victorious warring bands ruling over small principalities. It is against this background that the prominent kings of Nepal – the Lichchhavis (from 300 to 700 AD), the Mallas (1100-1768 AD), and the Shahas (1559 AD onwards) – ruled the country from the inception of Nepal as a political state to the middle of the twentieth century (Dhungel:1998:14).

17 The idea that birth, sickness, old-age and death are merely forms of suffering is unavoidable (New Encyclopaedia Britannica:2000.vol.4/690).

18 About 42 kg.

19 He was the son of Kaji Amar Singh Thapa. He started his career with the Royal Nepalese Army. As a young, ambitious, and good looking personality he had, the then King Rana Bahadur Shah promoted him to the post of Kaji and eventually as the prime minister in which capacity he ruled for 34 years in the eighteenth century.

20 Where 55 of the nobility and high officials lost their lives.

21 The laws codified during the time of Janga Bahadur prohibited the marriage of daughters below five years of age of those castes wearing yagyopawita (sacred thread). Those who would give away the girls under the age of five years for marriage would be fined NRs. 20 (US $ 0.27) (Thapa:1995:10).

22 On November 22, 1950, Pandit Jawahar Lal Nehru, the then prime minister of India, officially announced that India was not going to recognize Gyanendra Bir Bikram as the rightful king of Nepal. When Mohan Shamsher saw that the situation was getting out of his control, he sent Kaisher Shamsher and Bijaya Shamsher to New Delhi for a peace talk. King Tribhuvan, the representatives of Nepali Congress, and those of the Rana Government all sat together to discuss the situation. At last an agreement was reached according to which King Tribhuvan wanted to form a new ministry, under his leadership, consisting of the Nepali Congress and the Ranas (www.infoclub.com.np/nepal/history/nepalhistorytopics.htm).

23 He was an advisor to the Constitution Commission.
Chapter Three

Maoists’ Demands and Their Impact on Human Rights

“You will enjoy more democratic rights under a new democracy than you are enjoying today.”
- Dr. Baburam Bhattarai

3.1 Introduction

The 40-point demands put forward by the United People's Front (UPF) have the core content of the People's War in Nepal, which are divided into three parts, viz. nationality, democracy, and people's livelihood. A delegation team of the UPF comprising Chairman Dr. Baburam Bhattarai and his colleagues had tendered a memorandum of 40-point demands to the then Prime Minister Sher Bahadur Deuba on February 2, 1996 with a 15-day ultimatum. When the premier went to India without considering the demands, the UPF declared the People's War on February 13, 1996 – the 12th day of the submission of the memorandum. In fact, the CPN (Maoist) had met briefly in January 1996 to fix the date for initiation of the historic People's War on February 13 (www.maoism.org/misc/nepal/workers/workers_1.htm) which is the first day of the month of Falgun according to the Bikram Sambat followed in Nepal. However, the then General Secretary of CPN (Maoist) Prachanda formally made the announcement of the People's War on February 18, 1996, the day following the deadline. As full text of the demand document is not available, an unofficial translation of the memorandum submitted to the prime minister is given in Annex III.I: A summarized version of the demands has been given below.

3.1.1 Demands Concerning Nationality

The half-a-century-old Indo-Nepal Treaty 1950 has not been modified despite several informal talks at different times between the prime ministers of Nepal and India to revise it according to the needs, demands, and interests of the sovereign Nepali people. Instead of taking concrete steps to revise the treaty, a senior Indian politician made a very controversial statement against the sovereignty of Nepal. In an interview to News Today, a senior leader of the Bharatiya Janata Party (BJP) and a minister of state for External Affairs K R Malkani astonished the Nepalese people when he stated, „India's founding Prime Minister Jawaharlal Nehru should have accepted the accession of Nepal into India in the 1950s when it was offered by King Tribhuvan. When asked if it would have been better had Nepal become a part of India like Sikkim in 1976, Malkani had replied: „Of course, of course” (Kathmandu Post: January 1, 2001). This statement is one example to show how
India looks at and treats Nepal.

The integrated approach to Mahakali Treaty is a visible example of Indian monopoly over Nepal’s natural rights as she has introduced a policy of expansionism and colonialism. Anyone visiting the proposed site would ask: “Where are our upper riparian rights?” Minister of External Affairs Pranab Mukherjee and his counterpart in Nepal Dr. Prakash Chandra Lohani signed the IMT on January 29, 1996 for the purpose of electrification and irrigation benefits especially to India by constructing a big dam in Pancheswor of the Mahakali river. Later it was signed by the then Prime Minister Sher Bahadur Deuba of Nepal and his counterpart PV Narasimha Rao of India on February 12, 1996 (Human Rights Year Book 1996:1997:129). As per the constitutional provision of ratification by two-thirds majority of the joint session of both houses, the treaty was ratified on September 21, 1996 by the parliament. When the UPF forwarded the 40-point demands to the then PM Deuba, he was not ready to listen anything as he was preparing to go to India to sign the Mahakali Treaty, whereas the cancellation of the treaty was a prime demand (number 2) put forward by the Maoists. As the PM signed it on February 12, the UPF announced the People’s War the following day.

N 1 Abrogate Nepal India Treaty 1950 and all other unequal agreements.
N 2 Abrogate Integrated Mahakali Treaty (IMT).
N 3 Regulate the open border between Nepal and India and prohibit entry of Indian number-plate vehicles.
N 4 Abrogate Gorkha recruitment.
N 5 Implement work permit and set up priority to Nepali workers.
N 6 Abolish monopoly of foreign capital in Nepali economy.
N 7 Implement self-reliant national economy.
N 8 Ban objectionable foreign media and control cultural pollution.
N 9 Stop imperialist/hegemonic encroachment through NGOs and INGOs.

The treaty gave rise to a much prolonged debate among all quarters such as political parties, intellectuals, and civil society. Nepalese society was distinctly divided into two segments to support and protest. The mainstream political parties, especially NC and UML (majority faction), were in favor of the treaty. The UML formed a task force headed by KP Sharma Oli in April 1996 to study the treaty and the report was subsequently made public in September 1996 incorporating both positive and negative impacts of the treaty (Human Rights Year Book 1996:1997:137). While the discussion was going on in the houses of parliament to ratify the treaty, various opponent newspapers had reported that the MPs, who had been opposing the treaty earlier, were heavily influenced by 3Ps of power, politics, and property. During that period, some newspapers reported that a huge amount of NRs.300 million (US $ 4 million) was allocated by the Indian Embassy, Kathmandu and disbursed to senior leaders to bribe the members of parliament to win them over into their fold. While I was preparing for PhD studies, I had clearly seen the majority and minority divisions. In the process to pass the decision over Mahakali Treaty, a series of central committee meetings of the UML were held for the win-lose game. For this, Madhav Kumar Nepal controlled the party and its workers and KP Sharma Oli was looking upon the parliamentarians. Similarly,
Jhala Nath Khanal and Bharat Mohan Adhikari were informally in close contact with the Indian Embassy. Due to constant pressure from within and outside, the then UML party chairman Manmohan Adhikari, who had been against the Mahakali Treaty for a long time, was compelled to become sick at the last moment and in his place alternative central committee member Bedha Raj Ghimire cast vote in favor of the treaty and the resolution was passed by a slender majority in the central committee meeting of the UML.

However, despite the whip issued by the CPN (UML) to cast vote in favor of the treaty, more than two dozen MPs boycotted the parliament at the time of voting that finally caused the split for the formation of CPN (ML) in 1998. The treaty was ratified by a joint session of the parliament on September 21, 1996 by a massive vote of 220 against 8. The eight members who voted against the treaty included 3 from Nepal Workers and Peasants Party, 3 from UML, and 2 from CPN (Masal). Thirty-one parliamentarians had boycotted the session that included 26 from UML (including Bam Dev Gautam, Radha Krishna Mainali, Sahana Pradhan, C P Mainali, et al.), 4 nominated, and 1 from RPP (also see Human Rights Year Book 1996:1997:129-148). Most nationalists within and outside the parliament had opposed the IMT.

Similarly, other communist factions, viz. CPN (Maoist), CPN (Marxist), CPN (Unity Center), CPN (Masal), and Communist League severely criticized Deuba government accusing that he had worked in favor of India just to retain the PM’s chair for a longer time. Many patriotic and conscious people, including the former PMs such as Matrika Prasad Koirala and Kirti Nidi Bista, joined the Mahakali Protest Committee (MPC) and organized the Nepal Bandha (general strike) on September 13 and 21, 1996 to protest against the treaty (Human Rights Year Book 1996:1997:136-141). Despite such protests, all prominent donors were silent and joined hands with the then government of Nepal and Indian ruling clan to get the treaty ratified. I myself observed that IMT was designed to cover up the fatal Tanakpur Treaty against the sovereignty, integrity, and welfare of Nepalis. It was signed by the then Prime Minister Girija Prasad Koirala in 1991 and his counterpart of India. The editorial of Kathmandu Post had stated, „The ruling Nepali Congress led by Prime Minister Girija Prasad Koirala had signed the Tanakpur Treaty at the cost of the country’s sovereignty“ (February 8, 2001).

The confrontation on Tanakpur issue had heightened in the Parliament when the ruling party members strongly defended it by saying that the Tanakpur document was merely an „understanding“ or an „agreement“, to the claim of the opposition that it was a „treaty“. The dispute was finally settled on December 15, 1992 when the Supreme Court decided that the document signed was indeed a treaty. After such a court verdict, the government again wanted to ratify the treaty through a simple majority vote from the House of Representatives with the influence of 2Ps, power and politics, but patriotic and nationalist Speaker Daman Nath Dhungana ruled that the treaty had to be ratified by a two-thirds majority in the Parliament.

When the Tanakpur Treaty failed to get ratified, the NC government brought the concept of IMT to replace it. From history it has been observed that NC
government often seems loyal to India’s power and politics undermining Nepal’s national interest, people’s sovereignty, state’s welfare, people’s honor and integrity, upper riparian rights, and right to development. For example, the Koshi Agreement 1954, Gandaki Agreement 1959, Tanakpur Treaty 1991, and Mahakali Treaty 1996 all had been signed by the Nepali Congress governments, where majority of Nepalese people had been deprived from enjoying fundamental and natural rights. I agree with Dr. Baburam Bhattarai when he says: „The Nepali Congress is basically a political representative of the kulaks (feudal-capitalists), urban compradors, bureaucratic capitalists, and some middle-level petty bourgeois classes% (Bhattarai:1990:4). Since this is the most powerful class coalition in the present day Nepal and it enjoys the support of international monopolistic capitalism, the leadership of the movement was provided by it (Bhattarai:1990:4).

There are several examples of Indian monopoly over Nepal. First, one key example is that thousands of Indian number-plate vehicles are found all over Nepal, but a bitter fact is that the Nepalese people cannot go along with their vehicles to India. This can also be taken as another example of expansionism and colonialism. Second, a few years ago, Indian army personnel in uniform with arms and vehicle arrested some Nepali people from the heart of Nepal in Kathmandu, which created a flutter followed by heated debates among the conscious people. Third, the issue of Kalapani is another example of hegemonic encroachment of India over Nepal. Lastly, the Indian currency is easily available everywhere in Nepal but not vice-versa. Although such intervention of Indian government or people was to some extent under check during the Panchayat system. In some national stances, the democratic Nepal seems weaker than the previous government.

Provision of high priority for Nepali workers, implementation of the work permit system for foreigners, abolition of monopoly of foreign capital investment in Nepali economy, and execution of appropriate policy for self-reliant economic development of Nepal are the features of demands numbered 5, 6 and 7 respectively. From the past experience, I have observed that it is very difficult for Nepali workers to get a job in the industries owned by those of Indian origin. On the other side, there is a huge difference between the salaries and benefits drawn by Indian and Nepali workers of the same level. As none of the institutions have done research on the factual data of the foreign employers presently working in Nepal, I guess about 150,000 Indian people work in different industries in Kathmandu alone at various levels.

I have observed that some senior Nepali Congress leaders who had grown up and were educated in India get often softened and become loyal toward Indian leaders; their politics and policies often revolve against the will of a great majority of Nepali people. Also, many Nepali government officials and intelligentsia were trained in India and were consumed with the notions of Nehruvian socialism (Skerry:1992:364).

Similarly, the demands numbered 4 and 9 advocate for abrogation of Gorkha recruitment and call for stoppage of hegemonic encroachment through the INGOs in Nepal. The Gorkha recruitment has been contributing a lot in terms of both remittances and rising of living standards of poor ethnic communities. There has
been a high demand and tough competition to become Gorkha Lahure, specially a British soldier. The issue of equivalent pension for the ex-Gorkha soldiers has created a hot debate both within the land and abroad, particularly in Britain. As a result, those who had an opportunity to become Lahures and others who are about to have that opportunity, are not happy with the demand put forward by the Maoists. But, the ex-Lahures are not happy with the state either as the government did not take a stand in their favor on the matter of pension to be made equal to that of British soldiers (Himalayan Times:July 28, 2003).

Similarly, many I/NGOs have also done a lot of contributions to the rural poor by providing service delivery system for agriculture, natural resource management, health and sanitation, drinking water, family planning, and education. But some development agencies and their partners or collaborators working in rural areas are indirectly trying to crush the communist ideology and are empowering the elite people. As a result, they are only adding fuel to intensify the Maoist People's War as they have caused an awakening among the commoners. Similarly, some I/NGOs have lost their credibility among the people as these development actors have designed the projects in their own favor and according to what they wanted instead of duly considering the aspirations, needs, demands, interests, and will of the majority of the people in rural areas.

Among the nine demands concerning nationality, four of them numbered 1, 2, 3, and 8 (viz. abrogation of Indo-Nepal Treaty 1950 and Mahakali Treaty 1996, regulation and control of the porous border between Nepal and India, and the ban upon the culture polluting media such as vulgar Hindi movies, videos, and magazines) are primarily and directly targeted and two demands for implementing work permit and abolishing foreign capital on Nepali economy are indirectly targeted towards the Indian government and the people of Indian origin who have been exercising monopoly over Nepal's resources and even upon its culture for many decades. This phenomenon has intensified due to the influence of 3Ps since the formation of government by NC. At the beginning of the People's War, the Maoists were very antagonistic toward India, but they changed their initial stand gradually when they received considerable support from Indian people. There is no doubt that the CPN (Maoist) has been taking sanctuary in India ever since the initiation of the People's War and has been receiving the necessary support in terms of training, explosives, arms, ammunition, and so forth. As the Maoist leaders are being arrested one after another and border forces of Nepal and India have started to work jointly against the Maoists in general, their policy toward India may change and they may adopt very offensive strategy toward Indian government in future.

3.1.2 Demands Concerning People's Democracy

Concerning the people's democracy, except for the two demands, viz. a new constitution to be made by the elected representatives for the establishment of such democracy (number 10) and abolition of all special privileges of the King and the royal family (number 11), all other 15 demands are simple, straightforward and genuinely sincere. Every democratic government, democratic party, and demo-
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cratic minded person would cherish to follow them. Human rights, adult franchise, monarchical parliamentary system, and multi-party democracy are the features of the Constitution of the Kingdom of Nepal 1990 that cannot be amended even by a two-thirds majority. To construct a new constitution and abolish special royal privileges, either the CPN (Maoist) should be able to defeat the present system through an armed struggle or all political parties should be ready to go for that. Or a new constitution should be formed through a constituent assembly of people’s elected representatives.

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<td>D 10</td>
<td>Establish a new constitution (republican) through people’s democratic system.</td>
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<td>D 11</td>
<td>Abolish the special Royal privileges.</td>
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<td>D 12</td>
<td>Bring the army, police, and administration under people’s control.</td>
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<td>D 13</td>
<td>Cancel all the repressive acts.</td>
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<td>D 14</td>
<td>Dismiss all the framed-up cases and release all political detainees.</td>
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<td>D 15</td>
<td>Stop white terror.</td>
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<td>D 16</td>
<td>Penalize the culprits for the missing political cadres and compensate the victims’ families.</td>
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<td>D 17</td>
<td>Declare the political workers killed as martyrs and compensate their families.</td>
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<td>D 18</td>
<td>Declare Nepal as a secular state.</td>
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<td>D 19</td>
<td>Abolish gender discrimination and exploitation (set up property rights to daughters).</td>
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<td>D 20</td>
<td>Install self-government for ethnic communities and stop ethnic discrimination.</td>
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<td>D 21</td>
<td>Abolish discrimination against Dalits.</td>
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<td>D 22</td>
<td>Ensure equal opportunity to all dialects and design courses up to higher education.</td>
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<td>D 23</td>
<td>Guarantee freedom of speech and press. Make the state media fully autonomous.</td>
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<td>D 24</td>
<td>Guarantee academic freedom.</td>
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<td>D 25</td>
<td>Abolish regional discrimination. Maintain a balance between rural and urban areas.</td>
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<td>D 26</td>
<td>Empower local institutions.</td>
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Except the small communist factions such as CPN (Masal), CPN (ML), etc. (with some tactical differences), all the mainstream political forces, viz. NC, UML, and RPP are against these two demands. Initially, UML had accepted the constitution of 1990 critically and had forwarded 27-point comment on it. Of them, 70 percent of the comments were against the special privileges and benefits of the king and the royal family9. In view of the party’s future policy for a new democracy, its Election Manifesto says, “Ideologically, UML follows a traditional Marxist line and wants to establish scientific socialism and communism‰ (1991:3). UML was initially in favor of a republic state. After the conspiratorial murder of Madan Bhandari and Jiva Raj Ashrit, the UML suddenly jumped from the political ideology and abandoned the destiny of republican state and constituent assembly and started their power and property based politics making the king happier against the aspirations, desires, interests, and demands of the mainstream people. As a result, UML lost its activists to the CPN (Maoist) and People’s War intensified as a prairie throughout the nation within a short span of time.

In a democratic society, nothing should be unamendable. If an overwhelming majority of the people do not like the present constitution and the constitutional monarchy, adequate steps must be taken to resolve the issues. People are the supreme judges in a democratic and welfare state. Major decisions have to be taken through the participation of people in a referendum, as is practiced in other
democratic countries (viz. Switzerland, Belgium, etc.) by „putting the people first. In a civil society seminar on Peace and Conflict Transformation at Kathmandu, Johan Galtung said: „People are the real power instead of any super-power and a barrel of guns (May 16, 2003).

In a democratic country, the state security forces, such as the army and the police, are always under the control of the government. But in the case of Nepal, the Royal Nepal Army (RNA) remains under the king, the Paramadhipati (the Supremo). When the CPN (Maoist) abducted 70 Armed Police Force persons from the Holeri Police Post, Rolpa at 5 PM on July 12, 2001, the government deployed the RNA the following day to rescue the kidnapped policemen and their arms. However, the Maoists triggered a gun at the helicopter of RNA that subsequently damaged it, injuring three army personnel on July 14, 2001. Despite extreme pressure from the government, the RNA contingent, which was stationed in Nuwagaon, nearby Holeri, came back in their camp on July 16, 2001 with a „defeated mind.

On moral grounds, Prime Minister Girija Prasad Koirala resigned on July 19, 2001 as he could not mobilize army against the Maoists. In fact, in a democratic system, everything should remain under the elected government and/or parliament. What type of democracy is there in Nepal, if the army is not under the control of the government? Are we really enjoying genuine democracy? The answer is, „No, Nepal has a pseudo democracy.

While intense debates about the mobilization of the army were going on everywhere for months together, the Department of Military Operation, after studying Rolpa, Rukum, and Salyan submitted a report to the then King Birendra in August 2000. The army source states, „maobadi andolan hamro buta bhanda bahira gaisakeko chha (the Maoist movement has gone out of our control). Yo samasyako samadhan hatiyarbata matra sambhab chhain, Sarkar (This problem cannot be solved using weapons alone, Your Majesty!). Unless the socioeconomic transformation is ensured to the needy people such as poor, disadvantaged, marginalized, and vulnerable groups, the Maoist struggle can never be crushed, as it has intensified with a quantum jump qualitatively and quantitatively. The People’s War is fuelled by a majority of frustrated, alienated, unemployed, discriminated and exploited poor people of Nepal in the hope of „emancipation from all kinds of inequalities and injustices when the Maoists come to power.

To repeal repressive acts such as Public Security Act, the CPN (Maoist) demanded in number 13 „all suppressive acts including the security act should be cancelled as hundreds of UPF workers had been kept in custody on different pretexts under the act. Similarly, demand no. 14 states that all political detainees revengefully arrested should be released and all the framed up cases against them be withdrawn.

Various acts of deliberate killings, disappearances, arbitrary arrests, torture, and cruel, inhumane and/or degrading treatment, etc. (see the chapter of civil and political rights) were used in places where NC candidates had been defeated in the first general election in 1991 and local election in 1992, especially in Rolpa and Rukum. The fundamental right of Article 14.4 states that no person who is de-
tained during investigation or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhumane or degrading treatment. Any person so treated shall be compensated in a manner as determined by law. Similarly, Article 14.5 clearly illustrates that no person shall be kept in custody without being informed, as soon as possible, of the grounds for such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his choice. But, UPF workers were deprived from enjoying fundamental rights due to revivalist character of the ruling party in particular.

In consideration of the state's white terror, the CPN (Maoist) has formulated the demand number 15. Article 14 (6) states that a person arrested and detained in custody shall be produced before a judicial authority within 24 hours of such arrest, excluding the period of journey from the place of arrest to such authority, and such person shall not be detained beyond the said period. To penalize the culprits and to find out the whereabouts of the missing people, number 16 has demanded to investigate the cases impartially and to compensate the families of victims adequately. And it has been demanded in number 17 that those who were killed in and around the people's movement be declared as martyrs.

As people of many religions such as Hindus, Buddhists, Muslims, and Christians have been living together without any significant disharmony, I think Nepal should be declared a secular state as demanded in number 18. Article 19.1 of the Constitution 1990 clearly ensures that every person shall have the freedom to profess and practice his own religion as handed down to him from the ancient times and with due regard to traditional practices; provided that no person shall be entitled to convert a person from one religion to another. Similarly, Article 19.2 states that every religious denomination shall have the right to maintain its independent existence and, for this purpose, to manage and protect its religious places and trusts. But, Article 5 states that Nepal is a multi-ethnic, multi-lingual, democratic, independent, indivisible, sovereign, Hindu, and constitutional monarchical Kingdom. Where are the fundamental rights of the non-Hindu people? Unless Nepal is declared as a secular state, the right to religious freedom is itself violated.

Against gender discrimination, the UPF have raised the question of equality between sons and daughters in all disciplines, as is addressed in demand number 19. Perhaps ever since the origin of Nepalese society, there is a lot of discrimination between sons and daughters. Sons have the parental property rights, unlike the daughters. Comparing man and woman of a family with the two wheels of the same chariot has almost negligible worth. According to *Children and Women of Nepal 1992*, "women are denied opportunities for land tenancy and access to new settlement allotments, and the female household heads are the poorest of the poor among the landless and marginal land households" (1992:199). Moreover, there is discrimination in remuneration paid to men and women. I have observed that a male member receives more facility than a woman does especially in wages, which is against the Labor Law. For the right to equality between male and female, Article 11 (5) of the constitution illustrates, "no discrimination with regard to remuneration between men and women for the same work shall be made." The social apartheid is found in the lowest caste *sudra*, called *achhuto* (untouchables)
or dalits who are severely oppressed by the so-called elite or upper castes specially, bahuns and chhetris, although it is illegal to do so. Unless the state eradicates discrimination in society against the oppressed communities, amicable social and cultural relations and the „national integrity and unity% will break down and confrontation will be on the rise. It is remarkable that discrimination between sons and daughters and between higher castes and dalits has almost been abolished at the epicenters of the Maoists.

The demand number 21, thus, is forwarded to eliminate all kinds of racial discrimination toward dalits. The right to education to all is stated in demand number 22. Dr. Bidhya Nath Koirala on Poverty: A Major Snag in Enhancing Literacy states, „30 percent of the countryÊs children cannot attend school. Half of these come from dalit community and the other half belong to janajati (ethnic communities)% (Kathmandu Post:April 3, 2001). But, I disagree with Koirala as many children of bahuns and chhetris too are deprived from education and they cannot attend school.

Number 22 demands for equal priority to all the languages and dialects. Only Nepali is used as the official language. The other dialects generally spoken by Rai, Limbu, Gurung, Magar, Chaudhary, Satar, Meche, Dhimal, etc. have been given less priority even to build their own script and education course, but the state should provide equal opportunity to all the languages of the nation. Article 6.2 of the Constitution 1990 assures that all the languages that are spoken as the mother tongue in various parts of Nepal should be the languages of this nation, but there is the lack of implementation.

Journalists were frequently arrested, and newspapers (see Chapter-VI on civil and political rights) were prone to be seized even after the restoration of democracy in Nepal. Number 23 forwards to guarantee the freedom of speech and press as mentioned in the right to freedom under Article 12 of the constitution. Article 12.1 states that no person shall be deprived of his personal liberty and no law shall be made for capital punishment. In regard to the citizensÊ freedoms, Article 12.2 ensures: freedom of opinion and expression; freedom to assemble peaceably and without arms; freedom to form unions and associations; freedom to move throughout the kingdom and reside in any part thereof; and freedom to practice any profession. Similarly, the rights to press and publication are also ensured in Article 13 of the constitution. The demand number 26 implores that the local bodies, where great majority of people reside and get services from, must be well equipped and empowered according to the principles of decentralization.

3.1.3 Demands Concerning People’s Livelihood

Likewise, the peopleÊs livelihood concerns the demands numbered 27 to 40. Seizing the land of feudal estates, demand number 27 addresses for its equal distribution among the landless and homeless citizens. Besides, this prime demand concerns with the dictum, „land to the tiller% The feudalistic mode of society was widely prevalent in Nepal and it was still persistent especially in western region before the initiation of PeopleÊs War. That may be the reason why the UPF demand
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number 28 focuses to confiscate the property of brokers and capitalists and to nationalize it. I agree that they have accumulated huge sums through the influence of 3Ps. To guarantee the right to livelihood to all, the state should initiate the opportunity of employment, but it is difficult to ensure unemployment allowance to all such people due to the lack of resources on the one hand and persistently increasing population growth on the other. In addition, several demands pertaining to people’s livelihood are guided by humanitarian intervention and human rights, for instance to set up minimum wage for laborers; to arrange settlement for homeless people; to waive off loans given to poor farmers and provide loans to small entrepreneurs; to make fertilizers and seed grains easily available on cheap rates and arrange for fair price shops for farmers’ products; to give relief to flood and drought inflicted areas; to provide free and scientific health services and education to all, and to stop the commercialization in education. Similarly, other genuine demands are: to control price hike; to make necessary arrangement for drinking water, roads, and electricity in villages; to promote cottage and small industries; to eliminate corruption, smuggling, black marketing, bribery, commission; and to provide necessary protection to orphans, disabled, elderly, and children.

| L 27 | Provide land to the tillers and redistribute the land seized from feudals among the landless. |
| L 28 | Nationalize comprador/bureaucratic capital and invest it for industrialization. |
| L 29 | Guarantee employment to all and provide for unemployment allowance. |
| L 30 | Set up minimum wage for workers. |
| L 31 | Arrange for proper settlement to homeless people. |
| L 32 | Waive off the loans provided to poor farmers. Arrange loans to small entrepreneurs. |
| L 33 | Make available seeds and fertilizers at cheap rates. Ensure fair price and markets. |
| L 34 | Manage relief for flood and drought-affected areas. |
| L 35 | Provide free scientific health services and education for all and abolish commercialization of education. |
| L 36 | Control price hike. Provide easy access to consumer goods. |
| L 37 | Ensure arrangement for drinking water, road, and electricity for all villages. |
| L 38 | Protect/promote domestic and cottage industries. |
| L 39 | Abolish corruption, smuggling, black marketing, bribery, commission. |
| L 40 | Protect orphans, disabled, elderly, and children. |

According to the **World Development Report 2000**, 42 percent of the people in Nepal remain below the poverty line. The level of growth is far behind in villages as compared to urban centers. It means that poverty is a predominant phenomenon in the countryside. The literacy rate of countryside is very low compared to that in urban areas. For the mainstream population who live in villages, there is neither medical facility available nor people have any access to income generating opportunities or effective poverty alleviation programs. However, in terms of both internal and foreign loans, Nepal had a total loan of NRs. 223 billion (US$ 3 billion) till fiscal year 2002/2003 (Ministry of Finance) besides the grants and donations from bilateral and multi-lateral donors. Indeed, despite such huge amounts of investment, a great majority of poor people are still deprived from having access to food, housing, clothing, literacy, and medicines. The past has been witness to elite people becoming richer and the poor suffering more and more by each pass-
ing day. Ironically, this trend has been on rise ever since the restoration of democracy as the development programs have primarily targeted the top-down approach against the established principle of democracy, viz. decentralization, good governance, and putting the last (poor, disadvantaged, marginalized, and vulnerable people) first or the bottom-up approach.

In regard to free education (demand number 35), Article 26.8 of the constitution states that the state should make necessary provision for the protection of rights and interests of children and develop a system of free education. Considering the protection of orphans, disabled, elderly, and children, Article 26.9 of the constitution guarantees that the state shall adopt a policy of taking special measures for health and social security for the orphans, helpless women, and the aged, disabled, and incapacitated people for their protection and development. Similarly, Article 11.3 also guarantees the rights of children who are economically, socially, and educationally backward. But, the implementation is very weak in all quarters because of the elite-based nature of Nepalese democracy instead of having people-oriented and their demand driven policies and programs. Due to the feudalistic mode of society and economic disparity, majority of people are deprived to enjoy economic, social, and cultural rights.

After returning from India, Sher Bahadur Deuba called an all-party meeting on March 5, 1996 to discuss the matter of the People’s War. However, the meeting could not reach any conclusion as the ruling tripartite NC, RPP and Sadbhawana could not show a clear-cut vision or policy. Since then, none of the political parties have met together to discuss such a serious issue of Nepal.

Except for the two demands, viz. formation of a new constitution through the elected representatives and abolition of all special privileges of the king and the royal family, most of the 40-point demands are people-centered, right-based, participatory, and for good governance. Indeed, the demands affirm overall development through establishing a new consensus by putting the people at the center of concerns for sustainable development, endorsing full and fruitful employment by pledging to eliminate poverty, and fostering social amalgamation to achieve stable, safer and just society for all. If the demands are properly addressed, it will ensure not only economic growth and sovereignty of the people, but also equitable distribution, enrichment of people’s capabilities and opportunities, and widening of their choices.

3.2 40-point Demands on Human Rights Generations

The ICCPR is further divided into civil and political rights. Civil rights tend towards the right to life and personal security, the right to a fair trial and the right of prisoners. Political rights are categorized into right to participation in political forum, right to freedom of political opinion, right to freedom of association, right to freedom of peaceful assembly and right to liberty of movement. Similarly, the ICESCR is divided into economic rights, social rights and cultural rights. Economic rights tend towards the right to work and the right to just conditions of work. Social rights include the right to an adequate standard of living and right to social security, the right to health and the rights of families, mothers and children.
Similarly, the cultural rights are divided into the right to participate in cultural life, the right to education and the right to minorities.

The right to development is a fundamental human right rooted in the provisions of the UN Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The Declaration on the Right to Development adopted by the UN General Assembly in 1986 states that the right to development is an inalienable right by virtue of which every individual and all people are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development. In 1993, the World Conference on Human Rights declared the right to development by consensus. In 1995, the Copenhagen Declaration reaffirmed the link between human rights and development by establishing a new consensus putting the people at the center of concerns for sustainable development, and by undertaking to eradicate poverty, to promote full and fruitful employment, and to foster social integration to achieve stable, safe and equitable society for all.
Development should be people-centered, right-based, participatory and environmentally sound. There must be top priority to poverty reduction, amalgamation of women into the development process, self-reliance and self-determination of people and protection of the rights of indigenous people. The right-based definition of development in Article 1 of the Declaration on the Right to Development sees it as a comprehensive economic, social, cultural, and political process. It is meant for the well being of the entire population and individuals on the basis of their dynamic, free and meaningful participation in development and in the fair sharing of the resulting benefits.

The civil and political rights as well as economic, social and cultural rights are two sides of the same coin to all human beings for their freedom, equality, justice, security, integrity, and dignity. If the government fulfills 40-point demands, a great majority of 90 percent of the people including those who are poor, disadvantaged, marginalized, and vulnerable will enjoy human rights, social justice, and the rule of law. But the 10 percent elite will lose some of their present privileges. Out of 40 demands, 8 are directly and 26 are indirectly concerned with the rights protected by ICESCR. Five demands (numbered 10, 13, 14, 15, and 23) are directly related with ICCPR. Ten demands (numbered 11, 12, 16, 17, 18, 19, 20, 21, 39, and 40) overlap with both ICCPR and ICESCR. Similarly, a total of 15 demands such as numbering 1, 2, 3, 5, 6, 7, 26, 27, 28, 31, 32, 33, 35, 37 and 38 overlap with ICESCR and the right to development. Only one demand, number 25, is common to all. It states, „Regional discrimination between the hills and the tarai should be eliminated. Regional autonomy should be given to backward areas. The development should proportionately be balanced between rural and urban areas.‟

Similarly, only one demand, number 9, raised by the Maoists coincides with the right to development. It states that the invasion of colonial and imperial elements in the name of NGOs and INGOs in the country should be stopped. Indeed, the 40-point demands highly prioritize equality, justice, freedom, and dignity for survival and meaningful lives of human beings. The economic and social rights should first ensure equality in resource distribution and opportunity with choices for adequate food, housing, clothing, basic education, primary healthcare, employment, etc. which constitute the prime concern of daily human life.

### 3.3 Analysis of 40-point demands with structural dimensions

Analyzing the 40-point demands on political structural dimensions, I have come to the conclusion that small communist factions stand on the same politico-ideological footing with the CPN (Maoist), although they have some strategic and tactical differences. These factions want to attain a republican state adapting parliamentary democratic system. But, the CPN (UML) is against holding an election for a constituent assembly. In fact, the mainstream party CPN (UML) lies at the center between the extreme left (Maoist) and rightist NC and its leaders are afraid to go for a constituent assembly thinking that the party would be defeated in such an election as it has already lost a large section of cadres to the Maoists. On the other hand, they have shifted their earlier stand (destination) of politico-ideology to „establish scientific socialism and
communism (Election Manifesto 1991:3) and have been using constitutional monarchy as a pillar to reach at the apex of power. So, the UML is against the Maoists' demand to form a new constitution and abolish special privileges of the king and his families. Moreover, they are against their own cadres as large sections of the UML youth workers are raising their voices in favor of a republican state.

NC, the former stalwart for a constituent assembly and socialism, has strongly denounced the Maoists and their demands, as many demands are against the King and India. On the one hand, it is very close to the King but on the other to Indian power and politics. Indeed, India influences the integrity, sovereignty, and welfare of Nepal. And NC is tilted toward her at all times, forgetting the fact that Nepal is sandwiched by China also. Besides, NC has suffered major political setbacks through violent attacks by the CPN (Maoist) and loss of activists in the countryside. NC, in fact, fears to go for all kinds of elections, whether for parliament, local government or constituent assembly. The royalist RPP, on the other hand, wants to revive absolute monarchy in Nepal. In general, all the mainstream political forces want to minimize the People's War internationally, regionally, nationally, and locally.

As Nepal is an agricultural country, the Maoists have given a high priority to landless and rural toiling peasants, poor urban people, and workers to abolish the traditional feudalistic mode of production for setting up equitable distribution, enhancement of capacities and opportunities, and widening of their choices. The 40-point demands primarily strive to put the last first, i.e. to uplift the poor, disadvantaged, marginalized, and vulnerable communities at the fore-front. And the People's War was initiated on the principle that "rights should be snatched by fighting not through begging."

Except for the two demands, viz. formation of a new constitution and eradication of the extra special privileges of the constitutional monarch and his families, 95 percent of the Maoist demands are simple, straightforward and genuine for any country and may be easily implemented without any reservations by any democratic government that functions for the sake of the people.

In the case of Nepal, such issues have also been specified by the constitution under the directive principles and policies of the state in Articles 25 and 26.

The history of Nepal has proved that the king, royal family, and his surrounding fellows primarily represent the feudals of the country. On the one hand, King Gyanendra gives instructions to the executives, parliamentarians and all to be transparent and accountable and to maintain good governance putting the interest of the people and the nation at the center but, in practice, he has been disregarding those institutions himself by denying to disclose the property of late King Birendra, his family and his own family. On the other hand, while addressing any individual person from among sovereign people, the king uses the derogatory word timi (thou) instead of a dignified tapain (you). It is yet another example of feudal culture. The elite class from among NC, RPP and the bureaucrats, and so-called entrepreneurs also represent feudal character. These leaders and bureaucrats, not excluding a few beneficiaries in the CPN (UML) and some founders of NGOs, have given birth to a new class of aristocratic society: the new barons.
3.3 Analysis of 40-point demands with structural dimensions
The institution of monarchy, traditionally considered a symbol of unity of Nepal, has not been purified for more than 235 years of hereditary blood and if the king does not express willingness to be transparent in governance, what can the ordinary people of Nepal expect from his subordinates in the executive, judiciary, legislature, and security forces. Good governance should start from the top and the king must be transparent, functional, and accountable. He should be visibly kind to the people of lower status (poor, disadvantaged, marginalized, and vulnerable) instead of being a remote, mysterious, and abstract figure.

Analyzing the past activities of the Royal Palace, the people in general realize that it has eyes, but cannot see the tears of the people; it has ears, but cannot hear the wailing of the people; it has a mouth, but cannot speak for the affliction of people and direct the subordinates to go ahead to implement the people-centered programs in real practice; it has a mind, but cannot visualize for the people; and it has a heart, but cannot feel for the people. History would testify that ever since the inception of Shah Dynasty, the royal palace, its family members, and courtiers have indulged in conspiracy for the sake of power and personal amusement and benefit instead of caring for the people.

To achieve respect and love again from the ordinary people, the king should be ready to attempt to accept people's mandate through referendum whether the conventional king is necessary in this modern age Nepal. Even if the king receives people's mandate in his favor, he should free himself from the feudal encirclement and commit himself for the uplift of common people including poor, disadvantaged, marginalized, and vulnerable communities with honesty, sincerity, and humility. Besides, the wide practice of culture of impunity should be discouraged. Similarly, there is a dearth of leaders with clean image in all political parties; so the gap should be fulfilled by promoting young and dynamic people with clean image.

As the frequency and intensity of the People's War is increasing, the cases of human rights violation and abuse are also increasing. And that has significantly affected rights to life, liberty, security, dignity, and property. Indeed, the 40-point demands highly prioritize on social and economic justice for survival and dignified lives of human beings. That is why the CPN (Maoist) has given top priority to ICESCR. It is an inalienable right by virtue of which all people in general are entitled to participate in, contribute to, and enjoy adequate food, housing, clothing, basic education, primary healthcare, employment, etc. These are, of course, the prime concern of daily human life.

In one word, hungry bellies are the breeding grounds of the People's War in Nepal. When there are hungry bellies, conflict will transform from one form to another and permanent peace will never be attained.

The CPN (Maoist) has given little attention to ICCPR, but every individual requires the civil and political rights to have civil liberties, the right to a fair trial and not to be tortured, disappeared, imprisoned, and extrajudicially killed.
Endnotes

2 A company or group that exclusively controls over a commodity or service.
3 Domination in political and social system of Nepal.
4 Agreement means a negotiated and typically legally binding arrangement between parties as to a course of action, for instance, trade agreement.
5 Treaty means a formally concluded and ratified agreement between states.
6 In regard to the use of water from the irrigation project of Koshi— the biggest river of Nepal, the then Prime Minister Matrika Prasad Koirala had signed an agreement with India in 1954. From this dam, India uses nearly 95 percent of water and only the remaining 5 percent goes to Nepal’s share (see Human Rights Year Book 1996:1997:130).
7 Repeating the same mistake, Prime Minister B P Koirala signed the Gandak agreement with India (Human Rights Year Book 1996:1997:130).
8 A policy of territorial and economic expansion.
9 (1) The provision in Article 3 of the Draft Constitution that ‘the sovereignty of Nepal is vested in Nepalese people and shall be exercised in accordance with the provisions of the Constitution’ is ambiguous. It should be rewritten with the provision that ‘the sovereignty shall be exercised by the people and their representatives.’ Otherwise, the king will retain the powers with him.
   (2) The word ‘Hindu’ in Article 4.1 to qualify ‘the Kingdom’ needs to be removed as Article 27 of the same document has explained that the King would be a Hindu. This has only created illusion.
   (3) Article 6 discriminates national language. Nepali language has been described as the language of the nation and other mother tongues spoken in the country as national languages. All these languages should be treated equally and the Nepali language should be described as the state or official language.
   (4) The coat-of-arms as stated in Article 7.3 deserves amendment. It is not in conformity with time as has been accepted in the draft.
   (5) The words like ‘sedition’ and ‘incitement to an offense’ in the provisions about fundamental rights in Part 3 of the draft are equivocal, letting room open for the ruler to frame arbitrary laws to suppress his opponents. So, they are to be modified appropriately.
   (6) Right to Property as explained in Article 17 of the draft should encompass the character of a welfare State. Constitutional provisions for progressive land reform, cessation (of ownership of land beyond the limitation as provided by law), economic reforms and full control of laborers over their labor and the production of labor are desired.
   (7) ‘His Majesty is the symbol of Nepalese nationality and unity of the Nepalese people’ in Article 27.2 in Part 5 should be deleted as the king is only a person and a person cannot be a symbol of the nation and the people. Multiparty Democracy and the Constitution are the symbols of nationality and popular unity.
   (8) Article 27.3 of the draft that ‘His Majesty is to preserve and protect the Constitution’ is undesirable as only the sovereign people, not the King or any person or any political party, are the protectors of the Constitution.
   (9) Articles 28.1 and 28.2 need to be deleted. The Parliament in consent with the King should enjoy the right to enact, amend and repeal the law relating to succession to the Throne.
   (10) The provision in Article 29 that ‘no law shall be made having the effect of reducing the expenditure privileges of His Majesty and the royal family being provided by the law’ should be removed.
Politics of People’s War and Human Rights in Nepal

(11) Article 30 ‘the income and personal property of His Majesty shall be exempt from all kinds of tax, fee or other similar charge and inviolable’ is to be deleted. The property of the King and his family should be mentioned as taxable similar to that of ordinary citizens.

(12) There should be clear and distinct definition of ‘royal family’.

(13) Article 31 prohibits raising question in any court about the act performed by the King should be modified to allow questions regarding the acts performed by the King that have ignored the constitutional parameters. However, there should be no objection against an act performed as per the Constitution.

(14) The provision of the Raj Parishad in Part 6 has no significance as the acts assigned to it can be carried out by the parliament.

(15) The provision of ‘His Majesty’ as described in Article 40 as a component of Executive power should be deleted. Article 40.2 is to be rewritten with a clear definition of the word ‘otherwise’ and it is necessary to expressly state that the King shall act only with the recommendation and consent of the Council of Ministers.

(16) ‘If a no-confidence resolution passed by the House of Representatives against him’ is to be added in Article 41.6.

(17) A provision should be added that His Majesty the King can form an executive Council of Ministers as recommended by the National Assembly if the PM of an electoral government formed after the dissolution of the House of the Representatives dies before the polls have taken place.

(18) The provision ‘prohibiting any debate’ described in Article 16.1 should be avoided.

(19) The provision in Article 73.2 seeking prior consent of His Majesty the King to file an amendment on any bill should be removed.

(20) The terms such as ‘if His Majesty is satisfied’ as ‘he may deem necessary’ stated in Article 77 in connection with assurance of ordinances should be removed and a clear explanation that ordinances will be issued only with the recommendation and consent of the Council of Ministers needs to be endorsed.

(21) The provision that the acts to be performed in accordance with Article 82.1 and 84.1 are to be performed by His Majesty the King and the terms ‘His Majesty’s self-conscience, satisfaction and acceptance’ in Article 86 and 87 should be deleted. These powers should be vested in the Council of Ministers.

(22) Instead of suspending the articles as stated in Article 122.8 in time of a State of Emergency proclaimed pursuant to Part 18, the right to constitutional remedy entrusted in Article 123 should be suspended.

(23) Provision for National Security Committee as said in Article 125 is useless. The military of the land should be under the Council of Ministers. Deployment/operation of the army is an executive power.

(24) The provision about the power to remove difficulties as mentioned in Article 129 of the draft should be corrected as ‘the King shall issue such orders in accordance with the recommendation of the PM.’ Such orders should be approved by the House of Representatives. If the chamber fails to ratify them, they will cease to persist. The Article will cease to exist after one year of the commencement of the Constitution.

(25) Article 133 of the draft states that the laws inconsistent with it shall, to the extent of inconsistency, ipso facto cease to operate one year after the commencement of the Constitution. It should be corrected and the laws not complying with the new Constitution should be annulled from the date of its enactment.

(26) The term ‘His Majesty’s Government’ and ‘Royal Nepal Army’ should be replaced by ‘Nepal Government’ and ‘Nepal Army’ respectively.

(27) The Constitution should incorporate a provision that allows to impeach the King if he acts contrary to the Constitution. It will prevent the resumption of arbitrary and despotic monarchy.

Reactions and suggestions were submitted to the Constitution Drafting Commission on the proposed draft of the Constitution by the central spokesperson of the then CPN (Marxist-Leninist) late Madan Bhandari on September 27, 1990 (Source: HRYB:2003:8-9). I am unable to quote the source because of the risks involved to his life and his present job.
United People’s Front
Central Committee

February 2, 1996

Ref.: Memorandum

Sir:

After the people’s popular movement 1990, the partyless Panchayat system led by the absolute monarchy for generations was replaced by a monarchical parliamentary multi-party democracy. In six years’ period, the state mechanism has been operated by a tri-party transitional government of the Nepali Congress, minority government of the CPN (UML), and the NC led RPP-Sadbhawana coalition government. But, after the democracy, the life of ordinary people is going backwards, instead of proceeding forward. For instance, Nepal’s rank has lowered down to the second poorest country in the world; 71 percent of the population remain absolutely below the poverty line; more than 10 percent of the population are completely unemployed; and more than 60 percent are semi-employed. Likewise, the country is going to be liquidated soon due to decreasing foreign trade and increasing foreign loan every year. Besides that, the foreigners, and particularly Indian expansionists, are rapidly extending economic and cultural activities in the Kingdom. The gap between rich and poor and that between city and village have been widening. On the other hand, it is found that all the political parties when seated in power, their governments have merely tried to remain in the chair by gaining the “goodwill” of the foreign imperialists and expansionists, instead of devoting themselves to the welfare of the country and the people.

It has to be noted that the government has agreed to adopt the policy of so-called privatization and liberalization prepared by the imperialists. Recently, they have handed over the hydropower of Nepal to Indian imperialism in the name of the so-called national understanding. The UPF Nepal has been launching various kinds of struggle programs since April 6, 1992 for fulfilling the demands related to nationalism, people’s democracy, and people’s livelihood, sometimes by itself and sometimes jointly with other parties. But, instead of fulfilling those demands, the government launched extreme repressive measures and killed hundreds of people. The armed police operation (Romeo) launched in Rolpa some months ago was one of the most dangerous operations. We are again submitting the following point-by-point demands concerning nationality, people’s democracy, and livelihood as before:

3.1 Demands Concerning Nationality

1. All discriminatory treaties, including Indo-Nepal Treaty 1990, should be repealed.
2. The so-called Integrated Mahakali Treaty concluded on January 25, 1996 should be cancelled immediately as it is designed to conceal the fatal Tanakpur Treaty and it allows the monopoly of Indian imperialists over all the water resources of Nepal.
3. All open borders between Nepal and India should be regulated, controlled,
and systematized. All vehicles with the Indian number-plates should be prohibited entry into Nepal.

4. The Gorkha Recruitment Center should be closed. Nepali citizens should be provided with dignified employment within the nation.

5. Nepalese workers should be given top priority to work in different sectors of the country. A work-permit system should be strictly implemented if any foreign manpower is required in the country.

6. The domination of foreign capital in the sectors of Nepalese industry, business, and finance should be stopped.

7. Appropriate customs policy should be devised and implemented so that the nation can stand on its own self-reliant economic development.

8. The invasion of imperialist and colonial culture should be banned. Vulgar Hindi movies, videos, and magazines should be immediately banned.

9. The invasion of colonial and imperial elements in the name of NGOs and INGOs in the country should be stopped.

3.2 Demands Concerning People's Democracy

10. A new constitution should be made by the elected representatives for the establishment of a people's democratic system.

11. All special privileges of the king and the royal family should be terminated.

12. Army, police, and bureaucracy should be completely under people's control.

13. All suppressive acts, including the security act, should be cancelled.

14. All those arrested extrajudicially and revengefully for political reasons in Rukum, Rolpa, Jajarkot, Gorkha, Kavre, Sindhupalchowk, Sindhuli, Dhanusa, Ramechhap, and so on should be released soon. All false cases should be repealed at once.

15. The armed police operation, suppression, repression, and the state terror should be immediately stopped.

16. The whereabouts of the citizens disappeared from police custody at different times, namely Dilip Chaudhary, Bhuwan Thapa Magar, Prabhakar Subedi, and others, should be investigated and those responsible should be brought to justice. The families of the victims should be duly compensated.

17. All those killed around the people's movement should be declared as martyrs. The families of the martyrs and those of injured and deformed should be duly compensated and the murderers should be brought to justice.

18. Nepal should be declared a secular nation.

19. Patriarchal exploitation and discrimination against women should be stopped. A daughter should be allowed access and rights to paternal property.

20. All racial exploitation and suppression should be stopped. The ethnic communities should be allowed to form their own autonomous governments wherever they are in majority.

21. Discrimination against the downtrodden and backward people should be stopped. The system of untouchability should be eliminated.

22. All languages and dialects should be given equal opportunity to prosper. The right to education through the mother tongue, up to higher education, should be established.

23. The right to expression and freedom of press and publication should be guaranteed. The government mass media should completely be autonomous.

24. The academic and professional freedom of scholars, literatures, artists, and
cultural workers should be guaranteed.
25. Regional discrimination between the hills and the *tarai* should be eliminated. Regional autonomy should be given to backward areas. There should be a balance between rural and urban areas.
26. Local bodies should be empowered and equipped adequately.

### 3.3 Demands Concerning People’s Livelihood

27. Land should belong to the tenants. The land under the control of feudals should be confiscated and distributed to the landless and homeless citizens.
28. The property of capitalist brokers and compradors should be confiscated and nationalized. The capital lying idle and unproductive should be invested for industrialization.
29. Employment should be guaranteed to all; unemployment allowance should be provided until employment is managed.
30. Minimum wages for workers in industries, agriculture, and so on should be fixed and strictly implemented.
31. The homeless should duly be rehabilitated. No one should be evacuated until alternative infrastructure is guaranteed.
32. The poor farmers should be exempt from any kind of loan; the loan taken by small farmers from the Agricultural Development Bank should be waived off. Appropriate provisions should be made to mobilize loans for small farmers.
33. Fertilizers and seed grains should be cheap and easily available. Farmers should be provided with appropriate price and market for their farm products.
34. Appropriate relief materials should be managed for flood victims and draught inflicted areas.
35. Free and scientific health services and education should be managed for all. Commercialization of education should be stopped.
36. Price hike should be checked; wages should be increased proportionately to the price hike. Consumer goods should be made cheap and easily available to everyone.
37. Drinking water, road, and electricity facilities should be provided in all villages.
38. Domestic and cottage industries should be protected and promoted.
39. Corruption, smuggling, black marketing, bribery, commission, and so on should be eliminated.
40. The orphans, disabled, elderly, and children should be duly honored and protected.

We offer a heartfelt request to this coalition government to fulfill the above mentioned demands immediately which are concerned with the existence of the country and people’s daily lives. If the government does not show any interest by *Falgun 5, 2052 B.S.* (February 17, 1996), we will be compelled to launch a very offensive struggle against the existing state power.

**Dr. Baburam Bhattarai**
Chairman, Central Committee, UPF
Chapter Four

Genesis of the People’s War

“The building up of an armed force is the key to establishing base areas; if there is no armed force or if the armed force is weak, nothing can be done.”
- Mao Zedong (1938)

“Poverty, illiteracy, lack of jobs, and other socioeconomic factors have all combined to create a ripe situation waiting the Maoists. Democracy brought all those problems to the surface. In democracy those in power, including myself, made mistakes along the way.”
- Sher Bahadur Deuba

4.1 People’s War Abroad

A young, nationalist graduate Mao Zedong had a sharp vision amidst the political crisis of China in the early 20th century. His major challenges were the reunification of China and dismissal of the occupying Japanese troops. He had never accepted its colonial status. He was in favor of revolutionary transformation especially after 1920 onwards and he had analyzed the Marxist theory in light of the fundamentals of Chinese thought and culture. The significant difference between Marxism-Leninism and Maoism is that Marx and Lenin believed in the working class or proletariat and started the movement from the cities, but Mao decided to base his movement on the peasants in countryside.

Why did Mao choose peasants instead of working class proletarians as the actors of his movement? While Mao was taking rest in his native village Shaoshan in winter, the Chinese peasants held a procession against the government in Shanghai. Foreign Japanese troops had killed several dozens of Chinese peasants in May and June of 1925. The demonstration against the extrajudicial killings awakened Mao to realize the great revolutionary potential of peasants. Mao followed the path of communist movement with the peasants who were working within Kuomintang and organized them by forming an association of peasants in his native province Hunan. However, when the governor of Hunan ordered him to leave the province immediately, Mao returned to Canton, the main power base of Kuomintang. He was then given the charge of acting head of the department of propaganda in Kuomintang and he established the Peasant Movement Training Institute on his own.

After the death of Sun Yat Sen in March 1925, Chiang Kai-Shek became the leader of Kuomintang. Chiang expelled the communists from all responsible positions in the organization in May 1925, still Mao stayed with him up to October 1925. The majority of peasants who were trained by Mao also left Kuomintang and started to work with the Communist Party of China (CPC) formed in 1921. Mao again went to his native province, Hunan, in November 1926 and organized hundreds of poor peasants by February 1927. Then, Chiang Kai-Shek, who had overthrown the conservative government in Peking and other warlords in July
1926 forced the peasants and workers in Shanghai to the countryside in April 1927 and hideously slaughtered thousands of communist workers. In October 1934, Mao with his remaining 8,000 members of the Red Army abandoned the base of southeast Kiangsi and went to Shensi province in the northwest of China through the Long March and disappeared among the peasants. The number of Red Army continued to increase to some 200,000 along with the strengthening and expanding of their base areas. Adopting the strategic policy to „encircle the city from the countryside,”% Mao finally defeated the autocrat Chiang Kai-Shek and the Communist Party of China captured the state power in April 1949 and announced the birth of the People’s Republic of China. Following more than half a century-old path of Mao, armed struggles have been launched in some of the poorest and least developed countries and also in some of the advanced countries in the world.

In about four dozen countries (including Afghanistan, Angola, Argentina, Bolivia, Brazil, Burundi, Chile, Colombia, Congo, Ecuador, El Salvador, Guatemala, Honduras, Liberia, Ivory Coast, Iraq, Israel, Myanmar, Nicaragua, Palestine, Philippines, Russia, Rwanda, Senegal, Sierra Leone, Somalia, Sri Lanka, Sudan, Uganda, Uruguay, and Venezuela), violent conflicts are on the rise in one way or other basically in the name of identity, resources, and beliefs or ideologies. Besides, some developing countries such as Peru, Turkey, Philippines, Iran, India, and Nepal and developed countries such as Italy and New Zealand, etc. are also presently suffering from armed struggles waged by groups who ardently believe in the political ideology of Marxism-Leninism and the military science of Maoism. Of them, Peru, Philippines, India, and Nepal are experiencing the most volatile conflicts and are drawing the world’s attention towards the reality of People’s War in today’s modern world.

In Peru, the People’s War had been highly successful and the state power was nearly seized before the arrest of its principal architect and revolutionary philosopher, Dr. Abimael Guzman Reinoso, known by his nom de guerre Gonzalo, in the 1990s. The Peru Communist Party (PCP) was founded in 1928 for class struggle, international relations, and for the sake of proletariat and peasants, following the principles of Marxism-Leninism. In 1964, Gonzalo restructured it and made it a new revolutionary party. In late 1979 and early 1980, the leadership of PCP made a decision to take up an armed struggle to seize nationwide power which emerged as the Shining Path (www.maoism.org/misc/docs_en/flag.htm). Following the politico-ideology of Marxism-Leninism-Maoism and the basic principles of International Proletarian Liberation Movement, the Shining Path formally started the People’s War on May 17, 1980 capturing polling centers in the election held on May 18, 1980 (Shrestha:March-April 1998:Year 1/No.1:26). This movement was launched principally against feudalism and imperialism.

Gonzalo had emphasized upon three landmarks: „(1) the October Revolution of 1917 which opened the era of the world proletarian; (2) the triumph of Chinese Revolution in 1949 which transformed the people’s power towards the countryside; and (3) the Proletarian Cultural Revolution — initiated in 1966 and continued until the death of Mao Zedong in 1976 (www.maoism.org/misc/peru/docs_en/
Theoretically, Gonzalo applied Marx's philosophy, political economy, and scientific socialism. And he used the practical tools of the party, revolutionary army, and the revolutionary united front just as Mao had used them in China. In 1992, when the movement was intensifying and the government of Alberto Fujimori was nearly encircled, he was captured. He received life imprisonment through a court martial without any public hearing. To save his life, an International Emergency Committee was formed. The committee intensively mobilized demonstrations throughout the world, demanding the Peruvian government to respect the principles of Geneva Convention 1949. The Inter-American Human Rights Court strongly criticized and condemned the cruel and inhumane behavior of the government and demanded to release him. Similarly, Nepalese revolutionaries, including the present CPN (Maoist), conducted extensive protest programs. The Revolutionary Internationalist Movement (RIM) and its revolutionary nucleus used all possible means to save and defend Gonzalo's life. Since his imprisonment, the armed struggle has continued to suffer a setback each year.

After the announcement of the Cultural Revolution in 1966 in China, a revolutionary circle was formed in 1969 outside Iran aiming to liberate the Iranian people from exploitation and discrimination following the ideologies of Marxism-Leninism and Maoism. This was later known as the Organization of Revolutionary Communists (ORC) (www.sarbedaran.org/english/history.htm). The ORC group analyzed Iran as a semi-developed and semi-feudal country and forwarded the strategy of “surrounding the city from the villages.” They merged with a Marxist-Leninist group called Pooya, and formed the Union of Iranian Communists (UIC) (www.sarbedaran.org/english/history.htm). Initially, they wanted to join hands with Palestine Revolutionary Group and tried to unite with other left groups, but did not succeed. Finally, they set up Pishmarged – an armed organization in Kurdistan to initiate armed revolution in 1980s. After 8 months of preparation, they attacked and captured Amol city in the north, losing 100 members (www.sarbedaran.org/english/history.htm). They immediately entered into the jungle when the government furiously retaliated. In recent years, they are trying to survive and reunite their forces.

The Philippines, which is closer to Nepal, has a long experience of political instability and armed conflicts. The country’s five million Muslims have been inundated by a sea of migration of Christian settlers, and have become a minority group. As a result, the minority groups formed a separatist front – Moro National Liberation Front (MNLF) in 1972. Their struggle for independence has claimed more than 120,000 lives over the last three decades (Philippines:2002). The Philippines state instituted autonomous Muslim areas in 1996, but clashes still continue. In addition to the Maoist People’s War, Abu Sayyaf and alliance of 14 other revolutionaries have survived the fierce attacks of the Philipino Army and continue to wage their struggle. John Child states: „Between the failed peace talks of 1986 and that of 1999, some 25,000 civilians were killed, but the New People’s War Army remains“ (Nepali Times:December 14, 2001).

After the inception of the Communist Party of India (CPI) in 1921, there were continued tussles between those who wanted armed struggle against the British
government and the others who wanted to participate in the Congress-led peaceful freedom movement · Satyagraha. However, the revolutionary armed struggle was put into practice in the Telengana region (the then kingdom of Hyderabad) in 1946 against the Nizam, the ruler of Hyderabad (Mohanty:1970:60-64). The Nizam was an unpopular Muslim ruler among the 88 percent Hindu population. Later, the CPI split into two parties: CPI and CPI(M). Some of the members of CPI(M) adopted the revolutionary line influenced with the Cultural Revolution of China. The revolutionary group of CPI(M) circulated a statement for the uncompromising struggle after the Calcutta Congress on August 30, 1966 under the leadership of Charu Majumdar (Mohanty:1970:99) declaring other members of CPI(M) neither as friends nor their allies. The cabinet ministers and leaders of West Bengal of both CPI and CPI(M) tried to withdraw the movement at the Siliguri Kisan Sabha (Peasant Assembly). However, the team of Charu announced the setting up of a „Committee to Support Naxalbari Peasant Movement,” ignoring the voices of other parties. Finally, they announced the armed peasant movement on May 22, 1967 that has become famous as the Naxalbari Kisan Andolan (Peasant Movement) and attacked a police post on May 24, 1967. The government deployed a large force of police and army to crush the movement on July 12, 1967 (Mohanty:1970:99) which eventually succeeded.

Seeing unfavorable terrain in West Bengal, Charu in February 1967 visited Andhra Pradesh and formed the Andhra State Coordination Committee under the governorship of Tejeswar on March 2, 1969. The All India Coordination Committee of Communist Revolutionaries (AICCCR) held a meeting in Calcutta from April 19 to 22, 1969 and formed the new revolutionary party CPI(ML) on April 22, 1969 on the 99th birthday of Lenin (Mohanty:1970:100). It selected Charu Majumdar as General Secretary and accepted Marxism-Leninism and Mao’s thoughts as revolutionary tools for the communist movement. However, CPI(ML) could not function unitedly. As a result, 21 members of the Central Committee took back their support from Charu on November 21, 1969. Charu was reduced to a minority, and then the CPI(ML) made changes in its revolutionary thought. Finally, its revolutionary faction formed the CPI(ML-People’s War) on April 22, 1980 in Andhra Pradesh (Shrestha:March-April1998).

Andhra Pradesh is a very noteworthy place in the history of revolutionary combats, where 2,500 villages had been organized into communes by July 1948 during the historic Telengana struggle (www.maoism.org/misc/India/cpim1/cpim1-pw/30years/part4.htm). However, the communes lasted only for a year, as the CPI majority faction, resorting to the „revisionist line,” decided to participate in the election to be held in May 1951. The revolutionary factions continued to support China’s revolutionary strategy towards the backward society in India as a model of emancipation for the mainstream population. Meanwhile, the student fronts close to the revolutionary factions continued organizing various programs, e.g. „Go to the Village Campaigns,” until the end of the 1970s.

The revolutionary center of the Maoist movement formed in West Bengal in late 1960s had shifted towards Andhra Pradesh in early 1980s which finally emerged as CPI (ML-People’s War). After its formation, they set up the first phase of
guerrilla zones from 1980 to 1984 which finally prepared for new types of struggle, new methods of organization, and military preparations for the party. During that period, the movement extended from Andhra Pradesh to Dandakaranya forests in Gadchiroli, Chandrapur and Bhandra districts in Maharashtra; Bastar, Rajandagaon, and Balaghat districts in Madhya Pradesh; and Koraput district in Orissa (www.maoism.org/misc/India/cpim1/cpim1-pw/30years/part4.htm). From mid-1985 to 1989, the government launched a massive onslaught and called for new political, organizational, and military initiatives in Andhra Pradesh (www.maoism.org/misc/India/cpim1/cpim1-pw/30years/part4.htm). The government widely attacked the party, and it suffered physically and politically. From 1991 onwards, a second round of police operation was introduced under the direct command of Home Ministry. While retaliating against the police operation, they were able to develop guerrilla zones in Dandakaranya and North Telengana (www.maoism.org/misc/India/cpim1/cpim1-pw/30years/part4.htm) and are now trying to develop the base areas.

Both CPI (ML-People’s War) and CPI (ML-Unity Center) which were conducting various People’s Wars in Naxalbari, Srikakulam, Birbhum, and Debra-Gopiballavpur separately, united as CPI (ML-People’s War) in August 1998 after a week-long bilateral meeting (www.Maoism.org/misc/india/cpiml/joint_comm.htm). Recently, the two revolutionary parties, CPI (ML-People’s War) and CPN (Maoist), issued a joint press communiqué to launch movements in close cooperation both in India and Nepal.

Likewise, the Maoist Communist Center (MCC) which was generating a revolutionary movement in Bihar, India, supported the Naxalbari Peasant Movement, but did not join with the CPI (ML) because of the strategic and tactical differences. From 1964 to 1968 it had been playing a leading role in trade unions, and student and youth fronts. The MCC especially linked the workers and peasant movements in order to: „draw a clear-cut demarcation between so-called revisionist and political organizations; link the revolutionary theory with practice; develop political and tactical strategies; and base policies, method, and styles on them‰ (www.maoism.org/misc/India/cpim1/cpim1-pw/30years/part4.htm). From 1969 to 1978, MCC tried to implement the party’s line, policies and plans, establishing an „Agrarian Revolutionary Resistance War,‰ and conducting some people-and-farmer-supportive programs such as advocating for wage prices, addressing fertilizer problems, and confiscating food grains from landlords. In the third phase of the movement, stretching from 1979 to 1988, it analyzed all the negative and positive impacts of its movement in order to fine tune both the theory and practice of revolutionary warfare. During the period of the third phase, it focused on the establishment of people’s army and temporary base areas, especially in Bihar. At the same time, it also extended its relationship with Bengal and formed the „Preparatory Revolutionary Peasant Struggle.‰ Similarly, it developed military struggle, seized thousands of acres of land from the landlords and distributed them to the landless people. However, MCC is facing many political and socioeconomic challenges.
4.2 People's War on Land

Armed conflict is not altogether a new phenomenon for Nepal either. In the history of Nepal, armed conflicts were generated in three dimensions for the identity of origin, race, color, sex, etc.; resources for livelihood; and power or ideology. The past has been a witness to dozens of armed conflicts that occurred in different times and places. However, the trend of armed conflicts intensified after the Shah dynasty came into existence. Defeating Ghale Gurung, Drabya Shah became the king of Gorkha and his immediate descendent Prithvi Narayan Shah unified a modern Nepal by annexing many Baise (twenty-two) and Chaubise (twenty-four) principalities. Plunging the history into the bloodshed and chaos of Kot Parba and Bhandarkhal Parba, Janga Bahadur Rana - the grand designer of both the massacres, imposed what turned into the hereditary prime ministerial autocratic rule for 104 years. During his regime, multiple armed struggles were also waged. Supati Gurung and Lakhan Thapa revolted against Ranaism. If we look at the socio-political upheavals, at about each 10-year interval, Nepal has suffered either an armed struggle or a people’s movement in the 20th century, viz. Makai Parba (1920)\textsuperscript{6}, Prachanda Gorkha Episode (1932)\textsuperscript{7}, Praja Parishad (1940)\textsuperscript{8}, Anti-Rana movement (1950), Imposition of Panchayat system (1961), Jhapa Uprising (1971), Anti-Panchayat turmoil and the Referendum (1980), People’s Movement (1990), and People’s War in its full swing (2000).

Even Nepali Congress had revolted against the Panchayat system through use of weapons. One of the chief constituents of the present day CPN (UML) had launched an armed struggle called Jhapa Uprising (Jhapa Peasant Movement) which was one of the first armed struggles in Nepal to be guided by the communist ideology. It was politically and ideologically similar to that of the present day CPN (Maoist) insurgency.

Inspired by the peasant movement in Naxalbari, West Bengal, the Jhapa District Committee of the Communist Party of Nepal organized the revolutionary youth peasants into All Nepal Revolutionary Coordination Committee (ANRCC) in 1970, which principally adopted the Marxist philosophy, political economy, and scientific socialism much like the present day CPN (Maoist). It was the first of its kind in the history of Nepal. It applied the Marxist-Leninist revolutionary theory and practically adopted the strategy and tactics of guerrilla warfare of Mao in China and those of Charu in Naxalbari. It adopted the policy of class struggle and Barga Shatru Khatam Abhiyan (Exterminate the Class Enemy Campaign) following the strategy and tactics of „one area, one unit, one action‰ and „one man, one contact‰. The coordination committee started an armed peasants’ movement on May 17, 1971 to emancipate peasants from extreme poverty, economic disparity, social discrimination and exploitation, and political repression. Just when they had killed some local landlords, the government launched a massive retaliatory operation and crushed the movement by killing many prominent figures extrajudicially such as Netra Ghimire, Ram Nath Dahal, Krishna Kuikel, Chandra Bahadur Dangi, Narayan Shrestha, etc. Most of these were killed while being brought into police custody or being transferred from one post to another. Similarly, hundreds of...
leaders as well as activists were arbitrarily arrested and tortured. Some were kept under life imprisonment. The members of the group who were outside the prison, later formed CPN (Marxist-Leninist) or CPN (ML) which, in turn, formed the CPN (United Marxist-Leninist or UML) when CPN (Marxist) fused with it after the restoration of democracy in 1990. Since then, the CPN (ML) has rejected the former policy of *Barga Shatru Khatam Abhiyan* and they have also apologized to the people for their past misdeeds. Thereafter, it is simply called revisionist Communist Party of Nepal.

When the Panchayat government suppressed the armed communist movement in the eastern and central regions, it shifted towards the hills and mountains in the mid-western region, especially Rolpa, Rukum, and Pyuthan districts. Several times, the Panchayati government tried to eliminate the communist ideologues and activists through the state machineries. But, the repressed communists finally appeared in the forefront as a strong force after the restoration of democracy. When UPF won three out of four seats in parliament from Rolpa and Rukum, defeating the NC leaders in the first general election 1991, the ruling NC party used both the local goons and the state apparatus, „politics and power%, to annihilate the revolutionaries - the members of UPF. Despite such repression and atrocities, UPF again showed their great strength in the local elections in 1992 in Rolpa and Rukum districts. In the re-pollings of Rangsi, Rankot, Jelwang, Jaimakasala, Gunchal, and Iriwang VDCs of Rolpa in June 1992, the ruling NC party’s candidates were declared as winners without giving an opportunity to UPF and other parties even to file their nominations (INSEC:2000).

The UPF strongly denounced such unconstitutional and unethical moves of the NC. Instead of hearing their voices, the state launched political repression misusing the state machineries on the instigation of local leaders of NC. Hundreds of workers of UPF were implicated in fake cases of killings and so forth. As a result, hundreds of UPF activists were arrested and dozens were kidnapped. Besides that, many incidents of arbitrary arrest, torture, incommunicado detentions, disappearances, and cruel, inhumane and degrading treatment occurred during that period. These were condemned by various human rights organizations and civil society within and outside Nepal.

In October 1993, when UPF leader Dr. Baburam Bhattarai along with his team members went to Rolpa to inspect the prevailing circumstances of the district and villages, they were attacked by NC workers armed with *khukuris* and pistols under the protection of police. When they visited the Chief District Officer Abdul Rais Khan to request for their security and to meet their comrades in jail, they were severely threatened by him. He showed them the outdated Act and announced his authority to arrest anybody he desired. Against such state terror, atrocities, and oppression, Dr. Baburam Bhattarai and his subordinates handed over a memorandum to the Home Minister Khum Bahadur Khadka on November 2, 1993, protesting against the illegal activities of the CDO and asking the state to take necessary action against him. An unofficial translation of this document is given below:
United People’s Front
Central Ad-hoc Committee
November 2, 1993

Honorable Home Minister
His Majesty’s Government
Ministry of Home Affairs, Kathmandu

Ref.: Memorandum

Sir:

On behalf of the United People’s Front Nepal, we visited different VDCs of Rolpa district from October 13 to 27, 1993 where social tension has been intensifying for some time. During our visit, we met various party representatives, elected people’s representatives, and district administrative authorities to find out the exact problems and their possible solutions. Because of the barbaric atrocities of CDO Abdul Rais Khan and the obscene behavior of the local NC workers, Rolpa is still full of tension. In a multi-party political system, administrative bodies should be impartial and show equal respect to other political parties and people’s representatives. The contemporary problems should be solved politically without provoking the sensitive elements. Instead, the CDO has terrorized the situation by torturing and threatening the opposition political parties and people’s representatives in a manner reminiscent of the Panchayat period. Even for a very small event, the workers of opposition parties, especially the UPF which is popular in the district, were implicated into false charges. To make the role of CDO more powerful, some ex-Panchas who have lately joined in the Nepali Congress were actively involved to work as catalysts. Therefore, we forward the following 4-point list of demands to normalize the situation in Rolpa from terror and repression and to maintain peace. These demands are:

1. CDO Abdul Rais Khan should be dismissed from his post immediately;
2. All false offense cases should be withdrawn and people who have been imprisoned on fake grounds should be released;
3. Administrative repression and terror should be ended; and
4. The various incidents occurred in the district should be investigated judicially.

Thanks.

Dr. Baburam Bhattarai
Coordinator
United People’s Front Nepal

The same evening, the UPF organized a press conference to inform the common people about what was happening in Rolpa. Dr. Bhattarai told the story as to how two to three hundred congressmen armed with khukuris, knives, and pistols encircled Hayang Nuwagaon VDC, capturing and torturing people with the help of two hundred armed policemen. The press release states that dozens of poor people were not merely arbitrarily arrested, tortured, and imprisoned, but were allegedly charged with involvement in the guerrilla training in Jangale. The press release further says, „Not a single UPF cadre is free from falsely charged offenses.” It states that more than three thousand people had been implicated into such false cases. Similarly, more than Rs. 20,000,000 (US $ 266,666) in cash had already been deposited with the local administration as the bail amount. Any UPF
activist who did not have money to deposit as bail had to finally take shelter in the Jangale to evade arbitrary arrest, torture, detention, or disappearance. Explaining the situation of Rolpa, the UPF leaders reiterated the need to ensure equal justice to all by respecting the norms, values, and principles of democracy, human rights, and spirit of the constitution of Nepal. Indeed, the atrocities, oppressions, discriminations, exclusions, injustices, and inequalities played a very significant role in eventually launching the People’s War.

Even after two years, when they did not receive any response from the concerned state authorities regarding their 4-point list of demands, the UPF leaders met with PM Sher Bahadur Deuba and submitted the 40-point demands on February 2, 1996 with a 15-day ultimatum. UPF made it clear that if the state did not respond in time, it would be compelled to start an armed struggle, although, it declared the People’s War on February 13, 1996, four days before the ultimatum was to expire.

4.2.1 Initiation of the People’s War

In order to achieve New People’s Democracy and Republican State, the CPN (Maoist) have clearly given priority to a number of tasks, just as Mao had done in China. Thus, they have given priority to rural work without abandoning the urban work; they have given priority to the normal armed struggle without abandoning the protracted struggle; they have given priority to peace-talks without abandoning military actions; they have given priority to disseminate information in some specific areas without abandoning the nation-wide propaganda; they have given priority to the struggle of toiling peasants in villages without abandoning the workers in the urban centers; they have given priority for the emancipation of the people without abandoning the struggle against their enemy; they have given priority to propaganda within the country without abandoning worldwide campaigning; they have given priority to constructing a people’s liberation organization without abandoning frontal and united organizations; they have given priority to poor, disadvantaged, marginalized, and the vulnerable people without abandoning the elite class people; they have given priority to people’s need-based, right-based and demand-driven policies and programs without abandoning to expose the elite-based policies and programs of organizations or institutions and development workers; and they have given priority to paralyzing local government activities by demolishing development infrastructure without abandoning to maintain threat at the central level throughout these nine years (1996 to 2004). Besides these principles, the Maoists have also tried to create unity with the nationalist, democratic, and progressive forces and revolutionaries, and to receive some sanctuary from the international communities.

The Third Plenum document has outlined the strategy and tactics of armed struggle in Nepal. It has described the three stages of the protracted People’s War: (i) strategic defense, (ii) strategic stalemate/equilibrium (consolidation of power), and (iii) strategic offense. Each stage is further divided into: (i) final preparation, (ii) initiation, (iii) continuation, and (iv) development or advancement.

In fact, many political, military, and socioeconomic programs had been car-
ried out before 1996 to initiate the People's War in Nepal. These works were called „final preparation.” Before the formal initiation, UPF raised awareness campaigns: mass meetings, street demonstrations, mass processions, cultural programs, and training programs, etc. For example, the UPF organized a cultural program *Sija Miteri Abhiyan* (Cease Friendship Campaign) in 1995 to awaken the common masses in Rolpa and Rukum. The intensity and frequency of cultural programs received considerable support and exposure when the state mobilized commando force to suppress them in the name of Operation *Romeo*. Indeed, the operation made the people stand against arbitrary arrests, detentions, incidents of cruel, inhumane and degrading treatment, rapes, and involuntary disappearances. The protracted nature of the People's War had crossed six stages by 2001.

### 4.2.1.1 First Plan

Thousands of historic leaflets were distributed throughout Nepal on the eve of the People's War explaining why it is necessary to smash the reactionary state as well as the feudals, compradors, capitalist bureaucrats and technocrats, and semi-imperialist elements. The leaflets appealed the people to „March along the path of the People's War” for the establishment of a new democratic state - People's Republic of Nepal. That appeal primarily focused on how nationalism, democracy, and livelihood fall into an endangered situation. Pointing towards the monopoly of Indian origin people in Nepal and some bureaucrats the appeal states: „The entire economy of the country has been handed over to a dozen families of the foreign compradors and capitalist bureaucrats and technocrats. Whereas these handful of plunderers have become billionaires, the real masters of the country and the national property, the toiling masses of Nepal, are forced to eke out meager existence amidst deprivation and poverty.” It is true that many of the natural resources, especially water, are under the control of the Indian government and have been plundered significantly after the restoration of democracy in 1990 as the ruling party NC is more loyal to India overlooking the fact that Nepal lies between China and India. The appeal stated that feudal and imperialist tendencies have caused extensive exploitation through drug trafficking, smuggling, thievery, black marketing, looting, murder, and rape in the country. The appeal further stated that because of anti-national and genocidal deeds, people of various professions had to live in a state of scarcity, injustice, and terror (see Annex-IV). Therefore, the Maoists requested the general masses to rise for the ‘just’ People’s War against the ‘unjust’ war of the state’s injustices and inequalities.

The plan of initiation proceeds on the strategy of „encircling the city from the countryside,” in line with the Maoist party’s commitment to the People’s War developed by Mao as the universal and invincible Marxist theory of war (www.maoism.org/misc/nepal/worker2/worker2_4.htm). It aims to destroy semi-feudalism, semi-imperialism, and bureaucratic capitalism and move towards socialism under the dictatorship of the toiling peasants and workers. The spirit of the movement aims to be freed from all kinds of injustices such as dogmatic nationalism, marginalization, discrimination, deprivation, intolerance, religious and cultural hegemony, casteism, and oppression.
This plan primarily focused on the following goals: (i) to establish the politics of armed struggle; (ii) to formulate the elements of a military organization; (iii) to adopt the strategy of guerrilla warfare; and (iv) to prepare and develop guerrilla zones (Prachanda:1998:21-22). Based on these goals, the first plan is primarily divided into: (i) propaganda actions, (ii) sabotage, (iii) guerrilla actions and (iv) annihilation. However, there was no strategy of annihilation initially in the first plan. For the propaganda, sabotage, and guerrilla actions, the members of the Maoist party basically targeted: (i) the government officials, especially the security forces, (ii) the local feudals and their representatives, (iii) the local semi-imperialists and their representatives, (iv) the *surakis* (informers), (v) reputed social workers who refuse Maoists' ideology, activities, programs and policies, (vi) the local usurers, money lenders, oppressors, exploiters, and goons, and (vii) the foreign institutions working for their own interests and policies instead of the people's needs, interests, participatory process, and "demand driven agendas."

The propaganda actions included torch light processions, painting of slogans in public places, and distribution of leaflets and posters of the People's War. The sabotage actions included the search and seizure of private properties of local feudals, semi-imperialists, and capitalist bureaucrats and technocrats. Similarly, guerrilla actions were launched against the local goons, informers, and oppressors through raiding, ambushing, and snatching of arms and ammunition and confiscating public and private properties.

On the first day, the semi-equipped UPF launched a struggle between 8 to 11 PM at three police posts, one each in Rolpa and Rukum in the mid-western region and Sindhuli in the eastern region, chanting pro-Marxist-Leninist-Maoist slogans (www.maoism.org/misc/nepal/worker2/worker2_4.htm). At 10 PM, a militant team attacked the Holeri Police Post in Sakh VDC of Rolpa with local weapons and explosives, where the exchange of fire was held for two hours (www.maoism.org/misc/nepal/worker2/worker2_4.htm). The militants ransacked the office, seized the store and took substantial amount of explosives. Before departure, they clearly explained their aims of revolution to both policemen as well as people who were curiously gathered outside the police post. Finally, the Maoists fled from the scene.

*HRYB 1996* states that the Maoists easily captured the Athbiskot police post without any resistance by the policemen and took away some wires and 8 kg of explosives from the neighboring Rukum district the same evening (1997:98). The Maoist militia also captured Sindhuligarhi Police Post of Jalkanya VDC-2 of Sindhuli district and confiscated some explosives. They also conducted some raids. They snapped the telephone line of the *Rastriya Banijya Bank* (a public undertaking) and set fire to some loan papers and other documents in Rolpa. Similarly, the office of a public project, the *Sana Kisan Bikas Yojana* (Small Farmers' Development Program) in Gorkha district was raided and the loan papers signed by the peasants and their deposited *lalpurjas* (land registration certificates) were seized and returned to the owners. Even in the capital, Kathmandu, they attacked several places including a soft-drink bottling factory (Coca-cola) and Gorkha liquor factory. Likewise, thousands of bond papers that had been signed by the feudals, landlords, and usurers in the name of poor as debtors were seized and burnt down.
The CPN (Maoist) states that within three weeks of the initiation, about 5000 actions had taken place in about 65 districts (www.maoism.org/misc/nepal/worker2/worker2_4.htm). Among them, it is estimated that 80 percent of the actions were composed of propaganda, about 14 percent of sabotage, 5 percent of guerrilla attacks, and 1 percent of annihilation. Prachanda writes, „Under the first plan, no action of physical annihilation of enemies was carried out. In terms of the number of actions, there were many more actions for propaganda, fewer for sabotage, and still fewer for guerrilla attacks%“ (www.maoism.org/misc/nepal/worker2/worker2_4.htm). However, Khadka Bahadur Budha and Dhanbir Budha of Arkhola, Panchawang VDC-5 and Dhan Bahadur Dangi of Iriwang VDC-7, who had been sleeping inside their homes in Rolpa district, were attacked and injured by the Maoists the same Friday night. In another incident in Rukum district on February 15, 1996, Jamlal Pun of Marawang VDC-1 was slashed on his knees and ankles and his wife was also beaten by the militants (HRYB 1996:1997:93-99). Although, the party had appealed not to resort to annihilation at this stage. However, several cases of annihilation did occur due to unavoidable circumstances (www.maoism.org/misc/nepal/worker2/worker2_4.htm). The houses of local landlords, including those of former minister of Jajarkot Deep Bahadur Singh and the then Assistant Minister Gopalji Janga Shah, in Rukum were raided and the militants confiscated their private properties. Likewise, the paper mill of the then Assistant Minister Chinkaji Shrestha and the office of the Save the Children-USA, situated in Gorkha district, were also destroyed. At the beginning of the initiation, the government was confused about how to retaliate. However, after 15 days, the government started a counter-attack under the direct supervision of the then Home Minister Khum Bahadur Khadka who consulted with officials and NC leaders from the center to the district headquarters. In the first retaliation, the police killed six people in Pipal VDC in Rukum. In the same incident, four women were stripped naked and of these, three were brutally gang-raped by the policemen one by one, while being brought to the district headquarters after their arrest (see case 6.1.1). Before the initiation of the People’s War, all the leaders and activists had gone underground. As it was just the beginning, human rights activists in land as well as abroad looked very seriously even at minor events, and significantly pressured both the conflicting parties to reduce the cases of human rights violations and abuses.

### 4.2.1.2 Second Plan

After the success of the First Plan, the politburo of CPN (Maoist) adopted the Second Plan for the continuation of the People’s War with the aim to „Develop Guerrilla Warfare in a Planned Manner“ The plan started in the second week of March 1996 although it was approved by the central committee meeting later in June 1996 (HRYB 1999:1999:126). In this plan, the Maoists emphasized upon upgrading and expanding the fighting capability by conversion of general masses into people’s militia in specific areas. In fact, the second plan was designed to: (i) mobilize the masses extensively in support of the guerrilla war; (ii) capture neces-
sary equipment for guerrillas in a planned manner; and (iii) centralize all the activities in order to transform certain strategic areas of the country into guerrilla zones (Prachanda:1998:34). At the start of the plan, there were only three types of military teams: (1) the militia or the fighter team, (2) the village security team, and (3) the volunteer team. Later, the fighter team was converted into a squad. The Maoists give high priority to the military organization. However, the village security team and the volunteer team continued the duties and responsibilities by providing social security to all the village people and the militant forces in the epicenters.

The CPN (Maoist) identified their principal, secondary, and propaganda zones in the conflict areas. During this phase, they launched a lot of initiatives to improve their political exposure, conduct defensive actions, and mobilize the masses. They employed thousands of poor peasants, both male and female, as fighters and expanded their membership nationwide. They developed both military and non-military forces within the party and divided their duties and responsibilities. Prachanda states that Marxism-Leninism-Maoism has taught us the necessity of one big push to transform from peaceful struggle to armed movement (1998:35).

In due course, the Maoist guerrillas captured many private weapons from the feudals, ex-army men, landlords, and others throughout the country. Their squads raided the police stations at Lung in Pyuthan, at Triveni in Dolpa and at Bethan in Ramechap on December 14 and 15, 1996 and January 3, 1997 respectively. Of these, the raid of Bethan was the most successful one where the Maoists, with the help of home made guns and crude bombs, for the first time seized four rifles and other arms and ammunition. But, they lost their squad commander Tirtha Gautam. Similarly, they also raided the office of Nepal Bank Ltd. at Duradanda in Lamjanga district in November 1996. And their first ambush against the police was laid down in the jungle at Tak VDC-7, Rukum, where a head constable and a constable were killed (HRYB:1999:126).

The strategy of „annihilation of the selected enemy” resulted in actions against those who were, in their own words, involved in the killings of common people. It is alleged that the annihilated were tyrants, feudals, surakis, and policemen. They also raided the public office of Agricultural Development Bank in Kavre and Baglung districts as well as some INGOs working in Baglung and Myagdi districts. Many guerrilla actions were also carried out under the command of some women.

A large number of sabotage actions were carried out including on the house of the then Home Minister Khum Bahadur Khadka in Kathmandu. Maoists destroyed thousands of bond papers after seizing them from the usurers, moneylenders, feudals, tyrants, landlords, and businessmen. They conducted demonstrations, corner meetings in the cities, and mass meetings in the countryside. They started cooperative programs to finance poor and vulnerable people of the countryside. They announced the Valley Banda (valley-wide strike) on August 21, 1996 and Nepal Banda (country-wide general strike) on December 12, 1996 under the banner of National Mass Movement Coordination Committee. They planned to bring back the emigrants working in India for generations. They warned the government officials not to take bribe from the common masses. They formally warned
some INGOs as their programs and services had primarily been reaching the country's elite class people.

### 4.2.1.3 Third Plan

After the second plan, the CPN (Maoist) declared the slogan „Develop Guerrilla Warfare to New Heights“ for their third strategic plan beginning in mid-August 1997. This plan was envisaged as a transitional period leading to the higher sub-stage of guerrilla zone for the establishment of the core base areas. The strategic defense was divided into four sub-stages: (i) final preparation, (ii) initiation and continuation, (iii) creation of guerrilla zone, and (iv) formation of base area. From this plan onwards, the CPN (Maoist) started to exercise power at the epicenters by forming the village-united and district-united people’s governments and overthrowing the local state authorities. Prachanda said: „In the process of the destruction of the old state power and the construction of a new one, the People’s War has today reached the stage of exercising local democratic state power“ (Undated:1). This stage is also called the continuation of the second plan.

Guerrilla warfare is the main tool of protracted revolutionary warfare. The development of revolutionary warfare as an organ of political power allowed the able fighters to contend with the rival army in the prospective guerrilla zones (The Worker:1998). In this plan, the Maoists succeeded in building temporary guerrilla zones in Rukum, Rolpa, and Jajarkot districts boycotting the local elections in 1997. As the People’s War developed their military force to construct guerrilla zones in these areas, the police stations were gradually started to be withdrawn toward safer places or to the district headquarters.

To strengthen the military force, the CPN (Maoist) has established Central Military Commission on this historic occasion of the second anniversary of the People’s War. It has become the first formal special directives to all the militia (Annex-IV. II).

During the period of guerilla warfare, which is also called the transitional stage for the base areas, many political activities such as awareness and propaganda actions were also launched across the country, especially at the epicenters of the Maoists. Virtually, this plan was seen less effective in comparison to previous ones as the state intensified its security mobilization named *Sierra Kilo Two* operation from May 26 to November 7, 1998 as a continuation of Operation *Romeo*.

In the *Sierra Kilo Two* operation, about 200 people were killed, dozens of women were raped, and many people were termed as disappeared (Onesto:September 19, 1999:No.1022). Amnesty International states, „Political detainees are being tortured and unarmed civilians extrajudicially executed in the context of the operations of the government security forces in response to the actions by the members of the Maoists“ (March 1999:1). Many were involuntarily disappeared. According to the government sources, about 2,000 people had been arbitrarily arrested and detained in 1998, but only half of them were released and many were kept in custody. Because of the tremendous atrocities by the security forces, the victims’ families, relatives, friends, and neighborhoods got more involved in the People’s War and resolved to retaliate. Indeed, the barbaric atrocities
of the state forces turbulently gave birth to the fourth plan which intensified as a wildfire throughout Nepal. Armed members of the CPN (Maoist) were also reported to have been responsible for killings, abductions, and torture of the unarmed civilians, including the members of mainstream political parties (Amnesty International: March 1999:1).

### 4.2.1.4 Fourth Plan

After Sierra Kilo Two, it was believed by the government that the Maoists had been eliminated and would never rise again, but it was proved false as the CPN (Maoist) instantly announced the fourth plan: "Go Ahead to Establish the Base Areas."

The Worker states, "Base areas are the strategic bases for the People's War and they are at the very heart of the protracted People's War strategy of surrounding the cities from the countryside (www.maoism.org/misc/nepal/worker5/worker5_01.htm). Base area is the parade ground of the military force of the CPN (Maoist), where civilians turn into guerrillas to protect their party, leaders, and revolutionary wings. Any revolutionary party needs a (i) strong people's army, (ii) strong mass base, (iii) correct party base, (iv) correct political line, (v) good economic base, and (vi) a favorable terrain to win warfare.

The Fourth Strategic Plan began in October 1998 with the aim to furiously retaliate the state security forces. This plan was agreed upon by the fourth extended meeting of the Central Committee (CC) of the CPN (Maoist), held in the third week of August 1998 in response to the state repression of Sierra Kilo Two. In the first counter-attack on the Telecommunication Tower in Salyan district on October 27, 1998, eight rifles, one pistol, and 600 bullets were seized (Onesto: September 19, 1999: No. 1022). Without obtaining guns, the war could not continue. Guns are the heart and soul of the revolutionary people's liberation army, as the Maoists say the political power grows out of the barrel of a gun. And the Maoists also believe that the military power can never grow up without the base areas.

The development of military zones follows the formation and growth of: (i) propaganda zones, (ii) guerrilla action zones, (iii) potential (prospective) guerrilla zones, (iv) prospective base areas, (v) relatively stable base areas, and (vi) stable base areas. However, stable base areas have not yet been developed in these nine years of the People's War. To achieve stable areas, strong military forces are needed in terms of both quality and quantity. But, the CPN (Maoist) has been able to develop a division although they do not have enough weapons, arms and ammunition. The military force is categorized into: (i) the primary force such as platoon, company, battalion (regiment), brigade and division, (ii) the secondary military force - squad and armed militia, (iii) the fundamental (elementary or basic) force - semi-equipped people's militias, and (iv) volunteer teams. This plan was aimed to increase the people's participation four-fold. Onesto states:

"The platoons carry out guerrilla actions primarily raids of police posts with the main aim to drive the enemy away and get weapons, and secondarily ambushing, i.e. setting mines and commando attacks. The squads mainly carry out ambushes and secondarily carry out minings, commando attacks, and raids. The first task of the militias is the
sabotage and the second being propaganda. All forces are allowed to carry out annihilations. Higher type of annihilations like the killing of bureaucrats and political leaders are done by platoons. Squads and militias target usurers and other lower level class enemies (December 26, 1999: No. 1036).

However, the annihilation campaign was primarily focused on low profile district level security force and civilians. Except for some small threats, none of the infamous central level corrupt and feudal bureaucrats, technocrats, leaders, and compradors were targeted. Besides fighting and raiding the police posts, the primary military forces were also used in socioeconomic and political activities. These were categorized into: (i) political work (mass political education); (ii) organization work (developing mass organizations); (iii) production and construction (growing food grains and solving people’s problems); and (iv) propaganda (painting slogans on walls, posterings, and processions) including armed marches with torches (Onesto: December 26, 1999: No. 1036).

The primary force moved to and fro between the prospective base areas and the guerrilla zones. The secondary force was also found in the prospective base areas, guerrilla zones, and guerrilla actions zones combined with battalion, brigade and division for special raids and seizures of the enemy. Some squads also guided prospective guerrilla zones to guerrilla action zones. The main forces are mobile, but the squads are stationed in prospective guerrilla zones and guerrilla action zones. Earlier, a company, platoon, and squad were used together as mobile warfare to carry out a specific task.

The Central Committee of the Maoists organized a special people’s army, the “first task force” to carry out military actions during the election boycott campaign in 1999. The task force was comprised of about 50 members of the best guerrilla warfare unit. The Chiraghat Area Police Post of Dang and Ghartigaon Area Police Post of Rolpa were raided, ransacked, and seized by the special task force. The memorandum describing the capture of Ghartigaon Area Police Post written by one of the participants helps us understand the situation on the battlefield. The memorandum is unofficially translated from Janadesh weekly dated March 14, 1999:

Case 4.2.1.4.1: Capturing Ghartigaon

The People’s Liberation Army of the western regional bureau of CPN (Maoist) attacked the Area Police Post of Ghartigaon, Rolpa district, combined with its primary and secondary forces, on February 17, 1999. The exchange of fire continued from 1.15 AM to 4 AM. This was the second largest police post in the district after the district headquarters. It was leading many other police posts, where 40 policemen were residing at the time. Hundreds of additional policemen had also lived there and participated in different operations namely Romeo, Sierra Kilo Two, Peter One and Jangale Search, creating terror for the local people in Rolpa. Eleven cultural artists were killed at Bhawang on June 22, 1998 by the same Ilaka Police Post. In the case of the Sukidaha operation, 11 guerrillas were killed on December 13, 1998. The operation was carried out jointly by both police and army under the leadership of Inspector Shree Ram Acharya. Besides, the police had also raped women, looted people’s property, and murdered local people when they visited villages. Because of the demands of hundreds of people, the police post was captured by the people’s army.
The crossfire began at 1.15 AM. The guerrillas immediately reached very close to the police post in the first round of fire, despite the indiscriminate firing of police. The Chief Commander announced, "Dear police brothers, do not confront us now! The guerrillas have encircled you! You must instantly decide either for life or death!" We were attacking in a balanced way. However, the police were firing continuously with grenades and charging mines without speaking a word. Then, the commander ordered for a second round of attack and all the sentry posts came under our control. The policemen were still fiercely defending. One of our friends became slightly wounded and the commander ordered him to go back for medical treatment. The chief commander suggested to other section commanders to end the battle as soon as possible. He asked the police for a dialogue in the second round of announcement. Meanwhile, the Inspector was shouting, "Ah boys, don’t be afraid! Fire!! If anyone does not fire, I will kill him."

Assault Commander Sankalpa, while proceeding forward to control the trenches, was hit by a bullet and got wounded. Transferring his gun to another comrade he said, "I am wounded, cover this area." In the command of the assistant commander, we were continuously fighting. Sankalpa stopped us "Comrades!..." He died on the spot, chanting, "Long live Marxism-Leninism-Maoism! Long live the People’s War! Who is the winner? The people!" All the comrades became fierce after this incident. It gave them more energy to fight. The chief commander again appealed to the policemen, "We are not fighting with you but with your weapons and with the whole reactionary state-power. We do not want to kill you. Instead of that we are fighting in favor of poor people like you and we want to protect you. If you hand over your weapons, we will respect you on the basis of International Geneva Convention." After a while, the Inspector shouted, "Ah Maoists! You hand over your weapons within five minutes." The police again charged with another mine which wounded another comrade. The people’s army became more agitated and fit mines around the police post which blew up the building. Because of the explosion, all of the inside could be seen. Seeing the dead bodies inside and outside the building, the chief commander said, "Comrades, many policemen have been killed, now we should bring them out by lighting the torch and be ready even for the possible risk." A comrade lit a torch and pointed inside, but all the policemen were passive. Then, he ordered them to come out and hand over their weapons. All the policemen gathered outside. Some were weeping, some were cursing themselves, and others were expressing anger with the Inspector. They were feeling as if they had been just freed from jail. To receive their response, some questions were forwarded to the wounded policemen.

You are wounded. Why didn’t you hand over the weapons? A wounded constable scolding his immediate boss said, "We wished to hand over our weapons, but Sri Rame (the inspector) was likely to kill us. We knew that you would do nothing to us after the weapons were handed over. What could we do? We were very much suffering and many were killed due to the cruel and proud behavior of the inspector."

The second wounded assistant sub-inspector said, "He didn’t allow us to speak. He was likely to fire us. When he died, I told all the policemen not to fire, that is why we are safe now. Please don’t do anything to me, I will go home tomorrow."

The third wounded head constable said, "We were 39 in the post. We had 34 rifles, two shotguns, and a pistol. We had buried nine mines outside. The inspector ordered me to charge the mines. As I refused, he charged all those by himself. I will go home now and never come back to be a policeman and never suggest anyone to work in the police force." Thus, accusing their own luck almost all the policemen felt that they had sold their lives for money.

Finally, the doctor of the guerrillas provided basic treatment, dressing, and bandage to all the wounded policemen. Commander Comrade Pasang blew the whistle to signal the victory and centralized all the people’s armies. Similarly, the Chief Political Commissioner gathered 25 policemen
together, clarified the objectives of the action in a loud voice with a view to make all local countrymen listen to it. The policemen were in our control. They were treated with respect and released soon thereafter. The red army walked ahead chanting slogans.

Squads and militia generally carry out the functions of propaganda in urban areas. For all kinds of actions, the Maoists first centralize their force as if „assembling the parts into whole‰ from all corners and then decentralize them like „breaking up the whole into parts‰ after the completion of actions. The Maoists first prepare the ground for the armed struggle. Before any actions are taken, they gather force what is called sakti sanchaya (the accumulation of power) which is necessary for the strategic equilibrium and strategic counteroffensive. They concentrate their forces in and around the prospective base areas in preparation for the grand path of the establishment of a stable base area. Onesto adds, „In the prospective guerrilla zones, the aim is to establish temporary base areas. In the guerrilla action areas, the aim is to demoralize the enemy, extend the ground for warfare, and seize arms. In the propaganda zones and in the urban areas, the aim is to attack the enemy there and prepare the ground for eventual insurrection‰ (Onesto:February 6, 2000:No.1042).

Besides raiding and killing the enemy, the people‰s liberation army implements several socioeconomic reform package programs. To raise consciousness, the CPN (Maoist) has launched informal education classes. Similarly, they have enabled the people to fight for their basic needs, individual freedom, and dignity. Sometimes in the prospective guerrilla zones and base areas, they provide labor force in the farms of martyr‰s families and old-age peasants. The Fourth Plan is considered a very important phase in which the Maoists have developed the People‰s Court in parallel to the judiciary and executive arms of the government. In the countryside of guerrilla zones and prospective and stable base areas, the People‰s Court or the Tribunal has become popular among the common masses and it has paralyzed the State‰s apparatus.

A. People‰s Court

The Judiciary system of Nepal is divided into district courts, appellate courts, and the Supreme Court at the apex. It is estimated that about 66,000 cases were pending in the courts till 2002. It is stated that justice delayed is justice denied; so the faith toward the public courts has gradually reduced as the cases are delayed unnecessarily. Even the final verdicts are influenced by property (bribery), power, and politics instead of delivering equal justice to all. For instance, a senior lawyer Lekhnath Poudel of Attorney General‰s Office resigned on the moral charges of attempting to bribe Rs. 200,000 (US $ 2,666) to a justice of an appellate court (Kathmandu Post:March 24, 2001). This is neither the first case, nor the last one. The cases of GW Robinson and Lumbini Overseas are the latest few examples of corruption and bribery in the court.

Many times, the security forces disregard and challenge the spirit and supremacy of the constitution, intervene in the public courts and arrest a freed prisoner as soon as the court has ordered for his/her release. Even in Kathmandu,
Asha Khanal was arrested for the 7th time in front of the court at the end of June 2001 against the court verdict to release her.

As a result, common masses get attracted towards the People’s Courts. These courts are found at all levels such as Area, Regional, and District Courts in Maoist strongholds. A dissatisfied litigant can appeal to the higher level court for fair justice. The proceedings of the people’s courts are often held in the open before the public. The mass meetings sometimes include up to 500 people. All types of cases are filed in the people’s courts such as those related to land disputes, loans, false bonds, bribery, quarrel between husband and wife and so forth. However, only a few cases of wife beating have been filed in the people’s courts. Ever since the active initiation of the people’s courts (till 2003), cases have declined by 78 percent in the public courts especially in the Maoist-affected districts - the Mao land.

In a conference in Kathmandu, lawyers from Maoist-affected districts said, „The number of cases registered in the insurgency-hit district courts of Rukum, Rolpa, Salyan, Pyuthan, Jajarkot, Kalikot, Dolpa, Dailekh, and Achham have gone down by about 80 percent‰ (Kathmandu Post:August 22, 2004). As a result, the profession of lawyers has almost come to halt in Maoist-affected districts. Even in less insurgency-hit districts such as Kaski, half of around 150 lawyers are practicing at present compared to that in 1998 (Kathmandu Post:August 22, 2004). The cases pending in judiciary for 10 to 15 years have been decided over as „instant justice‰ in the people’s courts. Hasta Bahadur K.C. said that not even a single case had been filed in the Chief District Office or the District Court in Rukum in 1999. In Mulprabaha he writes, „When people want to buy and sell the land, they have to pay two percent tax to the Jana Samiti (People’s Committee) for the registration of the land, and they receive the certificate from the people’s courts‰ (December 1999:year 1/no.1:5). Some bails are also given by the people’s court based on the nature of the offense.

Why do people go to people’s courts instead of public courts and administration in the Maoist epicenters? The answer is: (i) Public courts and administration involve a very lengthy process and a lot of hassles; (ii) Public courts and administration take a couple of days to reach; (iii) Poor people cannot afford the lawyer’s fees for the cases; (iv) Public courts and administration favor graft and power instead of offering fair and impartial judgment; (v) People’s courts are easily found in the countryside and (vi) People’s Courts ensure the service free of cost. The people’s courts have become very popular among the common masses. It is reported that in some complex crimes, offenses, and disputes, the three-and-one (3-n-1) committee consults with the senior lawyers to identify the offenders and to find out the exact punishment for them. In most of the cases, the offenders are publicly humiliated and inflicted with minor beatings. To file complaints in a people’s court, a complaint box is kept under the supervision of people at public places in the Maoist epicenters.

The decision-making process for individual cases is unique and it depends upon the nature of the offense. If a case is filed by a woman against a man, the punishment is often decided by women. Similarly, in the case of woman against woman, man against man, and man against woman, men and women sit for
judgment in proportionate number\textsuperscript{10}.

As most of the village women and men are not much educated and not very familiar with the judicial system, the procedure for decision may not always be fair and impartial as it is difficult to follow formal legal procedures and seek necessary evidences. Both internal and external factors play significant roles in such decisions. But a woman, unlike the male judges of the public courts, can only understand the real torture, inhumane and degrading treatment suffered by another woman. However, a lot of exercise has to be done before reaching on a decision and announcing the punishment.

When a public decision is made fairly and impartially in a transparent manner and if the real perpetrators receive punishment in all kinds of criminal offenses, it should be welcomed by all quarters. But sometimes, cases have been influenced and decided on the basis of personal dispute, nepotism, favoritism, sycophancy, and so forth. In some of the cases, the Maoists did not give enough time to the accused to defend against the alleged charges. As a result, some innocent and ordinary people have also been victimized. When such incidents come into public through media, the Maoists receive considerable pressure from both internal and external human rights institutions. In some cases, they were very much condemned by the civil society, human rights bodies, and other concerned agencies. It is true that no one should have the right to commit extrajudicial killing, arbitrary arrest, detention, abduction, and to subject others to torture, cruel, inhumane, degrading treatment or punishment. Everyone does have a right to an effective remedy by a competent tribunal.

Due to the instant justice of the people's courts set up by Maoists at their strongholds even in the remote areas of Nepal, it has created a serious challenge not only to smooth functioning of the public courts – particularly district courts and appellate courts, but also to the very need of their continuity. However, it is being debated whether the people's courts have the legitimacy in parallel to the state-owned courts. The state machinery and elite class people call the people's court as kangaroo court, but for the majority of the poor, disadvantaged, marginalized and vulnerable people it is quite legitimate.

B. People's Institution

In the fourth plan, the UPF set up a Public Cooperative Fund (PCF) in their areas of influence. This fund has been established mainly for the peasants to borrow money when in need or at times of difficulties. It is established through the deposits made by the people, for example the fines decided by the people's courts, taxes on registration of land and forest, regular and occasional donations, party membership fee, etc. The interest rate is very low, between 10 to 15 percent in comparison to 36 to 96 percent charged by the moneylenders, usurers, feudals, and landlords, etc. It is also cheaper than the interest rates of the public commercial banks. Besides, ordinary people, poor, disadvantaged, marginalized, and vulnerable communities rarely get a loan from state-owned public banks. Invariably, the borrower has to pay five to eight percent of the loan amount as bribe to the bank officials even to receive a very small loan. Otherwise, no matter what difficulties
the aspiring borrower may be facing and in spite of the evidence s/he may present to the officials, the toiling peasants and poor civilians hardly get a loan.

The Martyrs' Memory Fund (MMF) which donates to the martyrs' families has been established through people's donations with the financial contributions from local teachers, civil servants, and returns from cultural programs. The people's power has also established the Agricultural Cooperative Fund (ACF) to promote agriculture. In some places of Rukum and Rolpa, the united front has started Community Agriculture. Besides, the Maoists are involved in development infrastructure at local levels. Onesto writes, "The masses, party members, and people's power committees and people's guerillas have built 510 small martyr platforms under trees, 65 bigger monuments of martyrs, 174 wooden bridges, 135 small and big roads, 75 wells and water taps, 115 schools and public toilets, and 15 playgrounds% (September 23, 1999:no.1023). However, during the State of Emergency (November 2001 to August 2002), the state security forces demolished almost all the development infrastructure constructed by the Maoists.

In the same plan, the Maoist members tried to improve the life standards of toiling peasants by raising the slogan of "Land to the Tiller!" as Nepal is an agriculture country where 85 percent of people depend upon traditional subsistence farming. Before the initiation of the People's War, the tillers would pay two thirds of their harvested food grains to the landowners, although they should share only half of it legitimately. Instead of providing half of the harvested crop to the landowner, the Maoist tenancy rights policy allows one-third to the landowner in spite of their former slogan that land be owned by the tillers. Giving away one-third of the crop to the landowner does not coincide with the Maoist politico-ideology. But, some tillers are providing half of the crop to their respective landowners secretly against the Maoist's policy fearing the possible outcome if the Maoist do not succeed to capture the state power. On the other hand, the Maoists raid and seize land from landlords and feudals and distribute it to the landless peasants who then pay taxes to them. In recent days, such raiding and seizing of public and private lands have been intensified which has increased the growth of community agriculture in the Maoist affected districts.

4.2.1.5 Fifth Plan

The Fifth Plan, which began in August 1999, is not designed as a new program; it is a continuation of the fourth plan focused on unity, leadership, planning, and action to move effectively to wage the People's War. This plan has tried to strengthen the party, the people's liberation army, and the united front by forming permanent base areas with the slogan of "Advance in the Prime Direction of Constructing Base Areas." The main aim of this plan is to equip the army to be more advanced both quantitatively and qualitatively and to recruit greater number of people into the armed groups. In addition, the Maoists pay attention to construct a "revolutionary united front," set up jana sarakar (people's government), and collect modern arms and ammunition.
4.1.1.6 Sixth Plan and Thereafter

The plenum of Central Committee was held in the last week of May 2000 and it unanimously passed the political proposal *Naya Paristhitiko Naya Karyabhar* (New Responsibilities of the New Situation) with modifications to some of the points concerning the party’s future policies presented by General Secretary Prachanda. The plenum took some of the important decisions regarding ideology, party’s functions, and new strategic policies of the revolution. The same meeting decided to suspend Yan Prasad Gautam (Alok), the former Regional Chief in eastern Nepal, since he was found to deviate from the party’s tasks. It was charged that he was responsible for the extrajudicial killings of the party workers who had opposed his ideas, duties, and responsibilities. He was also involved in sexual harassment of his junior female comrades. The meeting reviewed and evaluated the implementation of the 5th plan, analyzed new possibilities and challenges of the party in the coming days, the state of dialogue with the government, and working unity with other political parties. Regarding the talks, the meeting reiterated the previous demands: (i) publishing whereabouts of disappeared leaders and workers who had been taken into custody at different times from different places; (ii) ending the nationwide political repressions and illegal detentions; and (iii) forming an impartial judicial committee to investigate several killings including that of Khara VDC in Rukum and punish those who were responsible for the incident.

During this plan, the Maoists greatly strengthened their position and attacked even district headquarters. When some 200 persons of the people’s army attacked a very remote Dunai, the district headquarters of Dolpa, they killed 14 and injured 40 police personnel in three hours of armed battle on September 25, 2000. They completely destroyed the district government offices, including the residences of the Chief District Officer and Deputy Superintendent of Police. Damaging the District Jail, they freed 17 prisoners but twelve of them later returned and gave themselves up. In that attack, the Maoists destroyed houses and took away Rs. 60 million (US $ 800,000) in cash and ornaments deposited by the public. The government immediately suspended the Chief District Officer and Deputy Superintendent of Police. While the people’s army attacked the residence of the CDO, he saved his life by hiding under the bed in his daughter’s room. They seized all the arms and ammunition the security forces had. The Royal Nepal Army contingent, which was camping just 3 km. away from the headquarters, could not gather sufficient courage to rush to the battle zone even when the local administration requested them for help repeatedly. In fact, RNA always needs an order from their concerned authority to take an action. Moreover, the RNA was not involved in any confrontation with the Maoists in the past and they wanted to keep themselves away from such confrontation. The then Prime Minister frequently urged the RNA to fight the Maoists, but they turned deaf ears as they are more loyal to the king and his family rather than the nation and the people in general. It meant that the King was not interested to involve the army against the Maoists.

Because of the heavy pressure, both internal and external, the then Home Minister Govinda Raj Joshi tendered his resignation. The secretary general of CPN
Comrade Prachanda issued a press statement the following day which stated that they had wanted to sit for a dialogue but the government, instead of creating a conducive atmosphere, continued to run a policy of white terror, murder, rape, disappearance, and abduction. Prachanda further stated that the Dunai incident was the result of such retaliation.

The second national conference of the Maoists was held in February 2001 and it passed a document presented by the party's supremo Prachanda titled: "A great leap forward: the inevitable necessity of history." This conference adopted Prachanda Path as the party's policy. The adoption of a policy named after the leader was seen by many as the assertion of his leadership within the party. The Prachanda Path appears to have made a major political shift from the party's earlier policy paradigm to Marxist-Leninist-Maoist-Prachanda Path. This plan objectively pays attention to intensify the people's war at both district and village levels.

The present state of conflict in Nepal combines the Chinese model of protracted people's war in rural areas (surrounding the towns and urban centers from countryside) and the Russian model of armed struggle in urban centers (expanding the countryside from cities or urban centers). In Russia, Lenin organized the factory workers and laborers into their association and raised their voices against the factory owners. Eventually, more and more workers joined the revolution against the state. Gradually, the movement intensified towards the countryside and captured the state power and announced the first ever state of proletariat in the history of the world. In the case of China, Mao started the revolutionary warfare by organizing the poor, disadvantaged and marginalized peasants from the countryside and moved gradually toward urban centers and finally captured the state power. The fusion of these two models envisages the Prachanda Path.

It is obvious that the Prachanda Path primarily has two objectives: (i) to strengthen base areas in the countryside and (ii) to expand the urban political warfare in the towns. Along with its adoption, the Maoists have given a new slogan to capture the government at the center. They had started initiating populist campaigns like banning alcohol. They had also called for shutting down the private schools which they later withdrew after strong public opinion against it. It had particularly antagonized the middle class people because their children were in private schools.

Within half a decade, the People's War has geared up many strategies and plans: (i) Plan for the initiation of the People's War; (ii) Develop the guerrilla warfare in a planned way; (iii) Develop guerrilla warfare to new heights; (iv) Go ahead to establish the base areas; (v) Advance in the prime direction of constructing base areas; and (vi) Undertake the new responsibilities of the new situation. Each strategy and plan was further divided into several phases of preparation, initiation, continuation, and development. Along with the announcement for the base areas at the Maoist epicenters, the Maoists formed the people's governments and people's courts at district and local levels and other independently functioning autonomous institutions. The establishment of the people's governments and people's courts has paralyzed all the functions of the state machinery and has
even minimized the role of the state itself. However, the people’s institutions have not remained stable in one place. It means that they are strengthening mobile institutions. Besides, some innocent people were victimized against the principles, norms, and values of human rights due to the biased nature of some Maoists.

As greater number of frustrated, alienated, discriminated, exploited, deprived, excluded, repressed, and unemployed youths became involved in the People’s War, the movement has intensified across the nation with increasing frequency and intensity, resulting in the loss of thousands of lives and public and private properties worth billions of rupees. Moreover, cultural harmony, national unity and integrity have been adversely affected. If this war could not end in time, the peaceful Nepali culture will eventually give birth to a number of war-torn ethnic societies. The culture of silence will remain only in the history pages and Nepal will turn into having a culture of violence.

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Endnotes

1 The Kathmandu Post: December 5, 2001.
2 Mao Zedong (1893-1976), the Chinese Marxist was born in a poor family in the village of Shao-shan in Hunan Province of China. He led the communist movement from 1931 as the chairman of the party and became the president of the People’s Republic of China in 1949 after defeating Chiang Kai-Shek. He had been greatly influenced by the nationalist ideas of Sun Yat Sen who had thrown out the Manchu dynasty in 1911 through an armed revolt. From 1927 to 1934, he organized communist guerrilla units among the peasants and defended the bases from south-eastern to north-western part of China through the Long March. The guerrilla units were later developed into the Red Army. He became an expert writer on both theoretical and practical works during the period of 1936 to 1940. He launched the Cultural Revolution in 1966 to defend against the new bourgeois elements · elite bureaucrats, but he could not be fully successful (New Encyclopaedia Britannica: 1993: vol.7/468-472).
3 For the first time, a revolutionary nationalist Sun Yat Sen and his group staged armed insurrections against the Ching dynasty. The period of Tung Meng Hui (the Chinese Revolutionary League) was replete with armed insurrections, right up to the overthrow of Manchu Dynasty by the revolution in October 1911. Mao had also worked with him for six months in Hunan. When Sun died, Chiang Kai-Shek took power following his own principle of „whoever has an army has power,” as he had spent many years with Sun leading the army (www.maoism.org/msw/vol12/mswv2_12.htm).
4 There are a number of armed parties and organizations fighting throughout the world. Some of the poor and developing countries represented by the armed revolutionaries are: Argentina by PCR · Partido Comminista Revolucionario (Revolutionary Communist Party), MPM · Moviments Peronista Montonero (Montonero Peronista Movement), and ERP · Ejérécito Revolucionario del Pueblo (People’s Revolutionary Army); Bolivia by ELN · Ejército de Liberacion National (National Liberation Army); Brazil by ALN · Ação Liberadora Nacional (National Liberation Action); Chile by PCCH · The Partido Comminista de Chile (Communist Party of Chile); Colombia by FARC · Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia), ELN · Ejército de Liberacion Nacional (National Liberation Army), and EPL · Ejército Popular Liberation (The People’s Liberation Army); Ecuador by AVCo · Alfaro Vive! Carajo! and Alfaro Lives Dammit!; El Salvador by FPL · Fuerzas Populares de Liberacion Farabundo Marti (Farabundo Marti Popular Forces of Liberation), ERP · Ejército Revolucionario del Pueblo (People’s Liberation Army), FARN · Fuerzas Armadas de la Resistencia Nacional (Armed Forces of National Resistance), and PRTC · Partido Revolucionario de Trabajadores de Centroamerica (Revolutionary Party of Central
While the People’s War was being actively waged in Peru, the Revolutionary Internationalist Movement (RIM) was established in 1984 as the nucleus of Maoist revolutionary parties of the world in order to coordinate the world’s revolutionary warfare. Altogether 13 revolutionary parties and several organizations, including the Communist Party of Peru, adopted the RIM on the Second Conference of Marxists-Leninists in 1984, which was held in continuation of the First International Conference of 1980. The 13 political parties and other organizations were: Central Re-organization Committee, Communist Party of India (Marxist-Leninist); Ceylon Communist Party; Communist Collective of Agit/Prop (Italy); Communist Committee of Trento (Italy); Communist Party of Bangladesh (Marxist-Leninist) [BSD(M-L)]; Communist Party of Colombia (Marxist-Leninist), Mao Tsetung Regional Committee; Communist Party of Peru; Communist Party of Turkey/Marxist-Leninist; Haitian Revolutionary Internationalist Group; Nepal Communist Party (Mashal); New Zealand Red Flag Group; Revolutionary Internationalist Contingent (Britain); Proletarian Communist Organization, Marxist-Leninist (Italy); Proletarian Party of Purba Bangla (Bangladesh); Revolutionary Communist Group of Columbia; Leading Committee, Revolutionary Communist Party (India); Revolutionary Communist Party (USA); Revolutionary Communist Union (Dominican Republic); and Union of Iranian Communists (Sarbedaran) (www.maoism.org/misc/rim/rimdec.htm). Although many of these parties and organizations have ceased to exist, some have appeared in the forefront of a new great wave in the proletarian movement in the world such as the CPN (Maoist). RIM defends and applies Marxism-Leninism-Maoism, principally called Maoism, which was reaffirmed at the Fourth International Conference of the PCP in October 1986 with slogans, „The mass make history,” „It is right to rebel,” and „The colossal garbage heap (of revisionism and opportunism) must be swept away.” Therefore, RIM commands and guides the world revolution with an aim to conquer the state power emancipating the mainstream people who are socially, politically, and economically oppressed.

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Makai Kheti (The Cultivation of Maize) published by Krishna Lal Adhikari (alias Subba Krishna Lal) was a satire directed at PM Chandra Samsher Janga Bahadur Rana and the book called for social and economic reforms. He was arrested and kept in jail where he died within three years.

A group of young people calling themselves Prachanda Gorkha, planned to bomb the senior Rana rulers. As the Ranas found out what they were organizing, they were arrested and detained in jail before any plan could succeed.

In 1935, Praja Parishad was formed. This party wanted to establish democracy, bringing the king under the constitution as a constitutional monarch. In 1940, its leaders and activists distributed leaflets in Kathmandu and were arrested and charged with attempt to assassinate the Rana rulers and families. Four of them were sentenced to death and many others were sentenced to jail for long duration.

For example, Koshi, Gandaki, Mahakali, etc.

If a case is filed by a woman against a man, or by a man against a woman, the punishment is often decided by a tribunal of men and women, but if a case is filed by a woman against a woman, the punishment would be often decided by a tribunal of women alone.

On February 22, 2000, a large number of policemen went to Khara VDC using helicopters under the command of Deputy Inspector General of Police of mid-western region, Nepalgunj. The people had gathered in public places. The policemen encircled the village and extra-judicially killed 18 civilians. As Maaists had already fled from the village, most of the people killed were innocent villagers. When the Maoists killed one of the policemen, they got agitated and burnt down 64 private houses and cowsheds.
Dear masses of the people,

Today the Nepalese society is in a state of grave crisis, whether economically, politically, culturally or otherwise. Where has the present state that has been harping about development and construction for the last fifty years landed Nepal economically? It has landed Nepal to the position of second poorest country in the world after Ethiopia. This state that does not manufacture even a needle in the name of self-reliant national economy, has handed over the whole economy of the country to a dozen families of the foreign compradors and bureaucratic capitalists. Whereas these handful of plunderers have become billionaires, the real masters of this country and the national property, the toiling masses of Nepal, are forced to eke out a meager existence of deprivation and poverty. The sons and daughters of Nepalese peasants and workers reeling under unemployment and poverty are compelled to lead a miserable life of dishonor and neglect in India and different parts of the world to earn their daily bread. After piling a massive foreign debt burden even on the future generations of the Nepalese people, the feudal compradors and bureaucratic capitalist rulers are making merry on it. In the name of privatization and liberalization and under the guidance and for the benefit of the foreign capitalists, the process of mortgaging the whole country to the compradors and bureaucratic capitalists is in full swing now.

The burden of this economic degradation has been basically borne by the peasantry which constitutes 90% of the population. That every new government formed under this state structure pushes and will push the country economically into a further state of bankruptcy has been verified historically.

To maintain the hegemony of one religion (i.e. Hinduism), language (i.e. Nepalese), and nationality (i.e. Khas), this state has for centuries exercised discrimination, exploitation and oppression against other religions, languages and nationalities and has conspired to fragment the forces of national unity that is vital for proper development and security of the country. On the contrary, it has been prostrating before the foreign imperialists and expansionists and repeatedly mortgaging Nepal’s national honor and sovereignty to them. The present state has been shamelessly permitting the foreign plunderers to grab the natural water resources of Nepal and to trample upon our motherland. If this process is allowed to continue for some more time to come, there is no doubt among the patriotic, conscious and self-esteemed Nepalese that the very existence of Nepal will be in jeopardy.

The present state has declared war against the development of national culture of Nepalese people by flooding (the country) with corrupt, licentious and distorted imperialist culture. The feudal and imperialist forces are doing their utmost to replace the

* This historic leaflet was distributed in hundreds of thousands all over the country along with the initiation of the People’s War on February 13, 1996.
democratic cultural values and ideals with Freudian, nihilist and anarchic values. This is a sequel to the conspiracy of the reactionary classes to corrupt the people culturally and preserve their own heaven of plunder. These corrupt cultural values are no less responsible for the burgeoning of drug-trafficking, smuggling, thievery, black marketeering, looting, murder and rape in the society today.

Within this moribund state structure, a coalition government of Panchas (i.e. royalists) and Nepali Congress, defamed in the Nepalese history for their anti-national and genocidal deeds, has been ruling right now. This government has forced not only the peasants and workers of Nepal but also the people of different categories and professions to live in a state of scarcity, injustice and terror. Whereas this state has been treating women as second class citizens for long, it has now intensified rape, trafficking and the process of commoditisation through advertisements against them. The whole educational system is tuned to produce slaves for this state and there is rampant anarchy in it. Thus, be they workers or peasants, or women, or teachers, or students, or small traders, or lower ranking civil servants, or doctors, or professors, or people of different classes including the national bourgeoisie, all are victims of this state of feudal compradors and bureaucratic capitalists. Except for radical changes in all spheres, any possibility of reform has now become a mere chimera.

Reactionary ruling classes, ever swearing by democracy, have been repeatedly using their guns against the political activists or the ordinary masses that hold political beliefs counter to the interests of the rulers. This state which regards itself as the custodian of ‘democracy’ has been surviving on the blood of innumerable sons and daughters of Mother Nepal ranging from an infant to an aged, when the people have professed and spoken in favor of nationalism, democracy and livelihood. Hundreds of thousands of Nepalese people fighting for justice have been subjected to inhumane physical torture, confinement in jails and mental torture. Not only during the partyless panchayat (i.e. absolute monarchy) period but even in the present monarchical parliamentary period, the fascist genocidal and repressive acts have been on the increase rather than decrease. This is a bitter truth experienced by the Nepalese people in their real life. This process has now developed into an armed repression campaign against the innocent people favoring truth and justice. The recent armed operation and state terror let loose in Western Nepal and in different parts of the country has testified beyond doubt that the ruling classes have openly embarked upon an unjust war against the people. The heinous game of the reactionary state of enrolling the sons and daughters of the poor peasants and workers in the police and the army as mercenaries and forcing them to use arms against their own wretched parents, brothers and sisters, is now crystal clear. With the passage of time, those in the police and the army will also come to know the realities. There is no alternative for the people other than to raise the banner of just war against this unjust war.

How did we reach this stage of critical condition of nationalism, democracy and livelihood and a situation of open warfare of the state against the people? What is clear on the basis of historical and scientific materialism is that the seeds of this state of affairs were sown in the Nepalese history long time back. With the advent of the era of imperialism and proletarian revolution, as in almost all the oppressed nations, in Nepal, too, a semi-feudal and semi-colonial socioeconomic structure based on the alliance of feudalism and imperialism was raised. The process of feudalism prostrating before imperialism and imperialism plundering the masses while protecting feudalism, was started. In Nepal, this process was initiated in concrete form after the conclusion of the Sugauli
Treaty with British India. The inevitable consequence of this process was that it obstructed the development of national capitalism and instead opened the path of development of bureaucratic capital in the interest of both landlords and imperialism. This long historical period has been in fact the period of the process of birth, rise and demise of the same bureaucratic capital.

In Nepalese society, the 104-year period of Rana autocracy (i.e. 1846-1950) existed under the same formation and the later partyless panchayat autocracy (i.e. 1960-1990) and the current so-called monarchical multi-party system (i.e. since 1990) also continued and continues under the same dispensation. As a result of the struggle of the Nepalese people against this (socioeconomic) structure, principally, and due to the changes in the international political situation, secondarily, the names of the system and the government have been changing, sometimes liberal and at other times conservative, to make a redistribution of the spoils of power. But the basic structure of the state has remained unchanged. The political developments of 1951, 1960, 1979 and 1990 can be understood only in this way. If we view the history from 1951 onwards alone, what is amply evident is that within the womb of petty reforms carried out in the reactionary state there has been sprouting ever greater crisis for the country and the people.

Nepalese people have been constantly struggling against this state of affairs. In the process of such struggles, Nepalese people have been victims of not only the repeated repression and intrigues of the reactionaries but also of the betrayal and treachery of the reformists. Today the biggest traitors of the people have been those so-called communists, the revisionists, who have gone after crumbs of reactionary state power by licking the boots of feudalism and imperialism. The Nepalese people and the Nepalese history will never forgive those traitors who have sat on the chairs of the reactionaries by betraying the people’s faith in radical change and the Communist Party and by stepping on the blood of thousands of martyrs. Again if somebody talks of limiting oneself to the reformist struggle within the reactionary state, that will be merely another process of treachery. This has now become a historically verified truth.

The other aspect which should not be forgotten at this point is that the negative recurrence of the reactionary repression and intrigue and the reformist betrayal and treachery have given rise to the positive conditions of enhancing the political consciousness of the general masses of the people and of attaining by the people for their liberation the sole revolutionary ideology of Marxism-Leninism-Maoism, amidst the people’s class struggle and a long and intense ideological struggle against such reformism. Today, the Marxist-Leninist-Maoist Party guided by this almighty revolutionary ideology has developed like a beautiful and blossoming flower, through the long struggle of the laboring masses of Nepal and irrigated by the blood of thousands of martyrs. Whereas all kinds of reactionaries and revisionists are madly after it to nip it in the bud, the revolutionary masses, are taking care of its preservation and development.

Dear Masses of the People,

What is clear from the above historical and current facts is that the present crisis-ridden condition of the country is the result of the development of contradictions between the exploitation and oppression of the people by the state power of the feudal, comprador and bureaucratic capitalist classes on the one hand, and the relentless struggle carried out by the people against it, on the other. To defend their moribund and crisis-ridden reactionary state, feudalism and imperialism have openly imposed on the Nepalese
people an unjust war. If the Nepalese people cannot raise the banner of a just people’s war against this unjust war and become victorious in it, the Nepalese people and the Nepalese nation will be doomed to a prolonged darkness.

Conscious of one’s duty towards this historical necessity, the Communist Party of Nepal (Maoist), the proletarian party of the sons and daughters of the masses of the people, has resolved to initiate the process of forcibly smashing this reactionary state and establishing a New Democratic State. This resolve of ours is based on the feeling of service and devotion towards the people, on the commitment to the almighty ideology of Marxism-Leninism-Maoism to free humanity for ever from the yoke of class exploitation, and on the study of history of the Nepalese society in that light. What we are fully conscious about is that this war for breaking the shackles of slavery for the last thousands of years and establishing a New Democratic State would be quite an uphill task, full of twists and turns and of a protracted nature. But this and this alone is the path of people’s liberation and a great and bright future. This path will unfold by making use of all the forms of struggle in keeping with the historical stage of development of Nepal and principally, as we have been saying all along, according to the strategy of encircling the city from the countryside, with agrarian revolution as the axis and from the midst of and in conjunction with the rural class struggle. This process of people’s war in the context of the present balance of forces will move forward through the process of people’s guerilla war within the stage of strategic defence. What we are confident about is that the masses of the people of all classes and categories will extend active support and help this revolutionary process and it will be vigorous. Besides this, what we are also conscious and confident about is that this struggle will get support and help from the communist revolutionaries and struggling masses the world over and this will in turn assist all those revolutionaries. Because this struggle of ours will be a part and parcel of the world proletarian revolution undertaken with a view to end the exploitation and oppression of man by man and to end for ever the war itself. In this context, we would like to make a special mention of the ongoing people’s revolution in Peru based on Marxism-Leninism-Maoism and the Revolutionary Internationalist Movement (RIM) and revolutionary movements the world over based on the same.

Finally, we appeal to the workers, peasants, women, students, teachers, intellectuals and the masses of the people of all categories and trades to march along the process of people’s war for establishing a people’s New Democratic State and to extend to it all forms of support and help.

It is right to rebel!
Long live the people’s war!
Down with the reactionary state!
Long live the new democratic revolution!
Glory to Marxism-Leninism-Maoism!
With revolutionary greetings,
Central Committee,
Communist Party of Nepal (Maoist)
Press Communiqué of the Central Military Commission CPN (Maoist)

13 February 1998

This press communiqué is released according to the decision of the meeting of the Central Military Commission, as directed by the Party center, to make it public on the historic occasion of the second anniversary of the initiation of the People’s War.

1. In a class-divided society, everything is an illusion except state power. The principal organ of the class-related state is the army. The people without an army have nothing of their own. The proletarian revolutionaries fight for the state power and army formation of the proletarian class and the laboring masses, so that ultimately an environment may be created for weathering away of the class, state, army, and all forms of wars from human society. This great and scientific conclusion of dialectical and historical materialism has provided the concept of proletarian war, army, and state a fundamentally different meaning, definition and foundation than to those of the reactionary exploiting classes, from history to the present.

2. On the basis of above scientific principles, the great process of the People’s War is marching forward for the past two years to forcibly destroy the rotten state of the reactionary classes leading the country and the people towards a terrible abyss, and to establish a New Democratic State of the people. In essence, this great process of the People’s War is the historical process of the formation of the people’s army for a democratic state. Under the leadership of the political representative of the proletariat, the Communist Party of Nepal (Maoist), and according to the basic policy of the people’s army as the principal form of organization and People’s War as the principal form of struggle, this process of formation of the army as a detachment of the international proletarian army is proceeding in high speed.

3. The development of the people’s army forces is taking place in three ways in the forms of arming the general masses, preparing a broad and extensive network of the people’s militia and principally, building a regular people’s army. Today, in the country, people’s sons and daughters have enrolled themselves in hundreds of regular people’s army squads and are fulfilling their historical responsibility through conscious discipline and sacrifice. This process of formation is now heading towards platoon formation. Similarly, thousands of sons and daughters of the masses are organized under people’s militia and devoted to the daily service of the people. The process of arming the general masses is taking place through extensive armed mass actions and through volunteering. As the principal achievements of the People’s War during the past two years, today guerrilla actions are taking place all over the country and specific strategic zones are getting transformed into guerrilla zones. People’s armed forces are enhancing their war capabilities relying on the principles of self-reliance, mass line and learning war through war. Representation of the army in the state power is ensured by making them participate in the process of creation of the local democratic state power.
4. On this historic occasion of the second anniversary of the People’s War and its own first public announcement, the Central Military Commission takes pride in the guerrilla fighters who have laid the foundation of the great people’s army through their blood, including guerrilla commander martyrs Com. Tirtha Gautam and Com. Vija Ghale (Daulat Ram Gharti) and extends red salute and heartfelt homage to all the martyrs of the People’s War and pledges to fight till the end along the path shown by them. Together with this it offers revolutionary greetings to all the revolutionary fighters who have ignited the flames of the People’s War despite facing the enemy’s jails, torture, and other physical hardships, and to the masses of different strata of people both inside and outside the country who have assisted in this.

5. Today the people’s enemies inside and outside the country are hatching greater conspiracies to snuff out this ever expanding process of the People’s War and the formation of the people’s army. Apart from the psychological pressure they are further intensifying the strategy of encirclement and suppression. The alignment of feudalism, imperialism and revisionism against the People’s War is tightening more. The arson, murder and terror jointly perpetrated by the reactionary goons, police and army in the remote people’s settlements are on the rise. In this context, to strengthen the military force, the CPN (Maoist) has established Central Military Commission which has issued special directives to all the fighters to uphold more firmly the Party-formulated military strategy and tactics, to further deepen and consolidate their relationship with the masses, to further refine their role as producers, organizers and propagandists, to follow firmly in their daily practice the rules of discipline and the points of attention issued by the great military commander of the international proletarian army, Com. Mao Tsetung, and to bear hardships proudly as red soldiers of the people under the leadership of the proletariat.

6. The enemy has meted out the treatment of the so-called terrorists to the great guerrilla fighters marching ahead with specific political goal, specific strategy and tactics of war, specific uniform and arms for the genuine liberation of the country and the people. The Central Military Commission cordially requests all the enlightened intellectuals, journalists, lawyers, human rights activists and all the progressive, patriotic and democratic forces in the country to expose such conspiracies of the reactionary state and exert pressure for granting honorable treatment as a contending army to the people’s guerrillas and as prisoners of war in accordance with the international Geneva Convention.

In the end, the Central Military Commission is confident of the increased affection and support received from the masses of the people for their guerrilla sons and daughters. The path is torturous but glorious; the people’s victory is certain.

Prachanda
In-charge
Central Military Commission
CPN (Maoist)
Chapter Five

Dynamics and Strategy of the People’s War

“When the party line is correct, everything will come its way. If it has no followers, it can have followers; if it has no guns, it can have guns; if it has no political power, then it can have political power.”
- Mao Zedong

“Guerrilla warfare is the combat vanguard of the people … supported by the peasant and worker masses of the region and of the whole territory in which it acts. Without these prerequisites, guerrilla warfare is not possible.”
- Che Guevara

The conceptual framework of the study is divided into the causes and strategy of the People’s War. The dynamics of the struggle tends to explain the causes why it was initiated in a peaceful land of Nepal. Similarly, the strategy of the war primarily guides the methods or processes of its operation and mechanism.

5.1 Causes of the People’s War

Any kind of war, or for that matter any revolution, movement, mass mobilization, demonstration or a rally, is generally organized for certain identity (political, cultural, linguistic, caste/ethnic, religious and regional), or for scarce resources or for politico-ideology. All these three dimensions are combined in the People’s War in Nepal. The causes are primarily focused upon Rolpa and Rukum districts and in general terms on the whole country.

Why did the armed struggle particularly begin from Rolpa and Rukum? What are the major causes of the genesis of the People’s War? I asked these questions to people ranging from the mountain to the hill regions of Nepal, from tarai to Kathmandu, and to local villagers, landlords, bureaucrats, as well as development experts, political leaders, academicians, and human rights activists. Many of these people who were unfamiliar with the terrain of Rolpa and Rukum gave the same answer: poverty and unemployment. But, the whole nation is poor; other districts too are equally poor, under-developed and deprived.
Why then Rolpa and Rukum to begin with?

The root-causes of the People's War are embedded into primary, secondary and collateral factors. The primary factors are economic, political, ideological, social, and cultural isolation. The secondary factors are due to inequality in resource distribution and opportunity, inability of the state to deliver services to people, donors' monopoly and interference in state policies and programs, intolerance among the political parties, culture of impunity and such fundamental limitations. In addition, indiscriminate killings, torture, arbitrary arrests, incommunicado detentions and involuntary disappearances are the manifestations of collateral factors.

5.1.1 Ideological Warfare

Guerrilla warfare is the key operating technique of the people's war. A guerrilla is a means, not an end; it is the tool of the revolution. Ideologically guided guerrillas believe in the revolutionary thought of communism (Marxism-Leninism-Maoism), which in modern times is called people's war. Peterson Major Harries-Clichy says: "Guerrilla warfare is a new weapon, not like civil war, rebellion, revolt and insurrection, or bandit warfare, partisan or orthodox guerrilla warfare; it is a deliberate military effort inspired by international communism and uses local adherents to weaken the military, economic, and political unity of the area so that it will fall under communist control" (1970:x).

Large volumes of literature concerning the people's war, insurgency, and counter-insurgency have appeared since the victory of the Communist Party of China in 1949. Manoranjan Mohanty stated that the first wave of writings on the first guerrilla movements investigated the kinds of technique which could defeat the rebels (1970:1); in other words, they were written in opposition to guerrilla warfare. During the 1960s, military strategies and counter insurgency tactics were published to meet the challenge of guerrilla warfare which continued to vex the traditional armies and states.

According to NEB, "The word guerrilla (diminutive of guerra) originates from the Duke of Wellington's campaigns during the Peninsula War (1808-14) in which Spanish and Portuguese irregulars or guerrilleros helped to drive the French from Iberia" (1993:vol.29/689). Michael Lowy writes that Che Guevara, in his manual of guerrilla warfare, had rejected the etymological meaning of the Spanish word guerrilla (little war), stressing that guerrilla warfare is not a small warfare but a big one. "In World War II, the word partisan became synonymous with guerrilla; in later years the word insurgent came into vogue, followed by the (often contradictory) term freedom fighter. The same Encyclopaedia states:

"Arab tribesmen under Faysal I employed T.E. Lawrence's brilliant guerrilla strategy and tactics to liberate their lands from the Turks in World War I. The Easter Rising in Ireland led to a ferocious guerrilla war fought by the Irish Republican Army (IRA) - a war that ceased only with the uneasy peace and partition of Ireland in 1921. Traditionally, guerrilla warfare is a method of protest employed to rectify real or imagined wrongs levied on a people either by a foreign invader or by an incumbent government, but it has also been used in an offensive role in both ancient and modern times" (1993:vol.29/689).
In 1927, the Chinese leader Mao Zedong recast the ancient principles of war of Sun Tzu into a powerful modern doctrine in his pamphlet of guerrilla warfare (Peterson:1970:xi). Mao raised the flag of rural rebellion which was codified in his protracted revolutionary warfare (NEB:1993:vol.29/689). When the Japanese were removed from China in 1945, Mao formed his ragged guerrillas into an army which, by 1949, had driven all the armed opposition from the mainland, thus handing over a nation of 600 million to communism (Peterson:1970:xi). Building upon this, the freedom fighter of Cuba and Bolivia, Che Guevara published Guerrilla Warfare, a how-to-do guide for armed revolution in July 1960. Speaking in Moscow in December 1960, Che declared: „Cuba stands ready to fulfill her communist-designated goal as model for armed revolution in Latin America” (Peterson:1970:xi). Both Mao and Che established themselves as the prophets of revolutionary warfare in China and Cuba respectively, transferring the ideology of Marxism-Leninism from the industrial terrains to the countryside. Vietnamese Communists also used guerrilla warfare as a part of their struggle against France and the United States of America and defeated both foreign invaders.

Revolutionaries believe that the war is continuity of politics. The political aim of the War of Resistance against Japan was to drive out Japanese imperialism and build a new China of freedom and equality (Zedong:1938:vo.2/152). Therefore, Mao employed the highest form of revolutionary warfare against the Japanese troops, and later against the Chinese dictator Chiang Kai-Shek. Mao wrote: „War is the highest form of struggle for solving contradictions, when they have developed to a certain stage, between classes, nations, states or political groups. It has existed ever since the emergence of private property and classes” (Zedong:1936:vol.1/180). Mao developed and used mobile, positional, regular and supplementary warfare in China. In a series of lectures at the Yenan Association for the Study of Resistance against Japan held from May 26 to June 2, 1928, Mao declared that mobile warfare is the primary and guerrilla warfare is the supplementary method of struggle. After Mao’s success in China, guerrilla warfare has become an important military strategy in 20th and 21st centuries. In the contemporary world, guerrilla warfare blossoms in many developing and developed countries, particularly in Nepal.

The guerrillas’ cause may assume several guises: „To the world it may be presented as liberating a country from a colonial yoke; to the peasant being converted to communism it may be freedom from serfdom, from progressive taxation, or from payment of oppressive rents to absentee landlords...” (New Encyclopaedia Britannica:1993:vol.29/680). As a political means, guerrilla warfare was tested in China and Cuba to establish the dictatorship government of the proletariat, which later spread into Bolivia, Nicaragua, Argentina, Colombia, El Salvador, Guatemala, Mexico, Peru, India, Philippines, etc. In the 21st century, Nepal has become the center of the world attention due to the guerrilla warfare launched by the CPN (Maoist). The primary aim of the People’s War in Nepal is to achieve human emancipation from the interwoven political, economic and sociocultural problems of exploitation, discrimination, deprivation, social injustice, inequality, oppression, and intolerance.
Since the proclamation of the Universal Declaration of Human Rights in 1948, the ideas of equality, social justice, security, and dignity have become very important in all societies. To emancipate people from all kinds of discrimination and exploitation in the districts of Pyuthan, Rolpa and Rukum, the communist leader Mohan Bikram Singh launched an armed peasant and worker movement in 1954, providing political, educational, and physical training to 150 youths for three months in Pyuthan. The revolutionary troops captured some of the key members among the local feudals and forced them to accept the right of share-cropping by 50 percent. However, they were attacked by an organized group of the feudals and chased away on February 25, 1954 (HRYB1995:1996:155-164). Later, Mohan Baidhya alias Kiran - the follower of Mohan Bikram Singh also tried to organize the cadres against the local feudals, viz. Thakuris, but could not succeed. The feudals were able to drive away the communist activists, but not the communist ideology ingrained in the common people of Pyuthan, Rolpa, and Rukum.

After the restoration of democracy in 1990, the interim government announced the first general elections for May 12, 1991. Out of the twenty parties which contested, NC got the absolute majority while UML appeared as a strong opposition party by winning 69 seats in the total 205. Similarly, the wing of pro-Maoist UPF emerged as the third force by winning 9 seats (including two from Rolpa and one from Rukum). Janardhan Sharma, a candidate from Rukum from constituency number 2, was narrowly defeated by the NC candidate (General Election in Nepal 1991:1992:132-141). Due to some strategical and tactical differences, when Unity Center (UC) got split into UC and CPN (Maoist), the revolutionary wing (splinter) of Maoists adopted the long term protracted People's War under the leadership of Prachanda and actively got involved to boycott the Mid-Term Polls 1994. To motivate the people not to participate in the polls, the CPN (Maoist) launched the cultural program Sija Miteri Abhiyan (Cease Friendship Campaign) and announced the first phase of the People's War in 1995 particularly in its strong threshold of Rolpa and Rukum districts. The ruling parties and state apparatus, especially NC cadres, tried to crush the revolutionary ideology that was supporting the programs. As a result, the UPF finally gave birth to the second phase of the People's War in February 1996 primarily in the same districts.

5.1.1.1 Ideological Warfare and Armed Operation in Thawang

Thawang VDC is situated in the lap of Jaljala Himal (mountain) in the western part of Rolpa district and lies on the border between Banglung and Rukum. It is considered to be a strong doorsill of communion and a base area of communists. It is known as the popular place for communist ideology that had blossomed due to the presence of Mohan Bikram Singh when he lived there for several years in the past. However, in the first parliamentary election of 1958, he was defeated by Khadananda Subedi in Rolpa district. But, out of total 1100 votes cast, Khadanada received only 3 votes against 700 of Mohan Bikram Singh (see HRYB1995:1996:155-164).

After the division of the party into CPN (Masal) and CPN (Mashal), the leader Mohan Baidhya alias Kiran had influenced the people of Thawang significantly. In
the referendum of 1979, people did not cast their vote at all, as the communist party had boycotted the referendum, following the „oppose, expose, and boycott“ policy. After the referendum, the state launched an armed repression against the communists. Fearing the armed forces, hundreds of people fled to the nearby jungle and those who got arrested were severely tortured. In retaliation, the agitated people unanimously elected local ring leader Burman Budha, called Mukhiya, as the Prandhanpancha (Chairman) of Thawang Village Panchayat in 1979 and announced the first „commune village“ and „communist autonomy“ in Thawang. Similarly, they refused the development budget of the government and tried to launch sustainable and self-reliant programs by themselves. Some locals filed a complaint alleging the chairman as an arastriya-tatwa (anti-national element) and the local authority of Rolpa arrested him.

The furious villagers of Thawang gathered at the office of the Village Panchayat on the occasion of Dashain (the main festival of Hindus) in October 1980 and launched cultural programs displaying the photos of Karl Marx and Lenin instead of the King and the Queen (Gautam:1998:17). When surakis (informants) informed the District Office in Liwang, the state authority launched a strong military operation. In an extensive search and seizure operation, many gold ornaments were reportedly taken in. To avoid the barbaric brutalities of army, almost all the male population of Thawang escaped towards the nearby jungle. Thereafter they were labeled as the farars (fugitives).

In the course of suppressing and harassing the farars, the Panchayati government filed pre-designed fake criminal cases. These farars, on the other hand, continuously used the jungle as their shelter until the restoration of democracy in 1990. As a result, they got an opportunity to have some guerrilla training which precisely helped them to establish a guerilla warfare region. Revolutionaries believe that the guerrilla warfare is a war of the people, a war of masses against social discrimination, political absolutism, economic deprivation, and cultural intolerance. During the mid-term election of November 1994, only three people had cast their votes, as the UPF had decided not to participate in the elections in Thawang. The three votes cast were by the people who were taken there from Liwang through helicopter.

In fact, Thawang people were well aware of the Marxism-Leninism-Maoism ideology since before the restoration of democracy. As the state authority could not ensure constitutional fundamental rights and freedoms, rule of law, or socioeconomic reforms as per the expectations of the common people, the existing unemployment and brewing frustration of the people finally led them to rebellious thought which propounded that the democracy was only to safeguard the interests of incumbent government, power-centered and elite people who had ignored the voice of the mainstream poor, disadvantaged, vulnerable, and common people.

**5.1.2 Socioeconomic Causes**

The headquarters of Rukum is known as Jumli Khalanga which had historically been given in anshhabanda (partition of ancestral property) to the youngest brother Pitambar (HUPRES:1998:10) by the powerful King Medeni Barma of Jumla.
Because of the tradition of *anshabanda* to the descendants, the western and mid-western hills of Nepal were divided into *Baise Rajya* and *Chaubise Rajya* (22 and 24 principalities). Rolpa and Rukum came under the *Baise Rajya*. During the middle of 18th century, King Prithvi Narayan Shah (the ruler of the small state of Gorkha, who later conquered other parts of Nepal) fused the *Baise* and *Chaubise Rajyas* into the kingdom of modern Nepal. However, he did bestow some autonomy to the defeated kings and their families as they belonged to the descendants of the same Thakuri clan.

The Thakuris and other powerful courtiers and landlords (elites) used to own almost the entire fertile land and distributed it for cultivation to the *mohis* (tenants). The Land Reform Act in 1964 established the tenancy rights but it could not be implemented fully due to power-centered and property-based politics and protection given to the elite classes by the government. Tenants used to work throughout the year, but managed to get food enough only for three to six months. In effect, they were compelled to eat only one meal in a day. Besides, many people had to borrow money or corn from the landlords when catastrophic events such as drought, landslide and death occurred. They also had to borrow on the occasions of marriages, social functions, religious festivals and so forth. The loan amount would often get doubled every year. So, the tenants either had to deliver the entire crop to the landlords, feudals or usurers or they had to sell off whatever they had, such as land, gold, and livestock, etc. Similarly, some feudals and usurers would forge the loan amount by writing Rs.1,000 or Rs.10,000 in place of Rs.100 and pressed their thumb-marks on the bond paper. The poor people could neither read nor dare ask the usurers and landowners what was written on the bond. The property owners and usurers compelled them to return whatever property and belongings they might have had. As a result, many people migrated towards the urban areas in search of job both in Nepal and India. Poverty in countryside is a predominant phenomenon in Nepal and it is intensifying each day due the dearth of physical infrastructure, resources, opportunities, and guidance.

Similarly, half of the total population belonging to women could not get their living standard improved even after the restoration of democracy. Not a single woman was included either in Constitution Recommendation Committee or in National Planning Commission. Only a few women have been lucky to sit on the armchairs of ministries and political parties. And very few have got an opportunity in the higher echelons of bureaucracy. Discrimination toward girl child starts from their own parents' house as they are deprived to have parental property rights like sons. All national political parties have given a high priority to gender issues on paper, but have failed to implement them in practice. As the demands for gender equality, justice and non-discrimination have been made by Maoists more earnestly than the other actors, many of the poor and deprived rural women get attracted towards the s (see Chapter-VII).

Population is increasing by 2.1 percent, but the food production is decreasing due to the lack of improved seeds, fertilizers and land fragmentation. It is estimated that about 25 percent of the population is directly or indirectly benefited from the civil services, NGOs, and private sector offices. But, those who have
been unemployed and were deprived to have enough food are willing to join the Maoists to get relief from their short-term grievances and pains. Indeed, hungry bellies are breeding grounds of the s.

After the restoration of democracy, development efforts have been primarily concentrated in the districts and constituencies from where the prime ministers, ministers, and other powerful leaders have been elected. Moreover, in Rolpa and Rukum where the UPF had won in the parliamentary election in 1991, people were deprived to have any physical infrastructure due to the prejudiced mindset of the ruling party and polarization of the bureaucrats. The tendency of revivalist characteristics in political parties finally added fuel to the People’s War.

The People’s War has a strong connection with socioeconomic variables such as caste/ethnicity, sex, occupation, education, employment, income and so forth. Lower castes, Dalits, marginal ethnic communities and poor people in rural areas were discriminated against in the previous Panchayat regime. But, social discrimination and economic discrepancy between the 'haves' and 'have-nots' are continuing and most of the resources have been centralized towards urban areas and a few elite families even after the restoration of democracy. Consequently, the poor, disadvantaged and marginalized people have fuelled the in the hope of social justice, equity, security, freedom and dignity in a republican state.

5.1.3 Ethnic Desire for Autonomy

The history of human race records hundreds of struggles for emancipation against injustice, inequality, restriction, repression, absolutism and so on. In the ancient period, struggles were confined for the means of human survival, for instance food, housing, clothing and so forth. Along with these, as human beings became aware of their basic needs and considered them as basic rights, the forms of struggle changed one after another. The dissident politico-ideological domination in 20th century has now turned to identity-based, cultural, or ethnic conflicts and also as Western versus non-Western blocs in 21st century.

Nepal is not unaffected from such movements either. Its history has recorded dozens of ethnic revolts against the state and its rulers. If we look at the 250 years’ history of modern Nepal, we find that ethnic conflict or liberation movement had taken place when Drabya Shah had become the king of Gorkha by defeating the then king Ghale Gurung in a race competition called Lig Lig. His immediate descendent Prithvi Narayan Shah introduced the campaign of territorial integration and expanded the boundaries of Nepal. Shifting the capital from Gorkha to Kathmandu, he started feudal rule and proclaimed Nepal as a Hindu state which is still in force.

As Prithvi Narayan Shah strongly believed in Hindu religion and culture, he took steps to impose the belief on the people (Mulyankan:2048:year10:no.1). He prescribed one nation and one Hindu Varna system for all. That may be the reason why he ordered to slash the tips of nose and ears of the people of Kirtipur, his arch opponents, that eventually weighed 18 dharmis (Bhattachan:2000:140). Slavery and bonded labor were widely practiced during his reign, but his descendants banned the practices for bahuns and chhetris by promulgating an act in

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With that, only lower caste people were compelled to work as slaves and bonded laborers. Since then, the structure of political opportunities in Nepal has been unduly favorable to bahuns and chhetris as against other castes and ethnic groups. When we look at the history of 250 years, we find that they were able to capture more than 80 percent of the seniormost positions in all political, executive, judiciary, legislative, and security dimensions. That has widened the gap between the rulers and the people and it still continues.

The Tamangs revolted twice against King Rana Bahadur Shah and King Girvan Bikram Shah in 1873 (Neupane:2000:107), but they could not succeed. Yakha Rai says that the region of Majh Kirant also revolted twice against the State in 1807 (Adhikari:2000:82).

Through the bloodshed and violence of Kot Parwa and Bhadarkhal Parwa, Janga Bahadur Rana emerged in the history of Nepal and his brothers ruled the country for 104 years in succession. His younger brother Badri Narsingh, along with Prince Upendra Bikram Shah, had made the first ever secret plot against him but it was all in vain. Later, Janga Bahadur also exposed the plot made by the soldiers of Gurung Regiment for his assassination in May/June 1857 and got the conspirator slashed into pieces by a Gurung soldier at Tundikhel (HRYB 1993:1994:2). This action made the Gurung community to revolt against him.

Jamadar Sripati Gurung of Lamjung, a leader among the Gurungs, revolted against Janga Bahadur in 1857 during a military parade at Tundikhel. Later he was killed. Shuk Dev Gurung proclaimed himself a Baudha King against Ranaism. He was sentenced to life imprisonment. He died in 1876 in prison because of inhumane torture. After his arrest, another Gurung led the insurgency against the then Rana ruler proclaiming himself as the Baudha King of Gorkha and Lamjung, but he was later arrested and could not succeed. Thus, successive Gurung revolts were suppressed by force.

Lakhan Thapa, an ex-soldier and the follower of Saint Gyani Dildas of Joshmani faith, opposed discrimination and intolerance of Janga Bahadur under the shield of Manakamana Mai in 1876. Both Thapa and Dildas were taken into custody and their weapons were seized. Lakhan Thapa, Aj Singh, Achhami Magar and seven others were hanged to death, whereas Kanu Lamsal was excused from capital punishment because he was a bahun. Six months later, Gyani Dildas was released from the jail and sent to Darjeeling (HRYB:1994:2-3).

Kancha Lama, a Tibetan Guru who visited Kathmandu to pay homage to Swayambhu, initiated Dhamma Sabha. Seeing increasing participation of Bhikshus and people at the Sabha, many of them were taken into custody and forcibly exiled in 1925. Thus, Ranas suppressed the movement of Buddhism as well.

The untouchables such as kamis (iron and gold smiths), damais (tailors), and sarkis (shoe-makers) also raised their voices, but soon they were arrested and tortured inhumanely. Protesting against such moves, Ranu Damai from Darjeeling dispatched a letter to Chandra Shamsher pleading how kamis, damais, and sarkis had been living in a miserable situation in the land which was no better than the territory without a king (HRYB 1993:1994:11).

Besides, the issue of linguistic equality was raised even during the Rana period.
When Shiri Thebe Limbu tried to teach Limbu script, he was exiled to Sikkim (Nepal Janajati Federation:2054). The Madhesi (tarai dwelling) people demanded that Hindi be given the status of a national language. K.I Singh’s ministry passed a resolution, but could not implement it (HRYB 1993:1994:19). Similarly, Madhesi Liberation Front also launched an armed revolution against Panchayati system at Taulihawa in June 1963 (Devkota:2036:439).

There is no record to show who was the first person to advocate for ethnic and regional autonomy in Nepal. But Janak Lal Sharma writes that Khagendra Jung Gurung, an ex-minister, was the first ever man in Nepal for the cause of ethnic and regional autonomy. As a result, he was kept in jail for 7 years during the Panchayat era. He was once again taken into custody even after the restoration of democracy in 1990.

In order to promote and strengthen their communities and languages, some ethnic organizations were set up during the partyless Panchayat system but they could not function effectively. These were: Tharu Kalyan Kari Sabha in 1950; Nepal Buddha Dharma Sangh in 1953 which later changed into Nepal Tamang Committee; Nepal Manka Khala in 1979; Nepal Magar Langhali Sangh in 1982; Sarbajatiya Mancha in 1982; Upidit Jatiya Sangh in 1987 and Se-Ta-Ma-Gu-Ra-Li (Sherpa, Tamang, Magar, Gurung, Rai and Limbu). Despite their different interests and objectives, some of their demands were similar with the present Maoists’ demands such as the right to self-determination, autonomy and secular state. However, such issues did not come up in a public debate as only one language Nepali was recognized as the official language in the Hindu state. Besides, the repressive policy of the state was always there.

After the restoration of democracy, dozens of ethnic groups, organizations, languages, and religious practices have come into public lime light as the Constitution has guaranteed equality in all quarters. The constitution has envisaged for uplifting the living standards of all the disadvantaged ethnic groups and vulnerable communities belonging to any ethnicity, color, and belief, disallowing all kinds of existing economic, social, political, and cultural discrimination and inequalities. His Majesty’s Government has also constituted a National Ethnic Development Committee (NEDC) in 1997 to formulate policies and programs necessary for the socioeconomic uplift of the janajatis.

As a result, a considerable number of ethnic organizations and liberation fronts have come up in the last 14 years to pressure both the government and civil society for the cause of autonomy, secularism, self-determination, and federal structure of government. But, the rights to self-determination and ethnic and regional autonomy have been made most controversial as all the political forces except CPN (Maoist) are against such liberty for the fear of secession.

5.1.3.1 Ethnic Policy of CPN (Maoist)

After the fusion of some communist revolutionaries of Nepal on November 23, 1990, the First National Unity Convention (FNUSC) of Unity Center (UC) was held in November 1991. To extend and heighten the New Democratic People’s Revolution, the party put forward religious, linguistic and regional issues as a
matter of right to attract greater number of disadvantaged, marginalized, and vulnerable communities. The UC adopted the following policy and program:

- A secular state would be established by ending the dominance of one particular religion. Religious and linguistic freedom would be guaranteed to all.
- Instead of establishing one particular language as the national language or the main language, linguistic and ethnic equality would be practiced. The language which is found suitable for the majority of the people would be used as the main language for the purposes of new democratic system. But the policy of promoting it would be discouraged (Sharma:2000:9).

When UC split into two, the revolutionary line of CPN (Maoist) adopted it as their own party policy, but the party did not have a clear-cut policy on ethnic issues. Later, the party refined its policy on such issues, including the rights of all ethnic communities. The Maoist leader, Comrade Sangham, presented the proposal on Ethnic Policy in Nepal at the First National Conference held in Kathmandu in July 1995. The conference passed the following policies on ethnic matters of interest:

- Free education in all languages. Media, communiqué, government notices and documents should be available/printed in all languages.
- Special privilege given to Hindu religion should end. Religion should be separated from the state and secular nation should be declared. Equal freedom should be provided to all religions.
- Special privilege should be provided to the Dalit community in sectors like education, administration, health, and development works.
- Ethnic Academy should be established for the preservation and uplift of the language and culture of ethnic communities.
- Special privilege given to Hindu religion at present in terms of religious festivals and government holidays should end. Instead, equal freedom should be provided to all religions to celebrate their social customs and festivals.
- Equal opportunity for all the languages should be provided for their uplift and preservation against the present system when there is special support for the Khas language. Likewise, no particular language should be made compulsory. In government works and education sector, the choice of language should be left to the will of the respective ethnic community.
- Special focus should be given to the communities like Chepang (which are in the verge of extinction) and backward communities like Raute, Raji, Majhi, Darai and Kumbhal. Various programs should be run for their uplift.
- Discrimination towards the tarai people should be ended. Special efforts should be made for their wider participation in political, administrative and economic sectors without any prejudice. Likewise, socioeconomic programs should be run in the backward sectors of tarai (Sharma:2002:11-12).

The 40-point demands put forward by the United People’s Front (UPF) on February 2, 1996 are believed to constitute the core content of the People’s War in Nepal, which is divided into three parts such as nationality, democracy, and people’s livelihood. In the demands concerning people’s democracy, the UPF has given special attention to non-discrimination and the right to self-determination of ethnic communities as follows:
• Declare Nepal as a secular state (Demand No. 18);
• Install self-government for ethnic communities and stop racial discrimination (Demand No. 20);
• Ensure equal opportunity to all dialects and design courses up to higher education in them (Demand No. 22); and
• Abolish regional discrimination and establish autonomy (Demand No. 25).

The first talks, Talks I, between the government and the Maoists were held at Thakurdwar, Bardia from August 30 to November 9, 2001. To address the ethnic, regional and caste contradictions, the negotiation team of CPN (Maoist) put forward the following demands on September 13, 2001:

• Right to self determination;
• National-regional autonomy; and
• Secular state of Nepal.

In the second peace talks, Talks II, the CPN (Maoist) slightly modified these demands in the first round of talks which was held at Shankar Hotel, Kathmandu on April 4, 2003 as follows: right to self-determination, ethnic and regional autonomy, and secular nation. The goals and objectives of the CPN (Maoist) are:

• To address the regional, ethnic, caste, gender, and classical contradictions through progressive and radical, political, social, and economic changes. And also to develop a democratic and prosperous Nepal by seeking solutions to the problems associated with nationality, people’s democracy, and livelihood.
• To create a strong and pro-people national unity by developing democracy and nationality as inseparable parts and accordingly to protect national integrity and sovereignty.

In view of the main political agendas and the process to formulate a new constitution through an election for a constituent assembly, the Talks II proposal read: “The interim government should conduct an election to a Constituent Assembly (CA) within six months. The CA will be inclusive of different groups, castes, regions, and communities. The proposal stressed upon equal representation from all groups and communities in both the parliament and government bodies. It stated:

• As the supreme representative of the people, an elected people’s house of representatives will be formed which will include representatives from all sectors and groups, such as women, dalits, janajatis, ethnic minorities, linguistic groups, different religions, regions, etc. Accordingly, there will be representation of different groups in the government as well;
• Regional and ethnic self-governance should be implemented to give people the right to self-determination; and
• The country should be made a fully secular state.

Utilizing the four-month long truce in 2001 as an opportunity, the CPN (Maoist) formally set up its central level people’s government called as United Revolutionary People’s Council (URPC) and named its military force as the People’s Liberation Army (PLA). Dr. Baburam Bhattarai was appointed as the Coordinator of the 37-member URPC (see Chapter-VIII) which is a combined product of the Party, PLA, and the fronts representing various regions, nationalities and ethnic groups.
Politics of People's War and Human Rights in Nepal

In order to guide the armed struggle and to complete the New Democratic Revolution, the CPN (Maoist) has put forward the following 75-point minimum policy and program framed by the URPC. The policies and programs concerned with the ethnic and regional aspirations included in it are as follows:

- There shall be no discrimination against anybody on the basis of race, ethnicity, religion, language, gender etc. and the state shall guarantee equal treatment and opportunities to all. Equal wages for equal work shall be guaranteed to all.
- The state shall be delinked from religion and it shall be fully secular. Religion shall be regarded as a personal matter of an individual and there shall be no favor for or discrimination against any religion. However, cheating, fraud, corruption, exploitation, oppression, subversive activities etc., on the pretext of religion, shall be curbed.
- The state shall guarantee equal treatment to all nationalities of the country and their languages. All the nationalities traditionally oppressed by the ruling Aryan-Khas people shall exercise the right to self-determination and their problems shall be resolved within the framework of national autonomy program in the People's New Democratic system according to which all forms of exploitation of the oppressed nationalities shall be ended and they shall exercise their own autonomous rule in the land they inhabit. If a nationality is distributed in more than one area, there shall be more than one autonomous area for it. The House of People's Representatives and People's Committees/Governments elected by them shall be the means of their state power. Except for the People's Army, foreign relations, finance, currency, measurements, communication, international trade, large basic industries, and large hydel projects, all other sectors shall fall under the jurisdiction of the autonomy which will be exercised within the framework of the approved rules and laws.
- In case of the areas with mixed nationalities, or if there are other nationalities in the autonomous area of a particular nationality, there shall be representation of all for the local state powers on proportional basis.
- All the oppressed nationalities shall have the right to join the People's Army and they may also form the People's Militia as a security force at the local level under the central command.
- All the oppressed nationalities shall enjoy the freedom to promote their languages and to preserve or reform their traditional values and systems. The People's Central Government shall assist the people of oppressed nationalities in their political, economic, cultural, and educational development.
- In the high Himalayan regions such as Karnali region and Seti-Mahakali region which have been regionally oppressed because of unequal economic development there shall be regional autonomy. The nature of regional autonomy shall be basically the same as the autonomy to be enjoyed by the nationalities.
- The issue of tarai which is inhabited by the people of various linguistic groups, concerns with both: exploitation of the nationalities as well as the region. However, since it is primarily an issue of the exploitation of nationalities, there shall be separate autonomous regions for the nationalities speaking different languages (e.g., Maithili, Bhojpuri, Awadhi etc.) and all the oppression and unequal treatment meted out to tarai dwellers in general and Madheshi people in particular shall be ended. The prolonged issue of citizenship to the Madheshi people shall be resolved in a scientific, just and democratic manner.
The core content of the ethnic policy and program of the Maoists is to ensure equal rights to language, religion and culture; a secular state; national regional autonomy; proportional political and social representation; right to join the people's army and militia; equal job opportunity; equal access to political, economic, cultural, and educational development and non-discrimination with regard to all ethnic, national, and regional dimensions.

In the process of winning confidence, the pro-communist forces established Nepal Federation of Nationalities (NEFEN) - the umbrella institute of ethnic communities under the founder convener Suresh Ale Magar. Due to different communist ideologies and some tactical differences on the methods of their emancipation, the revolutionary communist wing formed a separate organization called Akhil Nepal Janjati Sangh (All Nepal Nationalities Association) in November 1994 under the convenorship of the same Suresh Ale Magar. As the sizes of the ethnic communities engaged in the People's War got enlarged, the central committee meeting of the CPN (Maoist) decided to put forward the issue of ethnic autonomy along the party's policy of Developing Guerrilla Warfare in a Planned Manner with the advancement of the Second Plan. Later, the politburo meeting of the CPN (Maoist) was held in December 1996 (Poush 2053 BS) and decided to raise the issues of regional and ethnic autonomy as major issues in their forthcoming movement. Though they are not secessionists, the Maoists have used this assurance to bring together ethnic activists to their ranks. As a result, great numbers of ethnic people are involved in the People's War and the demand of autonomy has become the heart and soul of the Maoists. However, there has been a concern that the aspiration for autonomy and right to self-determination encourage ethnic movements for secession that may result in increased anxiety for the disintegration of the territorial unity of Nepal along ethnic lines.

5.1.4 Political Warfare

After the restoration of democracy in 1990, people had high hopes and expectations that the democratic changes could make them free from the shackles of poverty, social injustices and inequality. However, in general they got the opposite, since the daunting challenges remain unchanged. Similarly, the same Raja Sahebs (local feudals and landlords) became the leaders in Nepali Congress. Lokendra Bikram Shah, Dhruba Bikram Shah, and Gopalji Janga Shah - the descendants of Prithvi Narayan Shah - were very active in Panchayat regime in Rukum. Gopalji Janga Shah had been either nominated or elected many times for the Rastriya Panchayat and became a member of parliament even after the restoration of democracy on behalf of Nepali Congress after the second general elections. The leader of RPP Balaram Gharti Magar also participated for many years as the member of Rastriya Panchayat from Rolpa and was again elected as the member of House of Representatives in 1994, when UPF had boycotted the election. Indeed, the appearance of the same feudal figures in the forefront even after the restoration of democracy played a significant role in starting and intensifying the People's War as a majority of the victims of the Panchayat regime denied accepting them as their leaders.
5.1.4.1 Political Isolation

In August 1989, the Nepali Congress and Communist Party of Nepal (Marxist-Leninist) agreed to launch *Samyukta Jana Adolan* (United People’s Movement) against the Panchayat regime from the date of *Rastriya Prajatantra Dibas* (National Democracy Day)\(^{16}\) for the minimum acceptable demands of a parliamentary system and multi-party democracy. On behalf of CPN (ML), Radha Krishna Mainali played a very important role to build a common platform between the rightists NC and United Leftist Front (ULF).

The ULF announced its alliance on 15 January 1990. It was built by seven groups of communists who did not have sharp differences on politico-ideology and methods of operation among themselves. The alliance included CPN (Marxist); Nepal Workers and Peasants’ Party; CPN (Fourth Convention) · Nirmal Lama group; CPN (Tulsi Lal Amatya); CPN (Manandhar); CPN (Verma); and CPN (Marxist-Leninist) itself. Both Nepali Congress (NC) and ULF finally set up a Joint Coordination Committee (JCC) which was made public on February 1, 1990 (Huftun Martin et al:1999:116).

However, JCC did not seem serious to incorporate in it the other communist factions. In effect, it meant that both the NC and ULF ignored the voices of those who had been consistently demanding to hold an election for a constituent assembly. So, these remaining communist forces gave birth to a third alliance, namely United National People’s Movement (UNPM), on February 14, 1990 and publicly announced its active participation in the movement with the demand for constituent assembly (see Utsching A.:1992:50). The UNPM was formed by 5 factions of communists including CPN (Masal) and CPN (Mashal)\(^{17}\). After the restoration of democracy on April 8, 1990, the King, NC and ULF reached a tripartite agreement. The third force UNPM organized a mass rally in the open theater criticizing both the NC and ULF on April 11, 1990. It announced that the people wanted to establish a republic state by overthrowing the authoritarian monarchy, and that NC and ULF had betrayed the people by holding a tripartite agreement with the King. About 15,000 people had gathered at the mass meeting at Tudikhel, Kathmandu.

The UNPM had actively participated in the people’s movement. But, neither Nepali Congress nor ULF considered it necessary to win its participation in the interim government, nor in the Constitution Recommendation Committee. If they had given due importance to UNPM and listened to the voices of its constituents, they would not have been isolated and remained in a corner away from the mainstream politics. Broadly speaking, it is true that both Nepali Congress and ULF failed to realize that there was a third force to reckon with. The political superiority, snobbishness, and tug-of-war between NC and ULF to grab state power, politics and compete for scarce resources like hungry wolves made a fertile ground for the initiation of the People’s War.

5.1.4.2 Army Intervention in Rukum

Soon after the restoration of democracy an army intervention was carried out in Rukum in 1990. Some Royal Nepal Army personnel of *Barah Takura* went to
Serigaon by helicopter to arrest Upendra Sharma\textsuperscript{18}. His elder brother Janardan Sharma hurriedly approached the army personnel to enquire in a loud voice as to what had happened. The army arrested both of them and took them in the army barrack and pressured them to testify in favor of the army in the court of Dang. As they strongly denounced the forced testimony, both brothers were taken back to the district headquarters of Rukum the following day and handed over to the district police office after a debate between the army and the police, because the policemen were not willing to keep them in their village. After getting pressure from the seniors, the police finally took them back home through a helicopter.

When the news spread in the neighboring villages and districts, the people’s faith in democracy gradually began to fade away. Such incidents eventually helped to add some more fuel to stand against the present multi-party parliamentary system.

5.1.4.3 Revivalist Characteristics in Political Parties

As three seats were won by the UPF in Rolpa and Rukum in the First General Election 1991 and as it showed great strength in the local election of 1992, the NC tried to suppress its influence by misusing the state apparatus. CDO Abdul Rais Khan of Rolpa played a very significant role for political repression. In retaliation, the UPF launched various activities such as mass meetings, cultural programs, informal classes, and so forth.

While Prime Minister Girija Prasad Koirala was addressing a mass meeting for the local elections in Rolpa district on April 25, 1992, the UPF cadres attacked him. Many civilians, political activists, and policemen were injured (HRYB1992:1993:224). As a counter-retaliation, dozens of political activists, including the leader of CPN (Masal) Chitra Bahadur K.C were arrested by the police during a public mass meeting on November 16, 1992 held near the headquarters of Rolpa. The local administration had earlier declared a „no procession and no public meeting zone” in the area against the spirit of the constitutional fundamental rights. The situation worsened when Shankar Gautam, an employee of District Education Office of Rolpa district, was ordered to be deported from the district within 24 hours (HRYB1996:1997:90) as he was found influenced with the UPF ideals. The elected chairman of Bhawang VDC of Rolpa district, Bhim Bahadur Budha was arrested on June 11, 1993 and kept in custody for two months without a warrant. He had reportedly been tortured and beaten by CDO Rais Khan himself.

In another incident, NC activist Amar Jhankri was killed by some unidentified persons on September 16, 1993. Based on the complaint lodged, Chop Bahadur Dangi, Harka Man Jhankri, Purna Bahadur Jhankri, Man Bahadur, and Ash Bahadur were arrested. However, „Harka was kidnapped by the ruling party workers from the police custody and came into public. He dipped his fingers into blood and promised that he would join Nepali Congress” (HRYB1993:1994:265-266). It has been recorded that the elected chairperson of Kotgaon VDC, Tirtha Ram Budha, was arrested on September 12, 1993, tortured inhumanely and forced to promise that he would join NC (HRYB1996:1997:90). Likewise, a local student leader Ghanashyam Acharya, who is also the INSEC district representative, was ar-
rested without warrant when he was attending a program organized for an annual memorial day of late Pushpa Lal Pradhan on July 22, 1993. He was charged with breaking the shop of Tilak K.C. He was severely forced to join NC too. As he refused to do so, he was brutally beaten and was compelled to sign a written document that he had broken the shop and stolen on his own. He was released on a bail of US $ 417 (HRYB 1993:1994:267). On December 25, 1993 CDO Rais Khan and Surendra Hamal of NC detained Mukta Bahadur Gharti from Sulichaur and tortured him both physically and mentally. When he became unconscious, he was thrown out in the jungle of Bhalukhola and the case was not even registered by the judge of district court (HRYB 1993:1994:268). Similarly, Nim Bahadur Budha of Kharawang VDC-6 was beaten to death by the police. While locals protested against such immoral activities of policemen, the police opened fire indiscriminately and killed 25-year-old Lok Bahadur Gharti of Rangsi VDC-9 and 23-year-old Man Bahadur Pun of Iriwang VDC-1 (HRYB 1996:1997:91), injuring several others.

While the convener of UPF Dr. Baburam Bhattarai and his team members were visiting Rolpa to inspect the political situation, they were threatened being arrested by the CDO as he had the lawful authority to arrest anyone (HRYB 1996:1997:90). Dr. Bhattarai was even attacked with khukuri by NC activists who were under the protection of police force on October 6-7, 1993 when Bir Bhadur Dangi, Armar Raj Bidha, Tulsi Ram Budha, and Bir Bahadur's 75-year-old mother were injured (HRYB 1993:1994:267).

Such regressive characteristics among the NC and UPF activists and state repression against the UPF activists made the ground fertile for proliferation of the idea of armed revolution. While NC was in power, its cadres seemed more irresponsible and severe against their opponents. They thought that the whole country belonged to them only and so, the entire state machinery and resources were under obligation to mobilize as they wished forgetting the fact that all are entitled to have equal rights in a democracy. Thus, the NC and its activists were overwhelmingly responsible for the initiation of the People's War in Nepal.

5.1.4.4 Criminalization in Politics

Criminalization in politics started systematically when the minority government of the CPN (UML) headed by Man Mohan Adhikari was ousted on September 10, 1995 and a tripartite coalition government was formed under the leadership of Sher Bahadur Deuba of NC. With the influence of state power, politics, and other dubious resources, Deuba was able to get the IMT passed in 1995 from the Parliament. Sharp contradictions were raised by the UML parliamentarians when more than three dozen of its members boycotted the house at the time of voting for IMT. As a result, the CPN (UML) was finally split into two: CPN (UML) and CPN (ML). Deuba also introduced the Pajero (the Japanese vehicle) culture and various other luxuries were allocated to the parliamentarians overhearing the voices of common people. On the eve of voting on no-confidence motion, Deuba sent five of the ministers at once to Bangkok for merriment at the cost of state exchequer and dispatched another member of parliament to India fearing that they would
otherwise vote against him. On top of it all, the Maoist People’s War actually started in his regime; the day following the signing of IMT with his counterpart PV Narsingh Rao in New Delhi on February 12, 1996. Not only CPN (Maoist) and other communist factions, but also the representatives of entire civil society were against the signing of IMT and were pressurizing Deuba not to compromise the sovereignty of the Nepalese people with or to sell the natural resources to India. The signing of IMT had also added some fuel to the People’s War.

In the coalition government of Chand, senior cabinet ministers such as Dr. Prakash Chandra Lohani, Kamal Thapa, etc. seated themselves in the opposition benches in the house and voted against their own government during the no-confidence motion held in the first week of October 1997. But, the fact of the matter is that they neither resigned as ministers nor gave up the state facilities. This is just one example and not the last one. When such activities, practices and behaviors of the leaders came out in public, all hopes and expectations of the ordinary people turned against them. Consequently, the Maoists capitalized the situation. Indeed, such political players have behaved worse than the mobility of prostitutes and have tarnished the functional democratic values and practices against the desires, aspirations and interests of the common people.

Ruling and other powerful elite personalities were unable to develop and implement coherent strategies for addressing the basic needs as basic rights of the Nepali people, or to triumph over corruption among their ranks. It was reported that a significant number of politicians of all ideological affiliations were suspected to be profiting from the South Asian Smuggling (Setting Priorities for Preventive Action in Nepal:2001:3-4). Similarly, the leaders imposed their authority on all government and other institutions as if those were their private property. Almost all the powerful political leaders and parliamentarians suddenly became very rich in comparison to their past life which was similar to that of ordinary pedestrians. As a result, common people looked at them with suspicion that led to significant loss of credibility of the leaders in general and in the democratic institutions as well. The loss of trust in leaders and institutions compelled the frustrated people to search for new alternative – the People’s War. The ultimate goal of the CPN (Maoist) is to conquer the government and set up a people’s democratic republic to make a socialist society that would bring social justice to all.

5.1.5 Operation Romeo

The Unity Center constituted several communist factions: the CPN (4th Convention) led by Nirmal Lama, CPN (Mashal) led by Prachanda, Proletariat Workers’ Organization led by Rup Lal Biswokarma, CPN (Mesal) led by Dr. Baburam Bhattacharai, Nepal Workers and Peasants Party led by Rohit, and CPN (MLM) led by Krishna Das. It was constituted for the formation of a legitimate left front, United People’s Front (UPF) on January 21, 1991 to participate in the forthcoming general election 1991. But, Rohit left the UPF before and Krishna did so after the election. In One Year of People’s War in Nepal, it is stated that the Unity Congress was held from November 24 to December 10, 1991 and CPN (UC) was
finally constituted after 10 months of the formation of UPF. The CPN (UC) adopted a clear-cut political line for a protracted People’s War to carry on the new democratic revolution in the country with a Marxist-Leninist-Maoist ideology. However, within four months, sharp differences appeared on the operational strategy in Unity Center when a faction led by Nirmal Lama advocated the policy of utilizing the parliamentary democratic system to lead to a republican state. Another faction led by Prachanda stressed upon the plan to „capture the state power through a protracted armed struggle, boycotting the parliamentary election‟.

Due to the revolutionary and parliamentary lines, the second largest communist party in the parliament, Unity Center, split into two in May 1994: Prachanda led the revolutionary line and formed the CPN (Maoist) and Nirmal Lama continued the Unity Center. Similarly, one faction of UPF led by Niranjan Govinda Baidhya supported Nirmal Lama and another faction led by Dr. Baburam Bhattarai continued with the revolutionary line. Out of nine seats in the House of Representatives, only three members of parliament Krishna Bahadur Mahara (Rolpa), Barman Budha (Rolpa), and Khadka Bahadur Budha Magar (Rukum) sided with the group of Dr. Bhattarai. The faction led by Niranjan Govinda Baidhya got the official recognition from the Election Commission, but later the Supreme Court gave the verdict in favor the faction led by Dr. Baburam Bhattarai. The Nirmal Lama group participated in the Mid-Term Poll held on November 15, 1994 but received only 1.32 percent votes without any representation in the House of Representatives, whereas CPN (Maoist) boycotted the election by saying: „The present democratic system cannot fulfill the needs and demands of poor, disadvantaged, marginalized, and vulnerable people which is possible only upon the achievement of Janatako Naulo Janabad (People’s New Democracy).‟

The Maoists launched various kinds of programs in the areas of their influence requesting people not to take part in the forthcoming elections. When they observed people’s low participation in the general election in Rapti zone, especially in Rolpa and Rukum, they tried to encourage people’s participation toward their party activities through various cultural and informal literacy programs, similar to those of the Cultural Revolution launched in China from 1966 to 1976. The principal aim of the programs was to unite the people of Rolpa and Rukum through the Sija Miteri Abhiyan. It was divided into four steps: First, Sija was to be taken for the preparation of the armed struggle through the means of economic, social, political, and cultural activities. Second, the people’s liberation army was to be initiated and other accessories to be launched for an armed struggle. Third, the full swing of the People’s War was to be developed, which actually began on February 13, 1996. Lastly, the People’s War was to be continued as a long-term protracted plan.

Under the Sija Campaign, the UPF organized a cultural program in Gam VDC in Rolpa on October 8, 1995 (Nair:1997:7). Cultural programs are popular among poor countryside people as they get entertainment free of cost. But the ruling NC and RPP party workers launched a sudden attack upon the organizers, when hundreds of people of both sides were injured. After a short while, the then coalition government ordered the police to launch a massive operation against the
UPF. IGP Moti Lal Bohara sent a commando force under Superintendent of Police (SP) Chuda Bahadur Shrestha to suppress the Morcha (front). The police operation was named Operation Romeo and it went on from November 4 to December 24, 1995. During the course of the operation, 339 people were arrested and 175 were taken into custody (Shrestha:1996:37). The human rights report says: „331 people were arrested and 172 were taken into custody. Out of 172 civilians, 30 had been sent to jail without investigation‰ (Lekali:1996:2). However, Dr. Baburam Bhattarai claimed that 1,000 people had been arrested of whom 300 had been kept in police custody or jails under fictitious charges. In an interview, he said: „A girl was raped in Sulichaur police station and eight girls from Uwa VDCs were stripped naked and tortured with sisno-pani (nettle-water)‰. Similarly, homes of many poor peasants were indiscriminately ransacked and their private properties were looted‰ (Independent: December 13, 1995). INSEC reported, „dozen of females became pregnant because of the police rape, which caused huge social tension not only among the population of Rolpa but in the entire Rapti zone‰. However, such rape cases and pregnancies hardly come out in public as no cases are registered with the local authorities due to the social stigma attached with the rape victim in a conservative Hindu society. Krishna Gautam of INSEC reported that five cases of rape did come out in public in 1999.

Dr. Baburam Bhattarai further stated: „Police arrested people ranging from 12 to 70 years in age and most of them were subjected to cruel and inhumane torture while in police custody.‰ More than 10,000 rural youths in Rolpa district were forced to flee their homes to take shelter in the jungle (Independent: December 13, 1995). In another incident of a marriage program at Uwa VDC of Rolpa, 118 people were reportedly arrested without warrant and were kept in custody under the Public Security Act. However, answering the question of parliamentarians in the House, Home Minister Khum Bahadur Khadka said: „165 people had been arrested, 92 had been released and four are still in custody‰ (Ravi:1997:7).

The Operation Romeo was condemned by all sectors at large, such as the main opposition party, other communist parties, intellectuals, and human rights activists. When the government was pressured to stop the police brutality and investigate into the incident, Home Minister Khadka promised to form a parliamentary investigation committee at a meeting of the House of Representatives on December 11, 1995.

5.1.6 Culture of Impunity

Since the establishment of democracy in 1990, the government often forms an investigation committee to go into the cases of human rights violations only after a lot of public pressure is exerted. But, it is saddening to say that none of such committee decisions have been implemented properly. Some noteworthy examples of the culture of impunity that has accelerated in growth during the democracy are:

5.1.6.1 Mallik Commission

During the popular people’s movement 1990, dozens of people were extrajudicially killed and hundreds were injured. The interim government formed a high
level three-member Investigation Committee under the chairmanship of the Supreme Court Justice Janardhan Mallik. This was the first ever public committee made after the restoration of democracy. The other members included Justice Udaya Raj Upadhaya and Indra Raj Panday. The principal aim of the committee was to investigate the concerned authorities responsible for the loss of life and security and damage of public or private property during the period of February 17 to mid-April 1990. After a thorough and prolonged investigation, the committee submitted a 1,100-page report to the interim government on December 31, 1990. The report found over one hundred persons in high offices, including two former prime ministers Marich Man Shrestha and Lokendra Bahadur Chand, responsible for extrajudicial killings, arbitrary arrests and detentions, cruel and inhumane or degrading treatment and recommended for further action on them.

The Mallik Commission reports, „45 ordinary people were killed and 2,300 citizens were injured during the pro-democratic movement.“ The Ministry of Foreign Affairs seized the passports of the members of the council of ministers formed on June 16, 1986 under the chairmanship of Marich Man Singh, the succeeding Prime Minister Lokendra Bahadur Chanda, some members of his council of ministers including Nain Bahadur Swan and Pashupati Samsher J.B. Rana. Likewise, Ministry for Home Affairs issued an order prohibiting them going abroad without the permission of the government (HRYB 1992:1993:33). The Commission also mentioned the names of the security and administrative personnel who were responsible in violating Clause 6 of the Local Administrative Act 2028 BS (1971/72). The ex-Inspector General of Police Achyut Krishna Kharel was on top of the hit list in the report among the circle of police. He was at the time Acting Deputy Inspector General of Police, Central Region, which included the capital of Nepal during the people’s movement, when dozens of people were killed extrajudicially under his direct command.

The first elected government of NC presented the report in the House along with the decision of the interim government and the advice of Attorney General. Out of 265 members of both the houses, an absolute majority with 67 percent of the parliamentarians was in favor of taking action on the perpetrators. Moreover, the government and parliamentarians were considerably pressured by the civil society, human rights organizations and party activists to act. Despite such huge support from public and parliamentarians, the government kept the action pending and sent the report packing into the daraj (filing cabinet) where hundreds of other reports were kept. The government did not act on the pretext that there were some difficulties pertaining to legitimacy. But it did not bother to disclose the nut of difficulty through parliament. Due to increasing criminalization in politics and vested interests of the political parties and their leaders, especially the ruling party NC, most of the well known perpetrators such as Achyut Krishna Kharel, Kamal Thapa, etc. were eventually awarded with very senior public posts. Moreover, the last prime minister of Panchayat era, Lokendra Bahadur Chand, whose passport was seized, became prime minister again in 1997 after the restoration of democracy. Kamal Thapa, Rabindra Nath Sharma, Dr. Prakash Chandra Lohani, and a few other ministers of RPP had cast their votes against their own council of
ministers during the no-confidence motion in 1997 without even resigning from the posts of ministers. The former Inspector General of Police D.B. Lama, who had got life sentence during the last months of the Panchayat regime, became free a few years later and eventually a dignified member of parliament on behalf of the ruling party NC.

Because of the influence of power, politics, and property (3Ps) along with nepotism, favoritism, and sycophancy, the reports remain without implementation, no matter how important they are. But only the poor, disadvantaged, marginalized, and rural people are compelled to obey the rules and regulations in Nepal even for minor offenses.

5.1.6.2 All Party Parliamentary Committee

While atrocities of Operation Romeo were condemned throughout the nation from street to the parliament, it exerted pressure to set up a parliamentary investigation commission. On December 11, 1995, an eleven-member All Party Parliamentary Committee (APPC) was formed to investigate impartially the incidents of human rights violations and abuses in Rolpa during Operation Romeo (HRYB1996:1997:127). Excepting three, eight other parliamentarians namely Shankar Pokhrel, Nava Raj Subedi, Asha Kaji Basukala, Dal Bahadur Rana, Mahesh Chaudhary, Indu Rana, Man Bahadur Biswokarma, and Bashudev Bhatta visited the operation area in Rolpa and submitted the report to the House of Representatives and National Assembly. The report stated that the operation Romeo was unjustified which had only created terror among the local people. It further illustrated that many innocent people were kept in jail and many girls and women were sexually harassed. It had also recommended for strong action against the perpetrators. Similarly, the main opposition party UML also demanded to take strong action against those who were responsible for creating such types of incidents.

The three members of APPC, namely Ananda Prasad Dhungana, Bishnu Bikram Thapa and Anis Ansari, neither visited Rolpa nor concurred with the report, nor tendered their resignation from the Committee. While the ruling party had nominated them, they tried to raise a lot of impediments over the report. Without a field visit, they said that Operation Romeo was justified because the UPF cadres had terrorized the local people. However, these ruling party members did accept that the crisis had developed after 1992 when the Chief District Officer (CDO) of Rolpa Abdul Rais Khan had adopted very severe repressive policies against the opposition political parties, especially the activists of UPF. It is intriguing that Rais Khan was neither suspended nor any action was taken against him.

5.1.6.3 Dang-Rolpa Incident Investigation Committee

Prime Minister Man Mohan Adhikari, the leader of CPN (UML), had commissioned the Dang-Rolpa Ghatana Chhanbin Samiti (Incident Investigation Committee) to impartially investigate the murder cases in the two districts under the leadership of human rights activist Birendra Kesari Pokhrel with two other members in January 1995. Narayan Chaudhary of Dhikpur, Dang district had been killed on the spot in a gathering when the NC leader and Minister Khum Bahadur
Khadka had ordered to shoot them. Twenty-nine persons had sustained bullet injuries in the incident (HRYB1994:1995:95). In another incident, two supporters of UPF, Lok Bahadur Gharti, a local inhabitant of Rangsi VDC-9 and Man Bahadur Pun of Iriwang VDC-1 were killed and many were injured when the police opened fire indiscriminately at a *mela* (public fair or festival) in Rolpa district on November 25, 1994 (HRYB1994:1995:97) in the command of the Sub-inspector of Liwang. The report was duly submitted in time with recommendations to take stern action against the perpetrators, but no action was ever taken.

These are but a few examples of the culture of impunity. In recent years, especially after the restoration of democracy, impunity has highly increased due to the polarization of people in political parties. The 3Ps are influencing the courts and state apparatus even more vigorously. As a result, more and more people are getting dissatisfied with the present democracy which subsequently fuels the People's War.

5.1.7 Formation of Constitution Draft Committee

Disregarding the directives put forward by the NC and ULF, King Birendra announced the formation of a seven-member Constitution Reform Recommendation Committee on May 11, 1990 without consulting the Council of Ministers and political parties. When all the leaders of political parties heavily poured upon the announcement for such Committee, the King formed a new nine-member Constitution Recommendation Committee as per the list provided by the Council of Ministers on May 29, 1990 again under the chairmanship of Bishwanath Upadhayay. Pradhumna Lal Rajbhandari and Ramananda Prasad Singh were the nominees of the crown; Daman Nath Dhungana, Mukunda Regmi, and Laxman Prasad Aryal were nominated by NC; and Nirmal Lama, Bharat Mohan Adhikari, and Madhav Kumar Nepal were representing the ULF in the committee as members.

In terms of caste/ethnicity, the King’s nomination seemed more balanced as per societal diversity unlike others, but it was without the representation of women. The NC nominated all *bahuns* and two-thirds of ULF nominees were also *bahun*. The social composition of the committee reveals that 67 percent of the members were *bahun* compared to their ratio of 13 percent in the total population of Nepal. Only one member Ramananda Prasad Singh from the *tarai* dwellers was selected on behalf of the King. From the minority groups or nationalities, one member – Nirmal Lama was nominated. There was no member nominated from *chhetri* which comprises 16 percent of the population of Nepal. Similarly, there was neither any representative from *dalits* (downtrodden), nor from the better half of the population comprising women.

While the Constitution was under construction, a lot of ethnic and other issues such as seat reservation to disadvantaged groups or castes/ethnicities, secular state, linguistic issues, ethnic autonomy, federal system government, right to self determination, and so forth were raised to pressure the members of the Committee. Some ethnic organizations and communist factions which were in favor of holding an election for a constituent assembly, including the CPN (Fourth Convention), strongly opposed the constitution under construction and said: „It is a
reactionary constitution. During that period, almost all newspapers reported that even Lama himself was not satisfied with some of the articles of the draft constitution 1990. Similarly, the leaders of minority groups who were not included in the Committee, earnestly pressed it to consider the feelings of minorities so that the elite class majority would not discriminate against them. Krishna Bahadur Bhattachan in his Ph.D. dissertation states: “One of the main demands of the public during the people’s movement was a guarantee to their fundamental rights in accordance with the Universal Declaration of Human Rights” (1993:178), but it was in vain.

On the voice and autonomy of ethnic communities, Chairperson Upadhayay says: “If detailed safeguards were included in the constitution to meet the concerns of minority groups, it would have served to perpetuate the separate consciousness of the minorities and to militate against the basic desire to strengthen national unity” (Dhungel:1998:39). In fact, the formation of the constitution committee could not overcome the differences on religious, ethnic, and linguistic issues. King Birendra promulgated the Constitution of the Kingdom of Nepal 1990 on October 21, 1990, but it could not escape being uncontroversial. Accepting as a historical document, Nepali Congress heartily welcomed it. The CPN (ML) critically accepted it forwarding a 27-point list of reservations (see Chapter-III), but CPN (Fourth Convention) denounced it altogether.

The parties such as CPN (Masal), CPN (Mashal) which were not represented in the committee sharply denounced it, as they were demanding for a constituent assembly. All the minority groups and their affiliated organizations expressed their dissatisfaction over the matters related to religion, regionalism, language, autonomy, proportional representation, etc. The constitution was promulgated after the historic people’s movement of 1990, but only the forefront political parties, leaders and elite class people expressed their happiness as they would be largely benefited.

5.1.8 Fundamental Limitations

In Part II, the Constitution 1990 has provided the fundamental rights to the people including:

- Right to Equality (Art.11);
- Right to Freedom (Art.12);
- Press and Publication Right (Art.13);
- Right regarding Criminal Justice (Art.14);
- Right against Preventive Detention (Art.15);
- Right to Information (Art.16);
- Right to Property (Art.17);
- Cultural and Educational Right (Art.18);
- Right to Religion (Art.19);
- Right against Exploitation (Art.20);
- Right against Exile (Art.21);
- Right to Privacy (Art.22); and
- Right to Constitutional Remedy (Art.23).
Article 11 states the right to equality for all citizens to be free from all kinds of discriminatory activities on the grounds of religion, race, sex, caste, tribe and ideology or any of them. Similarly, it also protects women, children, aged people, and those who are physically and mentally incapacitated and those who belong to a class which is economically, socially, and educationally disadvantaged, poor, and marginalized. Besides that, it clearly states that no caste shall be discriminated against in the name of untouchability which is legally banned. The implementation and surveillance over these have however been very weak.

Despite some efforts of human rights organizations and civil society, hundreds of thousands of lower caste people are still deprived from entering into a temple, quench their thirst from a public tap or well and their children are unable to sit together in public schools with the children of superiors, eat in public restaurants and tea shops, etc. Such appalling situation still exists, especially in the countryside where most of the people are illiterate, poor, disadvantaged, and vulnerable.

The right to freedom in Article 12 guarantees: (i) No person shall be deprived of his personal liberty save in accordance with the law, and no law shall be made which provides for capital punishment. (ii) All citizens shall have the following freedoms:

a) Freedom of opinion and expression,
b) Freedom to assemble peacefully and without arms,
c) Freedom to form unions and associations,
d) Freedom to move and reside in any part of Nepal and
e) Freedom to choose any profession, occupation, or trade or to start an industry.

Some notable restrictions are imposed on the right to freedom. First, the sub-article on freedom of thought and expression says: „But nothing mentioned in sub-clause (a) shall prevent making of laws to impose reasonable restrictions on any act which undermines the sovereignty and integrity of the Kingdom of Nepal, or which disturbs the harmonious relations subsisting among the people of various castes and communities, or on any act of sedition, defamation, instigation of crime, or any act against the public morality. Second, restrictive measures may be taken on moving freely or to assemble peacefully without taking any weapons: „Nothing provided for in sub-clause (b) shall prevent the making of laws to impose reasonable restrictions on any act which undermines the sovereignty and integrity of the Kingdom of Nepal or causes disturbance in the law and order situation within the country. Third, the constitution has guaranteed to set up unions or associations by themselves and affiliated with any political party. However, the restriction follows: „Nothing mentioned in sub-clause (c) shall prevent the making of laws to impose reasonable restrictions on any act which undermines the sovereignty and integrity of the Kingdom of Nepal, or disturbs the harmonious relations subsisting among the peoples of various castes and communities, or instigates violence, or any act against public morality. Similarly, fundamental rights ensure the freedom to move and reside in any part of Nepal but it is also limited: „Nothing mentioned in sub-clause (d) shall prevent the making of laws in general public interest or the imposition of restrictions on any act which disturbs the harmonious relations subsisting among the various castes and communities.
In Article 13 (1) concerning press and publication right, it says that no news item or article or any other reading material shall be censored, but confines, "...nothing shall prevent the making of laws to impose reasonable restrictions on any act which tends to undermine the sovereignty and integrity of the Kingdom of Nepal, or disturbs the harmonious relations subsisting among the peoples of different castes or classes or communities or any act of sedition, defamation, contempt of court, or instigation of crime, or any act against decent public behavior or morality." Another restriction is found in Article 19 (1) which states, "...no one shall be entitled to convert the religion of another person." In general, the constitution guarantees universal fundamental human rights, liberty, security, and dignity on the one hand and snatches them away through the other.

Some of the fundamental rights and political freedoms in the constitution are unconditional but some are conditional. Some restrictions on human rights and fundamental freedoms are maintained in almost all constitutions even in most democratic constitutions, but the magnitude and degree of restrictions and its utilization to the people vary widely. Article 4 of the Constitution states: "Nepal is a multi-ethnic, multi-lingual, democratic, independent, indivisible, sovereign, Hindu, and constitutional monarchial Kingdom." Some restrictions are clearly seen in the participation on the basis of caste/ethnicity, language and religion in the country national/societal diversity. On the one hand, the constitution respects ethnicity, language and religion, but on the other, it proclaims Nepal a Hindu state. The concept of Hindu Kingdom introduced in Article 4 is alleged to be the continuity of the history that "Nepal is a country of Hindus," but the formulation itself is questionable. Religion lies between man and God; a constitution need not speak for Hindus or non-Hindus, but the present constitution shows some sort of bias towards the non-Hindu people. Where are mentioned the rights of non-Hindu people who have been living in Nepal for generations? Advocating for minority rights, sociologist Krishna Bahadur Bhattachan says: "I will argue that the main reason for the restrictions on fundamental rights is the tapering off of an open public debate and hesitation against the historically underprivileged and politically deprived ethnic, linguistic, religious, and regional groups to actively participate in the country's development process." (Bhattachan:1993:117).

As a result, non-Hindu people have gradually aligned themselves with the alternative forces, for instance, the People's War for their inherent, inalienable and non-derogatory right of secularism against the discrimination in terms of the constitutional fundamental rights.

5.1.9 Donor Causes

In 1980, Rapti Rural Area Development Project (RADP) launched an agricultural research and extension program in Rapti zone for 15 years at the cost of $28.8 million (USAID/Nepal:2000). The People's War started in the same area within one and half months (43 days) of the completion of the project funded by USAID. The project was primarily a designed integrated program for four broad target areas and purposes: (i) to improve household food production and consumption; (ii) to improve income generating opportunities for poor farmers, landless people,
laborers, occupational castes, and women; (iii) to strengthen the capacity of Panchayat and other local organizations to carry out local development efforts; and (iv) to increase the availability and use of service delivery systems (Skerry:1992:295).

The RADP had aimed to provide benefit to the poor, disadvantaged, marginalized, and vulnerable countryside people, but their services could not reach the desired groups and areas; instead the services primarily reached the elite class or feudal people and only a few other people of the society were benefited. The principal hidden aim of the project was to crush the communist ideology at the entire Rapti zone through empowering and strengthening the elite people or feudals. The books which were to be distributed to poor children were dumped in godowns by the elite people or feudals. All the financial and technical resources reached only those among the unprivileged who were recommended by the elite people or feudals. Poor and vulnerable people, who had high hopes and expectations from the RADP, gradually turned to rebellion thought against such programs and activities of the US funded projects. I agreed with Mohan Mainali when he stated that the Maoists grasped the weakness of RADP and openly awakened the poor people against its bad performance and presented their own model to the people (1998/1999:Year 2/No.1:8-11). The evaluation report prepared by Skerry and his team on *Four Decades of Development* for USAID states:

"There have been problems with inconsistent government policies. In some cases this was because the government adopted a policy because of donor insistence, not because Nepali officials were convinced of its efficacy. Perhaps, it is impossible for the government to harmonize divergent donor demands. The lack of consistency in the policies that were implemented reduced the chance of success of many activities and their sustainability after donor resources ended" (1992:368).

After this project, the Maoists appeared against the US particularly and her associate friend UK in general. This is just one example, but not the last. There might be several other donors who have been working against the government policy and people's wish, but further research has to be done independently.

Since the restoration of democracy in 1990, Nepal has been utilizing the wide open world through bilateral and multi-lateral donors, I/NGOs, and market oriented economy. Most of the 22,000 NGOs (NGO Federation:2003) set up since 1990, including the donors driven human rights organizations, are run by the middle class people and the phenomenon has given birth to a class of new barons, for example the Center for Victims of Torture (CVICT). According to Dinesh Prasai, Dr. Bhogendra Sharma had established a human rights organization CVICT a decade ago and has managed to earn millions of US dollars worth private property in the name of caring for the helpless and poor victims (Nepal Samacharpatra:December 15, 2003). His two sons are studying at Lincoln School – a school established for foreign children. This is the most expensive school in Nepal where the cost of education for a pupil is to be paid in US dollars. Even though, donors are continuously supporting such corrupt organizations due to their strong links with them.

As Nepal has almost been appearing as a failed state; the poor, disadvantaged
and vulnerable people have hopes and expectations with the non-government organizations (NGOs) as alternatives to the government. But how the NGOs have presently been functioning in 21st century is given below, although this is neither the first case nor the last one.

The Dalit Empowerment and Integration Project (DEIP) which has been established by DFID under the Dalit NGO Federation (DNF) had recruited 7 consultants in February 2004 who were mostly Dalits, excepting the coordinator and one non-Dalit for a Study to Identify Advocacy Strategies and Inclusion Activities to Integrate Dalit into the Mainstream Society in Nepal. Due to the constraints of survival, these consultants agreed to work more like volunteers with meager salary and benefits. However, they got the lesson of their life when they found out that the coordinator was paid an amount equal to that paid to the rest of all combined.

It is earnestly taught that tolerating injustice is more sinful than committing injustice. But, it is very risky in our society to launch protests against elite class, high-ups and powerful persons. And to protest against their project means to stand against the donors like DFID, Dalit NGO Federation and its management associate Total Management System (TMS). The most perplexing point is that some donors like DFID preach us on decentralization, transparency, accountability, good governance, duty ownership and participation, whereas their budget amount must pass through as many as six channels to reach at the grassroots, viz. DFID/London, DFID/Nepal, ESP/Nepal, TMS and DNF and its six consortium members. Interestingly, the TMS, which had been appointed by DFID to support the technical aspects, is neither familiar with the problems of Dalits nor has the quality of organizational development and management. Even though, we poor people are still seeking assistance for social justice, sovereignty, integrity, and dignity from such elite-based advisors, projects, and programs.

It is observed that the services and benefits of I/NGOs generally reach the few elite class people, for instance, feudals, compradors, bureaucratic capitalists, technocrats, and some middle class petty bourgeois rather than the needy people such as the poor, disadvantaged, and vulnerable communities. This often happens due to the inconsistency in the programs and policies of the government and the interests of donors and I/NGOs. Notwithstanding that, the founders and staff of NGOs are invariably from the same elite and middle class people. Such monopoly and bias promote resentment in both the rural and urban poor and disadvantaged people against the present system comprised of elite-based programs and policies.

In recent days, EU member countries are focusing their programs to uplift the life standards of poor, disadvantaged, marginalized and vulnerable communities, but questions have been raised whether their partners or collaborators are honest, sincere and committed to implement the programs in the targeted areas and for the sake of the people.

5.1.10 Non-compliance of International Instruments

Nepal has ratified or acceded to 16 international human rights instruments and 9 ILO conventions. During the Panchayat regime, seven international human rights instruments were ratified or acceded just to show that we are committed towards the human rights instruments. Except for the political rights of women, the conventions related to slavery, genocide, and apartheid have very little significance for and no immediate effect upon the internal situation of Nepal. However, the
major instruments concerning individual liberty and freedoms, especially those involved with political and socioeconomic issues, were not ratified.

Immediately after the restoration of democracy in 1990, the government ratified or acceded to very important instruments such as International Convention on Economic, Social and Cultural Rights (ICESCR), International Convention on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT) and Convention on the Rights of the Child (CRC) etc. which have been unconditionally ratified. The ratification or accession to such human rights instruments reflects that the state is committed to genuine democracy, constitutional fundamental human rights and rule of law.
In the decade old democracy, the state tried to undertake significant efforts to refine the existing legal system in the country. But only a few acts have been amended so far in conformity with the constitution. Against the spirit of the international instruments and the constitutional stipulations on civil and political rights, the capital punishment had been incorporated in the Military Act and Punishment for Crime against the State Act. This provision for capital punishment was annulled by the Supreme Court only after the filing of a petition to this effect. Similarly, the state has failed to enact laws relating to right to information and privacy, the right to property inheritance to women as equal to men, proscribing the practice of untouchability and so forth which are not only important but also inseparable for the protection and promotion of human rights. Some Nepalese acts which are in contradiction with both the international human rights and the constitution are still in force in Nepal such as Weapons Act, Act to Control Weapons, Food Act, Essential Commodities Act, Act for Punishment for Black Marketing and Other Social Crimes, Nepal Standards and Quality Control Act, Public Offense Act, Public Security Act, etc.

Article 126.1 of the Constitution states that the ratification, accession, acceptance and approval of treaties or agreements to which the Kingdom of Nepal or His Majesty’s Government is a party shall be done in the manner specified by law. But, neither the government is ready to comply with the international provisions, nor any act has been passed to transform the basic needs as basic rights, such as the rights to adequate food, clothing, housing, etc. Even in the absence of domestic laws, the provisions of international conventions, treaties, and protocols that have been ratified or acceded to by Nepal are equally effective. If any national law contradicts the ratified or acceded international human rights laws, such international measure overrides the domestic act. Under Section 9 of the Treaty Act 1991, the provisions in the instruments ratified or acceded to by Nepal are binding and they override the domestic laws that contradict them.
The Constitution itself is a prime implementing mechanism for human rights and rule of law. The judiciary is an effective protecting institution for the fundamental rights. To check and balance the executive, legislative and judiciary, there are some other milestone mechanisms such as the Constitutional Council, Commission on the Investigation of the Abuse of Authority, Judiciary Council, Security Council, the Parliamentary Committees, Office of the General Auditor, Public Service Commission, and Election Commission. To ensure liberty, equality, social justice, security, and dignity for all the government has also formed National Human Rights Commission, National Dalits Commission, National Women Commission, Juvenile Courts, etc. although they are not as effective as people would expect.

His Majesty’s Government of Nepal has formed National Human Rights Commission (NHRC) in 2000. But, instead of monitoring the state’s commitment and adherence to human rights, NHRC is fighting for its own rights and duties as the
state has not provided enough physical infrastructure and financial resources nor
the state easily permits NHRC to visit areas where a large number of alleged
Maoists have been killed or detained. While visiting western donor countries, PM
Deuba frequently expressed his commitment to guarantee human rights for all,
but it was in vain. Protesting against the state’s such dual character, a member of
NHRC Shushil Pyakurel said: „Deuba expresses his commitment on human rights
on foreign lands, but does just the opposite in Nepal‰ (Drishti: January 4, 2002).
He had further stated: „If the state continuously keeps our legs tied, it would be
better to dismantle the NHRC.‰ UN Special Rapporteur Asthma Jahangir during
the nine-day visit of Nepal in the second week of January 2000 in a press confer-
ence had said: „I do not get the feeling that the government has grasped the
magnitude and real picture (of the conflict) because everybody who is killed is
called a Maoist; that is not correct.‰

Nevertheless, the establishment of NHRC is a great achievement. It has played
a crucial role to introduce human rights cell in both army and police forces and
internationalize the issues of human rights violations and abuses. Due to the strong
lobbying and frequent appeals, both the conflicting parties have publicly assured
not to violate and abuse the rights to life, liberty, security, and dignity of individu-
als or groups.

However, the NHRC has failed to check effectively the human rights violations
and ill-treatment of common people. As some of the influential members are po-
itical activists, it seems that they are loyal to their own party and activists rather
than the ordinary people of the countryside. Their policies, programs and deci-
sions are often influenced by power, connections, and social hierarchy against the
principle of human rights that every citizen is equal and so be respected before
and under law. The NHRC has a crisis of resource persons to protect and pro-
mote human rights, as they award the vacant jobs to their own nominees (dear
and near ones) instead of recruiting capable, competent and resourceful persons.
One of the main reasons behind this is that some members do not even have a
required degree but occupy the high position due to their strong links with power
and politics. Recruiting independent, professional and qualified staff would, in
effect, mean to put their own position at risk, since, the qualified and experienced
staff will adhere to the rules and regulations of the Paris Principles and human
rights instead of towing to the whims of the bosses.

As a result, ordinary people including the civil society do not have much trust
upon NHRC. Due to the lack of effective monitoring and surveillance mecha-
nisms, the intensity and frequency of human rights violation and abuse have tre-
mendously increased in recent years with the intensification of the People’s War.

Very few fundamental rights have been guaranteed in the Constitution 1990 so
that basic needs such as food, housing, clothing, education, employment, and
primary healthcare of the ordinary people could be ensured as basic rights. Major-
ity of the ordinary people in general and nationalities and dalits in particular, who
were deprived from getting the fruits of democracy, are now aligned with the
Maoist People’s War for their liberation from social injustices, inequalities, and
restrictions to achieve a dignified life. The growing involvement of even greater
number of nationalities and dalits will push the country toward an ethnic conflict or civil war if the People’s War is crushed by the state forces or if it is deviated or compelled to deviate from its identity and resource-based politico-ideological fronts. Subsequently, Nepal will lose its national integrity and the sovereignty of a pluralistic society which has been honorably imbued with unity in diversity. The dissident characters can reduce only if both international human rights instruments and national legal measures are implemented honestly, sincerely, and committedly. Despite being signatory to a number of international treaties and conventions, there has been slow progress in integrating them within Nepal’s domestic legislation although it is obligatory to do so.

Therefore, all those who claim to be statesperson or aspire to become one, whether working with the government, development organizations or civil society, should think of national unity, integrity, sovereignty and human dignity with an intent to fulfill the requirements of poor, disadvantaged and vulnerable groups, and for the welfare of the most downtrodden of all by putting the last first.

The genesis of the People’s War is a creation of multi-dimensional and interwoven political, social, and economic problems. Its initiation was due to transverse issues such as identity, opportunity for scarce resources and politico-ideology. Also, it is the by-product of bad performance of democracy such as political repression, economic deprivation, uneven development, misuse of state power and so forth. All these, in varying degrees, encouraged persistent revolutionary trend among factions of communist cadres in Nepal.

Inefficient governance, ineffective administration, inadequate service delivery system, inequality in access of resources and opportunities, intolerance among leadership and interference from donors have added fuel to intensify the People’s War and to spread it across the country as a wildfire. In response, the revolutionary CPN (Maoist) has put forward the policy of social justice, political freedom, equality, solidarity, personal dignity, good governance, and economic balance in a republican state of Nepal.

The first phase of the People’s War had started from Rolpa and Rukum in 1995 although as a latent conflict. But, its second phase was launched in the districts of Rolpa, Rukum, and Jajarkot in the Mid-Western Region; Gorkha in the Western Region; and Sindhuli in the Central Region. One may ask at this point: Why were the hills and mountain regions, especially the mid-western, selected for the movement? The usual answer given is poverty. But, almost the entire population of Nepal is poor. Other districts are also equally poor and underdeveloped. Generally, identity, resource, politico-ideology and armed fronts lead to initiate a People’s War.

A number of factors have been at play behind the origin of the People’s War in particular: (i) All the socioeconomic and political problems are visible on the surface ever since the restoration of democracy. (ii) The elite-based semi-feudal society continuously adopted the same traditional policy of discrimination and exploitation toward the resourceless, illiterate, unemployed, and downtrodden people. (iii) Politically repressed and socially discriminated people of these districts followed the revolutionary thought and constituted a strong base hold for the Maoist activities.
(iv) The principle of decentralization in practice has paradoxically turned into a policy for re-centralizing the country’s available resources and opportunities which, in turn, has hindered the development programs of these districts and has caused hunger, disease, illiteracy, unemployment, and deprivation at a mass scale. And, (v) while the democratic government turned a deaf ear against hunger, disease, illiteracy, unemployment, and other forms of social injustices, the poor people’s hopes and expectations have turned them toward revolutionary thought and warfare.

Huge economic disparities and uneven development efforts since the restoration of democracy have helped promote rebellion thoughts. In the fiscal year 1999/2000, US $ 12 million was allocated for Parsa district from where the then Prime Minister Krishna Prasad Bhattarai was elected. But, in the whole Rapti Zone consisting of Rolpa, Rukum, Pyuthan, Salyan, and Dang districts, a total of US $ 8.4 million was allocated. Yet it was claimed that a high priority had been given to develop the Maoist affected districts through the integrated development approach. Similarly, US $ 8.7 million were allocated for Morang district alone, the home district of former PM and president of NC Girija Prasad Koirala. Next to Kathmandu, both are well-developed districts in terms of infrastructure set-up. The Maoists affected districts are not only deprived from the development works such as schools, roads, electrification, and medical facilities, but even the allocated budget never reaches in time. Besides that, village people are now without banking facility as the government has closed hundreds of branches of the banks.

In recent years, the security forces expenses on transportation have also greatly increased. For example, only a small amount of US $ 3,088 was spent on hiring helicopters in the fiscal year 1996/1997 at the beginning of the People’s War. The rental amount for helicopters increased by 15 times in 1997/1998 and 766 times (US $ 2.4 million) in 1998/1999 (Sharma:March 2000:26). However, the Ministry of Home did not care to buy a helicopter itself, as it was immersed in the pool carved by the large sums of commissions on rents paid.

5.2 Purpose, Motivating Factor and Actors

With inspiration taken from Mao, the CPN (Maoist) wants to establish equitable socialist society by sweeping away injustice, discrimination and exploitation, inequality, insecurity, intolerance, exclusion, deprivation, and semi-colonization by following the revolutionary warfare ideology, strategies and tactics.

Those among the communists and from civil society who have accepted the multi-party parliamentary system of democracy and constitutional monarchy severely criticize the waging of People’s War showing the reasons of unfavorable terrain, time, and its effectiveness. The accelerated development of communication, inventions and use of modern technology have made the world small and open. There is neither enough forest nor any possibility to use oceans nor to get support for the People’s War directly from any neighboring country. Maoists have criticized both India and China calling them expansionist and reformist respectively. Now the question is raised, how can the People’s War run in such a difficult terrain? For such difficult geo-political context, the Third Plenum of the Central Committee, Communist Party of Nepal (Maoist), held in March 1995 had
adopted the following strategy and tactics:

i. The geographical situation is most favorable for waging a guerrilla war as the CPN (Maoist) have direct links with the people. And because of struggle against the national oppression on the majority of nationalities, this will also provide good mass base for guerrilla war;

ii. The second specificity shows that there is no situation of direct military clash against the enemy forces for political power so that the armed forces of the people could take advantage to seize a definite area. This clearly proves that the Nepalese armed struggle cannot take the form of direct or positional warfare against the enemy at the beginning. It is necessary to expand the people’s armed strength by attacking the enemy’s weak spots in piecemeal and by weakening the enemy through guerrilla style attacks in areas favorable for the people. When the first and the second specificities are viewed together it is found possible to establish and survive independently in certain specific areas just as in China’s Ching Kang-Shan and to be able to expand from these onwards;

iii. The third specificity shows the possibility of starting guerrilla wars in different parts of the country and developing them by taking peasant revolution as the backbone, by centralizing in the rural areas and by relying on and uniting with the peasants;

iv. The fourth specificity clearly shows that the people’s support will go on increasing if the right revisionists are thoroughly exposed and the tactics of armed struggle are pursued vigilantly;

v. The fifth specificity indicates that the pace of development of armed struggle to establish people’s alternative revolutionary power would be faster and encouraging to undertake bold tactics to achieve it; and

vi. The sixth specificity demonstrates the necessity of mobilizing the Nepalese people working in foreign countries – mainly those working in India – by conducting political work amongst them and using the area for supplying various necessities for the success of armed struggle in Nepal.

According to the Mao saying, „without a political goal, guerrilla warfare must fail” (NEB:1991:vol.29/690), the CPN (Maoist) adopted a protracted long term people’s war following the directive of encircling the cities from the countryside where great majority of peasants and workers live. The Worker says:

„The synthesis of all the specificities clearly shows that it is impossible for the armed struggle in Nepal to make a quick leap into an insurrection and to defeat the enemy. However, it is fully possible to finally crush the enemy through systematic development of the armed struggle. It can be derived clearly from this that the Nepalese armed struggle must necessarily adopt a protracted people’s war adopting the strategy of surrounding the city from the villages. It is also clear that the path can be treaded only after paying attention to our own specificities of the country” (www.maoism.blythe.org/mlm/misc/nepal/worker3/worker3-1.htm).

To achieve the political goals, Maoists trigger the following groups or individuals: (i) the tenants, farm workers, landless peasants, poor peasants, dalits, nationalities, and porters, especially those who live in the countryside of Nepal; (ii) rickshaw and cart pullers, hotel workers, transportation workers who depend on taxis, tempos, minibuses, buses, trucks, and so forth; (iii) the petty bourgeois class such as school and college teachers, students, medical professionals, engineers, lawyers, journalists, junior civil servants; and (iv) unemployed, frustrated
and alienated youths and party workers (workers of ruling and opposition parties). Despite some differences with what Mao did in China from 1931 to 1949; the CPN (Maoist) activated both the raw-minded people and party workers for revolutionary warfare ideologically, politically and socially. However, the adopted strategy and methods of operation of the CPN (Maoist) are severely criticized by all quarters as they could not properly implement the central policy at the grassroots.

Proletarians, toiling peasants and students are the principal actors of guerrilla warfare for the establishment of People’s Republic of Nepal. The idea of republic has been criticized a good deal by all corners, as the CPN (Maoist) has not put forward any concrete vision, plan or program yet. In the history of revolutionary struggle which had been conducted by most of today’s democratic forces such as NC, UML, etc., peasants and workers had played a significant role from the bottom-up process for a social or qualitative change. Without the motivating factors (elite remain at the center all the times and poor become poorer each day and remain at the periphery of opportunities and benefits) and purposes of party line, strategy, and tactics, people’s participation is almost impossible. Without the participation of the general people, no political movement or warfare can succeed.

Leadership is equally important to accelerate any social or political movement. Once Mao said: „When the party line is correct, everything will come its way. If it has no followers, it can have followers; if it has no guns, it can have guns; if it has no political power, then it can have political power” (Zedong:1963:vol.9/441). As ours is an agricultural country, we have a great potentiality of peasants than that of workers and students. The Worker stated that the numeric potentiality of the proletarian workers in Nepal is not found encouraging as we have very few modern industries and factories (February 1997: www.maoism.org/mlm/misc/nepal/worker3/worker3_1.htm). Therefore, Maoists are primarily focusing on toiling peasants as the prime actors for the protracted people’s war.

5.3 Strategy

The term strategy originates from the Greek word, „strategos” – the art of the general. Andre Beaufre uses the term as a method of thought (1995:13). Mao has defined the concept clearly in his writings and has used the word as a theoretical system and as a plan, in a very simple manner. Che Guevara considers it as „the analysis of the objectives we wish to attain” (Peterson:1970:10). It is used especially in war or armed conflict by the armies. It is a system of theoretical knowledge and an art of movement. It is the law of armed struggle and is adopted in the name of definite class interest.

In the Art of Strategy, stressing upon intelligent methods for triumph over a non-negotiable conflict, Sun Tzu writes: „Those who win one hundred triumphs in one hundred conflicts do not have supreme skill. Those who have supreme skill use strategy to bend others without coming to conflict” (Wing:1998). However, the meaning of strategy has become the art of armed struggle which opposes the concept of Sun Tzu in the present day world. The art of strategy is the art of the calculation of risks.

Mao’s principle of „offensives within a defensive, battle of quick decision
within a protracted war, and exterior line operations within an interior line opera-
tion% are often applicable to defeat the enemy in both, a people’s war or in a
regular warfare around the world. A protracted guerrilla war is different from
regular warfare only in certain degree and form. The strategy of protracted war
will pass through three stages: (i) defensive · it covers the period of the enemy’s
strategic offensive and guerrillas’ strategic defensive;28 (ii) stalemate · the enemy’s
strategic consolidation and guerrillas’ preparation for the counter-offensive;29 and
(iii) offensive · guerrillas’ strategic counter-offensive and the enemy’s strategic
retreat30. Within the policy of strategic defensive or strategic offensive, there are
small-scale strategic offensives and defensives that continue to take place in and
around each guerrilla base area. „By strategic defensive, we mean our strategic
situation and policy when the enemy is on the offensive and we are on the defen-
sive; by strategic offensive we mean our strategic situation and policy when en-
emy is on the offensive and we are on the offensive% (www.maoism.org/msw/
vol2/mswv2_08.htm).

In accordance with Mao’s strategy, the CPN (Maoist) followed the offensive
strategy by attacking upon police stations, police posts and other concerned places
and the government appeared on defensive at the inception of the People’s War. At
the time of Sierra Kilo Two, it was seen that the Maoists used the stalemate
strategy as they foresaw that there was high probability of huge losses and so
they adopted the disperse strategy by forming small units and disseminating with
the people. When the Sierra Kilo Two operations stopped, they again went back to
the same territory and announced, „Go ahead toward the establishment of base
areas,% and strengthened their activities. To calculate the power and risk, the CPN
(Maoist) raise questions of dialogue and negotiation as strategic consolidation,
called stalemate or equilibrium, for the preparation of a counter-offensive.

The CPN (Maoist) has methodologically developed the military science and
practice along with the mainstream people of peasantry, by following the military
strategies and tactics suitable in Nepal. Mao always wanted that every communist
must grasp the truth, „Political power grows out of the barrel of a gun%. Similarly,
the CPN (Maoist) developed their policy of base areas and established and
strengthened their political power by forwarding three warfare tools: (i) the party,
(ii) the people’s liberation army, and (iii) the united people’s front.

The Central Committee meeting of the CPN (Maoist) held in September 1995
adopted a principal strategy, „surrounding the city from the rural area% following
the universal and invincible theory of war developed by Mao. In the course of
implementing the ideology, the CPN (Maoist) adopted the war theory: the perspec-
tive knowledge changes into rational knowledge to revolutionary practice. In
general, the CPN (Maoist) believe that the general masses are the „creator% of
revolutionary practice. In view of their past experiences, they have decreased
their reliance on the dictum that „everything is illusion except state power%. It
competes a new democratic revolution for the ideas of socialism, destruction of
semi-feudalism, semi-imperialism, bureaucratic capitalism, and so forth under the
dictatorship of toiling proletariat. The waging of People’s War is particularly being
conducted by taking agrarian people as the axis and by relying on the labor masses.
The same meeting stressed that the party will not succumb under any circumstances to the pressures, threats, and temptations of internal and external forces.

In general, the Maoist military strategy leads to the following actions: (i) decentralization · when CPN (Maoist) sees high possibilities of great losses of lives and property; (ii) relative centralization · to destroy security forces and state apparatus and to collect arms and ammunition, and (iii) absolute centralization · to offensively attack to compel the security forces to retreat and to capture the state power (see Annex-V.I). The former two strategies are already being used by the CPN (Maoist) and the lattermost is yet to be practiced.

In the process of the strategy of annihilation, the CPN (Maoist) primarily targets: (i) security personnel, (ii) informants, (iii) feudals, (iv) popular political or social activists and (v) people’s alleged enemy (enemy of the Maoists).

The strategy of guerrilla warfare is based on alertness, mobility, and attack. Strategy is the mental thinking of ideas and feelings used to defeat the opposition class enemy. Strategy determines how the enemy operates, its strength, mobility, use of weapons, leadership and credibility among the people. The principal aim of a planned strategy is to destroy the enemy, collect arms and ammunition, and withdraw unharmed along with the weapons.

To eliminate the old regime and to establish a new one, the People’s War undertakes strategic defensive, strategic stalemate and strategic offensive phases. The defensive strategy predominantly leads to guerrilla actions and the inherent terror creates confusion among the state authorities and the elite. Mobile warfare (maneuver warfare) is the chief technique of stalemate strategy. During strategic stalemate period, the CPN (Maoist) aims to intensify its armies and weapons in terms of both quantity and quality in order to match that of government side as a principle of revolutionary warfare. In this phase, the CPN (Maoist) developed its military force up to a division and large quantities of arms and ammunitions were collected, particularly confiscating them from the security forces and importing through weapon traffickers. The present People’s War is at the stalemate stage and so accumulating its energy to enter into the last phase · the offensive strategy to capture the state power by crushing the old one.

5.4 Tactics

*New Encyclopaedia Britannica* states: „Tactics, in warfare, is the art of science of fighting in the battles on land, on sea, and in the air, which is concerned with the approach to combat; the disposition of troops and other personnel; the use of various arms, ships, or aircraft; and the execution of movements for attack and defense‰ (1991:vol.11/490). Che Guevara says: „In military language, tactics are the practical methods of achieving the grand strategic objectives‰ (Becker:1998:19). All kinds of war and military troops follow some basic principles of security, mobility, surprise, and concentration to achieve victory. On significance of the tactics in the battlefield, Mao says: „Withdraw when the enemy advances; harass him when he stops; strike him when he is weary; and follow him when he withdraws‰ (Peterson:1970:xiv). Che further expresses: „Tactics include a sudden, surprise, furious, and relentless attack‰ (Peterson:1970:xiv). Thus, tactics have become the
principal tools of the CPN (Maoist) which are especially used to quickly destroy the power of the enemy and collect arms and ammunition from their camps. Tactics are the actions used in the battlefield by the military squads to defeat the enemy. Tactics are the practical tools used to achieve strategic objectives.

Considering the relationship between strategy and tactics, NEB further illustrates:

"In the theory of warfare, strategy and tactics have been generally put into separate categories. Strategies deal with wide spaces, long period of time, and large movement of forces, tactics dealing with the opposite. Strategy is usually understood to be a prologue to the battle field and tactics the action on the battle itself" (1993:vol.29/647).

Tactics beget action and action results in new strategy. Nevertheless, strategy and tactics have become synonymous to each other. If tactics fail or change, so does the strategy. During the time of fighting, strategy especially applies on economic questions such as supplies of food, arms and troops, political questions for debate, sincerity of allies, and party's policy on the battlefield. But, tactics are more appropriately concerned with the battlefield such as move forward, withdraw to a certain extent, or stop altogether. Strategy and tactics are the two sides of the same coin. They have their own speciality and importance according to the situation and movement. To successfully intensify the guerrilla warfare, the CPN (Maoist) has adopted the principle of hit and run as one of the tactics. Both strategy and tactics are equally applicable for security, mobility, surprise, and concentration that the CPN (Maoist) have been applying since the inception of the war. They have collected a considerable amount of arms and ammunition confiscated from the security forces. They spring surprise attacks on the enemy camps, confuse them and gather their weapons by trapping them.

How do the CPN (Maoist) guerrillas carry on attacks upon the government security forces? First and foremost, CPN (Maoist) commander surveys and investigates the entire situation of the enemy column (security forces) thoroughly. I agree with what Che Guevara says that the guerrillas encircle the enemy by stationing themselves in small units or groups on all four sides such as east, west, north, and south. When the CPN (Maoist) guerrillas' troop opens fire from one flank and draws the enemy's attention towards that side, another troop opens fire and pulls the enemy toward its side. Similarly, the third troop attacks and draws the enemy's attention to itself, and so forth. Thus, the guerrillas succeed in making the enemy confused. The enemy forces become immobilized, demoralized and get...
Fig. 5.4.2: The guerrillas instantly withdraw from the first flank when the enemy returns fire. But the guerrillas open fire from another flank.

Fig. 5.4.3: The guerrillas withdraw from the second flank and open fire from another flank attracting the enemy toward that side.
Fig. 5.4.4: The guerrillas shift again from the third flank and fire from yet another flank and attract the enemy toward that side.

Fig. 5.4.5: The enemy column gets confused and divides its forces into smaller troops and suffers heavy losses, but guerrillas withdraw safe and sound.
so entrapped that they expend great quantities of arms and ammunitions in vain. They finally get exhausted and destroyed whereas the guerrillas come back to their shelters safe and sound.

Due to the lack of motivation, training, arms and ammunition, difficult geopolitical terrain, and lack of proper coordination, the Maoist guerrillas could not use their strategy and tactics during the beginning of the People’s War. With the intensification and advancement of the War and subsequent formation of People’s Liberation Army (PLA), they have started to use the above mentioned tactics during the attack on district headquarters, RNA battalions and barracks and armed police force training centers. However, they have suffered major setbacks and heavy losses in some of the attacks conducted by them.

5.5 Leadership

In noble quality of leadership, it is very essential to run, survive, and win all kinds of movements including guerrilla warfare. For revolutionary warfare, a leader must not only be talented with understanding and courage, but must be strengthened by an almost revolutionary faith and courage. All famous freedom fighters of the world - T. E. Lawrence, V.I. Lenin, Leon Trotsky, Mao Zedong, Joseph Tito, Fidel Castro, Ho Chi Minh, and Che Guevara - were from civilian background. However, they all attracted thousands of followers or guerrillas behind their politico-ideology, strong belief, intelligence, and courage and built a strong military organization. Following the participatory approach of warfare, Mao Zedong writes: Take the ideas of masses and concentrate on them, then go to the masses, persist in the ideas and carry them on, so as to form correct ideas of leadership which is the basic method of leadership%o (1943:vol.3/120). In all practical work, all correct leadership is necessarily to go from masses to masses. If the leader is able to collect the scattered ideas from the masses and implement by arranging them systematically, it would be really helpful to promote and strengthen the party's work to make it popular within a short span of time as in the case of CPN (Maoist).

Before appointing one in the position, the quality, ability, and intelligence of the potential leader should be tested. A good leader is one who can face difficult circumstances systematically, strategically and logically without any hurry, alarm, or disorder. A leader plays a very important role to maintain unity between the people’s army and the people, between the senior officers and their subordinates, and between the military works and the socioeconomic and political works or reforms.

The CPN (Maoist) leadership is seen quite successful. As a result, the People’s War has momentously intensified as a wildfire throughout the hills, mountains, and tarai of Nepal within a few years under the leadership of party’s president and commander-in-chief Puspa Kamal Dahal alias Prachanda. Academically he is an agriculturist. Similarly, the first ever central government, the United Revolutionary People’s Council, is headed by the party’s senior leader Dr. Baburam Bhattarai who is an architect. The party’s high command, the Standing Committee, is composed of five members which includes Prachanda, Mohan Baidhya, Dr. Baburam Bhattarai, Post Bahadur Bogati, and Ram Bahadur Thapa Magar (see Epilogue One).
While a large number of nationalities have been significantly involved in the People’s War, the Maoists have raised the ethnic issue as an integral part of the party policy. However, five out of seven members of the high command are selected from Bahun-Chhetri community. The number of ethnic leaders from different parts of Nepal included in the politburo and the central committee of the CPN (Maoist) is significant, unlike in other political parties: NC, UML, ML, RPP, etc. They are: Dev Gurung (Manang), Ram Bahadur Thapa Magar, Man Bahadur Thapa Magar, Suresh Ale Magar (Lalitpur), Matrika Yadav (Dhanusha), Nanda Kishor Pun (Rolpa), Barsa Man Pun (Rolpa), Ram Charan Choudhary (Kailali), Chatur Man Rajbanshi (Jhapa), Chitra Narayan Shrestha (Chitwan), Rabindra Shrestha (Shhaktapur), Bishnu Pukar Shrestha, Lok Bahadur Thapa Magar (Syangja), Hishila Yami (Kathmandu), Santosh Bura Magar (Rolpa), Purna Bahadur Gharti (Rukum), Mukti Pradhan (Kathmandu), Hit Man Shakya, Hit Bahadur Tamang (Nuwakot), Ek Bahadur Tamu (Gorkha). Similarly, in the recent plenum meeting of the CPN (Maoist), four dalits, namely Tilak Pariyar, Khadka Bahadur BK, Yaman Pariyar, and Nagendra Paswan, were selected for the central committee.

The Maoists are able to form a division which comprises political commissioner, commander, vice-commander, and section commanders. Chairman Prachanda is the chief of both military and political works. The political commissioner must be a standing committee or politburo member. Most of the time, they adopt the democratic policy of unity-criticism-unity. Mao said that the democratic method of solving contradictions among the people was epitomized in 1942 in the formula unity-criticism-unity (Zedong:1943:vol.3/317). Most of the Maoist leaders are very much studious, diligent, hardworking, and visionary.

Besides, the leaders of CPN (Maoist) have had some weaknesses as they could not protect the loss of cadres, civilians, and public property from the attack of enemy. Of the total number of killings, two-thirds have been killed extrajudicially by the state security forces till the end of 2004 in the name of Maoists; but all those were not Maoists as they had aired. A large number of victims were civilians. Leaders should hold prime responsibility to protect their activists, supporters, sympathizers, and civilians. But even in their own temporary base areas such as Rolpa and Rukum, the CPN (Maoist) has suffered heavy casualties and damages. The weakness is evident as they could not provide security even to Mohan Baidhya, CP Gajurel and alternative politburo member Suresh Wagle alias Basu. Basu was killed by the police, while being brought to the police post, in his own homeland Gorkha on September 8, 1999. Similarly, a few Maoist leaders have surrendered before the police and the trend still continues.

Denouncing the Maoist leader as a dictator and aristocrat, Maoist activists such as Bharat Dahal and some other colleagues formed the Rastrabadi Communist League at the end of 1998. The public image of leadership has suffered, as they could not maintain control among the recruits in the People’s Liberation Army at local level where some of them were in fact local goons, informers, cheaters and khaobadis (fake Maoists). These khaobadis are polluting the society through their extortion of donation, terror, looting, etc. Thus, the movement does suffer some setback.
The CPN (Maoist) has suffered a great loss due to an ambitious leader Yan Prasad Gautam alias Alok. The prominent cadres such as Ramesh Dhungel, member of eastern sub-secretariat, Mahendra Shrestha, Som Bahadur Majhi, Bhupindra Karki, etc. had been assassinated in personal clashes (Jana-Astha:Dec.22, 1999) instead of hearing and reviewing their arguments and voices. After great pressures from within and outside, the party formed an investigation team. When Alok was found deviating from the party line and made some mistakes on his own, the central committee meeting which was held in mid 2000 took action against what is called Alok Tendency - the left rigidness and left liquidationism. The Worker writes: „The rectification campaign launched within the party exposed the Alok Tendency as the meanest form of right opportunism masquerading in a left cloak, and ascertained new revolutionary unity on a new basis within the whole party% (www.humanrights.de/n/nepal/the_worker6/editorial3.htm). However, the loss of cadres in the party is never fulfilled and it is very hard to revive the clean image of leadership within and outside party, nationally and internationally.

Similarly, alternative politburo member Dinesh Sharma and his associate Dina Nath Sharma publicly announced that they had abandoned Marxist-Leninist-Maoist philosophy while people had been involved in murder, terror, loot, and rape. Both the Maoists32 were suddenly paraded in front of the press under strong security arrangements in Birendra Conference Hall, Kathmandu just before 3 PM on November 3, 2000, the deadline set by Prachanda to bring into public their whereabouts. A few hours later, issuing another press release, Dinesh refuted the earlier statement presented at the press. Ignoring the earlier statement, they apologized to all their party supporters, sympathizers, and the people for publicly speaking against the People’s War and the Party. He accused the government for murdering, terrorizing, looting, raping and so forth, of thousands of people. Finally Dinesh said: „I deny holding a press conference and vow that I will fulfill my duty presented on me by CPN (Maoist) to the best of my ability%.

Reviewing the progress made and the future strategy to move forward, the first meeting of the party’s highest decision-making body, the Politburo of the Central Committee of the CPN (Maoist) convened just after the breakdown of ceasefire and negotiations. The meeting refined and concretized the practices and forms of military actions and put forward issues of protection, promotion, and mobilization in the interest of people in a formal manner. A press statement issued by Prachanda on October 20, 2003 stated that the principal goal of an armed revolution is to destroy the old state power and to construct a new one. The same meeting put forward their strategy for development, construction, and reconstruction activities in the Maoist controlled or influenced areas or base areas. A summary of notable decisions taken during the meeting is as follows:

(i) No more sabotage action will be made on any abandoned VDC building, vacated police post and army barrack (with no chance of reoccupation), telecommunication tower, and other physical infrastructure.

(ii) The CPN (Maoist) will establish People’s Legal System to act against the informants.

(iii) Instead of taking physical action to reduce the number of army and police
personnel, they would be urged to quit their jobs in the interest of people and no action would be taken when they visit homes and families. Also, the prisoners of war will be given due respect.

(iv) The Maoists will soften their stand against the workers of other political parties and any physical action or any other kind of punishment against them would be taken only under the people’s democratic legal process with an opportunity for the benefit of doubt.

(v) Arrested workers of other political parties should be made public without delay.

(vi) The presence of a political worker in a village will be tolerated.

(vii) No INGO founded with American assistance shall be allowed to operate anywhere in Nepal. But, those helped by neutral donors, for instance by the European Union, would be allowed to operate and any problem caused would be solved through dialogue, interaction, and coordination.

(viii) A fixed rate of taxes would be applied on business houses and institutions but taxes for common people would be voluntary.

All political parties, diplomats, intellectuals, members of civil society, and human rights activists welcomed these decisions, but they are yet to be implemented as some of the party workers are working independently at lower levels or units with a deaf ear to the party policy and goals. It appears from some of the past incidents that the People’s War is gradually deviating from its politico-ideology and root-cause and the ground of militarization is being prioritized. The development of militarization in the party and political deviation would give birth to a kind of military anarchism. That may invite another type of crisis in Nepal and people of this nation would suffer even more adversely with communal violence, for an example.

Despite some weaknesses, the People’s War is intensifying to a new height. In fact, a leader is practically called a good leader when he protects the party, nation, and people first. If the protection is complete, the organization will be strong which means that the leaders themselves would become very strong. Due to the noble quality of leadership, it is estimated that the Maoists have been able to control or influence three-fourths of geo-political countryside of Nepal in nine years’ period.

5.6 Recruitment

The success of revolution depends upon the appointment of skilled and talented commanders in the squad, platoon, special task force, company, battalion, brigade, and so forth. Not only the commander, each party member has a very important role to promote, strengthen and heighten the revolutionary action. Without a good number of recruits, whether or not the leadership is capable and ideologically perfect, the movement cannot succeed. The resourcefulness, tactfulness and commitment of the cadres make the party active to maintain, regain and restructure its capabilities.

The CPN (Maoist) has strategically adopted the policy of recruiting adolescent and young people through a selective manner. Each individual is initially recruited as a volunteer and then included in people’s militia and finally as armed force in the People’s Liberation Army. It conducts recruitment openly in the countryside, es-
especially in Maoist controlled and influenced areas. In general, the announcement for recruitment for males and females both is held twice a year. Voluntary recruitment is, however, encouraged.

Utilizing the ‘window opportunity to peace talks’ in 2001 and 2003, the CPN (Maoist) recruited a large number of people in its army. It is estimated that the number of army was 8,000 before the initiation of peace talks in June 2001, which reached 22,000 by the time they pulled out of talks in November 2001. It reached 25,000 before the announcement of the truce second time on January 29, 2003. When the CPN (Maoist) unilaterally broke off peace talks on August 27, 2003, the number multiplied by three times to an estimated 75,000. It includes armies, militias, and volunteers. However, the US security expert Dr. Thomas Marks considers that the number of rebels is much less. In a lecture program on *Insurgency in Nepal* held in American Center on January 21, 2004, he put forward the Maoist strength at 13,500 with 5,500 military combatants and 8,000 militia. However, it is not true. As USA government is always against the Maoists and their activities, its military experts hide the truth and twist the facts and figures accordingly. Also, such reports are based on the interviews with security forces, opposition political leaders and bureaucrats and published literature instead of in-depth research.

It is frequently reported that children are greatly involved in the People’s War. When Nepal hosted the Asia-Pacific Conference on the Use of Children as Soldiers held in Kathmandu in May 2000, dozens of human rights organizations and general people within and outside the country expressed their opinion on child recruitment by the Maoists. A London-based human rights organization, in its report on Nepal states:

> “The Maoist insurgents have in the past made no attempts to hide the fact that they use children as soldiers, declaring that the increasing participation of women in the People’s War has had another bonanza for the revolutionary cause, i.e. the drawing of children into the process of war and their politicization. A large number of children in the rural areas are now contributing substantially in guerrilla war by way of collection and exchange information, etc. Indeed, these little ‘red devils’ hold immense potentials for the future of the revolutionary People’s War” (The Coalition to Stop the Use of Child Soldier:2000).

Similarly, a case study published in *Kathmandu Post* on August 20, 2000 reports how a 14-year-old boy surrendered to the local administration after six months’ service with CPN (Maoist):

**Case 5.6.1: The Story of Child Soldier Dambar**

Dambar Khatri, 14, from Pame, Surkhet cried a lot when he was forced to use a gun for the cause of People’s War. But his tears failed to convince the stone-hearted Maoists who handed him a heavy gun on his shoulders instead of books and pen in his bag. A group of four gunmen abducted him at gunpoint for the purpose of the so-called People’s War. “Don’t you have any interest to get involved in our party?” The teenaged boy preparing for the exam of Class Six was questioned. He said he wanted to study and had no interest in such activities. Despite his pleas, they led him toward the forest. “I resisted them by crying a lot,” Khatri said. The boy said they had also recruited other boys of his age in their warfare. He was abducted from his village about four months ago. He, having escaped from the abduction, is now in police security.
Khatri had to face hard times in the Maoist shelters. He was taught how to handle guns. “When I physically turned to be unfit for handling the gun, they told me to work as a mess boy and guard their shelters,” Khatri recalls. The Maoists led him into a jungle, covering five-day walk, somewhere around Matela VDC of Surkhet district. “We stayed there for a long time. They used to sing, dance and give speeches. They used to get angry if the villagers showed unwillingness to attend their cultural shows, which normally took place at night,” he said. “There were six girls among the group of 15 guerrillas and a boy of my age”, he added. The task of guarding the shelter at night was as difficult for him as handling the gun. “I remembered my mother when I could not get food and sleep,” he recalls. He used to fall asleep while guarding their shelter whole night.

The rebels used to hide during daytime and order him to bring red mulberries from the neighboring jungle. He was once taken to his home sometime after his recruitment in their camp. Khatri’s parents humbly requested Bhishma, the male leader and Raksha, the female one, to release their son, but in vain. The rebels threaten the youngsters with rumors that police would kill them if they flee their camp. Khatri and another abducted boy ran away one fine day on July 11, 2000 when they were asked to buy newspapers from a neighboring market.

UN General Secretary Kofi Annan has appealed to the concerned parties not to recruit children as soldiers by the end of 2002. On August 2000, Amnesty International appealed to the Maoists not to recruit children as soldiers. Similarly, the BBC World Service broadcasted, “Nepal: Almost a Third of Maoist Insurgents are Children% on August 19, 2000. Chairman of District Development Committee, Rukum district Khem Man Khadka openly declared: „30 percent of the People’s Liberation Army are children%”. However, Ghanshyam Acharya, district representative of INSEC said that he didn’t see any child soldier recruited by the Maoist so far in Rolpa district (Personal communication on January 22, 2003). However, I remain unconvinced with the numbers of child soldiers presented by the concerned agencies. In order to assess the degree of involvement of child soldiers in the People’s War, a detailed study has to be taken. However, I guess that the involvement of child soldiers may be conveniently lowered by 10 percent.

Except in a few rare cases, children below 16 years are used to collect and exchange information as messengers, helpers, and for the collection of donation. Similarly, some children are used as sentries, kitchen boys or girls, dancers and singers. Issuing the press release on August 24, 2000, Prachanda denies: „We want to make it clear that no child soldier has been recruited in any unit of the people’s army.”

Besides, the state security forces are more responsible for degrading the rights to life, liberty, security, and dignity of children. On March 19, 1999, policemen extrajudicially killed all of the seven-member unarmed cultural team by bombing the house where they had been taking shelter in Ankot VDC, Kavreplanchowk district. Six of them were students and young. Four of them were girls. The younger ones were aged 14, 15 and 16.

5.7 Organization

Any kind of protracted war primarily needs to have very strong organization on both political and military fronts. In China, Mao had developed a clandestine political-military hierarchy that began with the cadre or cellular party structure at the
hamlet-village level and proceeded up to top level via district, province, and regional command structure (NEB:1993:vol.29/690). Tito had carefully built a parallel political organization as the foundation for his future government in the liberated areas (NEB:1993:vol.29/690). The CPN (Maoist) has also formed the United Revolutionary People's Council at the central level and United People's Governments at the district and village levels to provide services to general masses in the Maoist controlled and influenced districts. It has primarily developed three organizations: the party, people's liberation army and revolutionary united front or united revolutionary people's council in line with Mao's strategy to establish permanent base areas. The party organization is further divided into: Propaganda Department, Publication Department, Finance Department, Foreign Department, Military Department, Intellectual Department, Ethnic Department, etc. In order to further strengthen and decentralize power, the military department has set up four regional bureaus: western, central, eastern, and foreign. The active organization of the party controls the army, front and provides necessary education, training and discipline to convert the targeted aim into reality.

5.7.1 Party

It was in the course of struggle that Mao developed the party and called it the party of proletariat and peasants to conquer and sustain power for common masses through the process of protracted people's war. The protracted war changes itself according to the needs of the revolution and desire of the masses. It is believed that the party is the heart of both proletarian and non-proletarian lines.

Party is the highest form of organization of the proletarian and others and it leads all the people with the weapon of revolution. For the development and success of the people's war, the cadre should sharply and firmly visualize the party as a living organism. It must not be governed by the command of gun; rather the principal aim of the party is to control the gun. „Our principle is that the party commands the gun, and the gun must never be allowed to command the party‰” (Zedong:1938:vol.2/224). Commenting on the revolutionary communist party Mao says: „If there has to be a revolution, there must be a revolutionary party‰” (Zedong:1948:vol.4/284). The revolutionary party must include those who believe in the theory and practice of Marxism-Leninism to lead the working class and broad masses of the people. Mao stated that no political party can possibly lead a great revolutionary movement to victory unless it possesses a revolutionary theory as well as a knowledge of history and has a profound grasp of the practical movement (Zedong:1938:vol.2/208). In the case of Nepal, the CPN (Maoist) is very close to Marxism-Leninism in terms of ideology and principles. In practical terms, it follows the strategy and tactics of Mao. Despite a number of fusions, fissions, and disintegrations among the communist parties of Nepal, the CPN (Maoist) is the only revolutionary party which has tried to follow the tools of Mao to liberate people from all kinds of injustices. According to the party, the People's War here is in a new kind of the third and superior stage of Marxist-Leninist-Maoist strategy.

The party should guide the masses and their aspirations. In China Mao had centralized the proletarian party to rapidly enhance the sharp development of the
people’s war by following the correct ideas and thoughts, policy, plan, and leadership in the Great Proletarian Cultural Revolution, whereas the CPN (Maoist) has also centralized all the party energy towards the chieftain Prachanda. Following Mao’s thought, Nepalese Maoists are also seeking common consensus among all the progressive, patriotic, and leftist forces to turbulently drive the movement ahead, but have not succeeded because almost all of them have their own political ambitions, interests, elite-oriented thoughts, and ideological differences, despite the political consensus on issues. Moreover, most of the political parties lack the pro-nation and pro-people policy. But, the nationalities and dalits who are politically oppressed, economically deprived, and socially discriminated are greatly involved in the People’s War with the expectation of getting social justice in a republican state. If these nationalities and dalits are diverted from the political roots, it would be a great loss to the country as the national diversity, integrity, and unity of the Nepali people would be lost for ever. The sectarian elements will then definitely lead an ethnic war - a violent civil war in Nepal.

In the recent years, the trend of the command of gun is gradually increasing and trying to control the party. If the gun commands the party, the party will not remain free, fair, and impartial and it would develop a culture of anarchism and extend priority to autocracy than to the principles of freedom, security, justice, equality, and dignity to all.

No doubt, war is very expensive. The number of full-time workers or guerrillas has been growing each day. They must be fed and weapons should be paid for. The Maoists collect donations from their sympathizers and well-wishers within and outside Nepal. Similarly, bank raiding, membership fees, taxation, and so forth are also their primary sources of income. Sometimes, the Maoists collect their fund through extorting donations from their opponents. In addition to providing food, housing, and clothing, the Maoists provide US $2 per month to a guerrilla to buy personal belongings such as soap, toothpaste, etc. The khaobadi (fake Maoists) within and outside party resort to coercion to the poor villagers, small traders, businessmen, and others. When such cases are discovered, the Maoists identify the fake ones and punish them.

5.7.2 People’s Liberation Army

In the initial days of the War of Resistance against Japan, many Chinese people inside and outside the party had downgraded the strategic role of guerrilla warfare and had solely favored the regular warfare. In contrast, Mao stood always in favor of guerrilla warfare. When the party was bitterly defeated by the enemy in regular warfare, Mao’s thought appeared significant. Finally, he assembled 40,000 troops in 1927 and developed a great army of one million by the time of Japanese Army surrender in 1945. Chiang Kai-Shek got alarmed with the People’s Liberation Army (PLA) which had become widely known as the Red Army. So, he launched a nationwide civil war in 1946, though he was eventually defeated by the PLA in 1949.

Unless people’s army is competent, the dream of revolution will be meaningless. Mao expressed that without the people’s army, the people have nothing. Army is the main backbone of the party for an armed insurrection such as the
people’s war. Mao says: „The Red Army fights not merely for the sake of fighting in order to conduct propaganda among the masses, but also to organize them, arm them, and help them to establish revolutionary political power“ (Zedong:1936:vol.1/106). Following Mao’s guerrilla warfare strategy in China, the CPN (Maoist) also strategically put forward the Third Plan with the slogan „Develop Guerrilla Warfare to New Heights“ to build extensive military strength for the achievement of prospective guerilla zones. The Fourth and the Fifth Plan slogans „Go Ahead to Construct Base Areas“ and „Advance in the Prime Direction of Constructing Base Areas“ respectively added some bricks in the building of people’s government.

Utilizing the four months long truce as an opportunity, the CPN (Maoist) formally announced its Janamukti Sena (People’s Liberation Army) on November 23, 2001 as in China. The Central Provisional Committee of United Revolutionary People’s Government constituted the PLA at the central level, like the Red Army in China. Immediately after its formation on the same day, the PLA daringly attacked army barracks, police stations, and administrative buildings and destroyed many public and private properties in district headquarters of Dang33, Syangja34, Solukhumbu35, Surkhet, Tanahun, and several other districts. The Maoists killed six dozen security personnel besides a Chief District Officer and four civilians. Large quantities of arms and cache of ammunition were also seized. Besides, dozens of smaller military actions were conducted in many other districts. In the process of destruction, a private helicopter was completely destroyed in Surkhet in the Far-Western Region, which was frequently used to carry security forces and their goods. The blasting at Coca-Cola factory (a multinational company) in Balaju, Kathmandu had received the widest publicity.

By the end of 2003, the CPN (Maoist) leadership was able to consolidate their forces up to a division level starting from the people’s militia. Before the breakdown of truce and peace negotiation in 2003, Maoists were able to build up their military forces up to 19 battalions comprised in two divisions in the eastern and western sectors and 7 brigades - four in the western and three in the eastern sectors. But Prachanda’s statement of September 1, 2004 clarified that they have already formed three divisions in eastern, central, and western regions comprised of 9 brigades and 30 battalions. He further stated that they have already recruited 100,000 men and women in militias and are preparing to go for offensive and finale war to capture the state power.

![Pyramid of the People's Liberation Army](image)
The para-militia receive *katuwa guns*, but armed-militia are equipped with pistols and hand grenades. Similarly, higher levels of guerrilla units receive more advanced weapons accordingly. Para-militia, armed militia and sections are generally based in VDCs and squads and platoons in DDCs. The special task force, which has sections, squads and platoons at its disposal, generally look after the urban areas and centers.

The PLA has been constituted as the apex body of the people's army. The Fourth Extended Meeting of the Maoists held in August 1998 for the first time organized the people's army into four sections: (i) the main force, (ii) the secondary force, (iii) the basic force, and (iv) the people's militia. During the Fourth Plan, the people's army in Rukum district was able to achieve a higher level of military organization and while maintaining the squads, the party was able to develop the first platoon with about 24 members (Onesto: December 26, 1999: No.1036) selecting from the experienced and qualified squad members. Rukum was not the first district to launch *Sija* Campaign but it also built a platoon from among the toiling peasants for the first time in the history of Nepal. Similarly, in Rolpa, the party was able to form a number of platoons and many squads (Onesto: September 26, 1999: No.1023).

The principal task of the PLA is to maintain continuous advances in the People's War until the completion of revolution and to protect the people and the nation after the revolution. Besides, the PLA helps in the tasks of looking after the families and dependents of soldiers, martyrs, wounded and handicapped people, and party workers. PLA does not only limit itself to political activities and handling arms and ammunition, but it also associates with many social awareness and economic development activities such as the construction of roads and memorial gates, construction and repair of *jholunge puls* (swinging bridges), cooperative farming, and so forth in spare time. But in recent years, the trend of fake Maoists is heavily influencing the society and polluting the genuine cause of People's War. These fake Maoists are mainly responsible for numerous acts of terror, loot, rape, and extortion of money and private property. They are found both within the party and outside it. Such fake Maoists have been found among: (i) responsible members of the Maoist party, (ii) local goons, and (iii) security forces.

The sole aim of bogus party members to be involved in the People's war is to collect private property and become wealthy. When the size of the party was rapidly increasing, it could not always select right persons at the right places. As the party also had recruited a few infamous local youths, they polluted both the party and the PLA. There have been frequent reports that local goons severely harassed the people while collecting donation and created terror in the name of Maoists. In some of the cases, it has been reported that security forces were responsible for perpetrating infamous activities in the society in the name of Maoists to make them unpopular locally, regionally, nationally, and even internationally. Such activities were, in fact, calculated tactical moves of the security forces.

About the structure of guerrilla warfare, Peterson writes: „In Cuba our basic unit was the squad, headed by a lieutenant with 8 to 12 men (1970:38). A platoon consists of 20 to 40 men and a column or company 100 to 150 men. Mao had 9 to
11 guerrillas in each squad and 120 in a company. The CPN (Maoist) maintains 5 armed militia in a section, 15 guerrillas in a squad, 45 in a platoon, 135 in a company, 405 in a battalion and 1,395 in a brigade. As a general principle, each guerrilla unit consists of three times more PLA than its immediate subordinate unit.

The CPN (Maoist) has extended the force up to a division. Initially, it had organized from small scale squads. As per the operational demands, the tactical military organization forms bigger units sometimes and even smaller ones at other times. Each military unit has a commander, a deputy commander, and a head for each group or section. During the period of operation, PLA receives signals of hand or whispers from one another. No light is used even during the marches at night. Light is the night enemy of the people's army. Generally, PLA units participate as 3-n-1 committees - three males and one female.

In Nepal, before initiating attacks on the enemy posts, the commander first makes a reliable reconnaissance. When he signals, the PLA attacks the enemy quickly and keeps attacking uninterruptedly till the next bit of information is received. It gives pressure to the enemy to surrender with weapons. The principal purpose of the fighting is to capture the arms and ammunition instead of killing the security forces. Even through the continuous firings, PLA repeatedly keeps announcing the security forces to surrender with weapons. When the security forces retaliate instead of surrendering, the mining group immediately activates for further actions such as ambushing and mining. The PLA are principally concentrated towards the victory which depends on quick decision and strength of the protractedness. How the people's army units, especially division, brigade, battalion, company, special task force and platoon use the strategy and tactics of guerilla warfare through "encirclement" and "surprise attack" either at a police post or while striking upon police force and army camp, is understood from the following division of their tasks.

1) **Assault group** - It is also called the forward group which first of all announces to the security forces to submit their weapons to the people's army, and if they refuse to hand over their arms and ammunition, this group is the first to attack them.

2) **Seize group** - This group tries to seize the weapons of security forces while fighting is going on favorably. It is commonly called the raid group.

3) **Mining group** - This group quickly sets ambushes encircling the station of the security forces.

4) **Surrounding group** - This group controls the surrounding areas such as villages, small bazaars, and so forth. It is also known as the control group.

5) **Defense group** - This group provides entire security to the PLA units in the battlefield from the outsiders. It is also called the sentry group.

6) **Communication group** - This group communicates the messages to political commissioner and commander and delivers his/her message to the concerned units.

7) **Medical group** - This group provides medical treatment when any of the people's army person is wounded.

8) **Reserve group** - This is the final reserve force which attacks violently if the enemy is stubborn to surrender the weapons.
Likewise, a squad also consists of several groups such as assault, surrounding, reserve, and defense.

Generally, the PLA has adopted the policies of "one area, one unit, and one action" and "one man, one contact." The principles of PLA warfare are to assemble the parts into a whole for action that is to raid, ransack, and confiscate the arms and ammunition and to break up the whole into parts after the completion of action. Rural people are voluntarily as well as involuntarily associated with the People's War because of the Maoists' slogan of "one house one man, one area one organization, one man one suggestion, and one house one bunker/trench" for the eventual decisive war. To carry out the above mentioned policy and strategy, the First National Convention of People's Liberation Army which was held in September 2001 formed one central headquarters. There are General Staff Department, General Political Department and General Logistic Department functioning under it.

5.7.3 United People's Front

The key role of the UPF is to build up good relations with the general masses to exercise political power. How do they form UPF? Implementing the party's policy, UPF elects members for a 3-n-1 committee which has three male and one female member. "The committee represents 40 percent from the party, 20 percent from the PLA and 40 percent from the masses" (Onesto: September 26, 1999: No.1023). How do they exercise the people's power? In each ward, they form the United Front (UF) from general masses who are 18 years old and above. In general, a UF team consists of maximum 5 members from among 100 to 200 voters, seven members from 200 to 500 voters, 9 members from 500 to 700 and 11 members when the number of voters is 700 or above. A local government is formed through an electoral process in which the chairman, vice-chairman and chiefs of wards for the Village United People's Government (VUPG) are elected in each VDC. All the elected members of all the VUPGs finally elect the chairman, vice-chairman and members of District United People's Government (DUPG). Four dozens of DUPGs have already been formed by mid-2004, including the Karnali Autonomous Region. The UF has various departments such as construction, health, cultural, security, judicial, economic, political, and others from local to central level.

The emerging local power in the prospective base areas are exercised through united front committees (3-n-1) composed of various strata of peasants, social workers, rural petty-bourgeoisie and workers. "The function of the Revolutionary United Front is to: (1) seize and practice people's power in the (prospective) base areas; (2) seize and practice people's power and struggle in guerrilla zones; and (3) carry out struggle in guerrilla action zones and propaganda zones" (Onesto: December 26, 1999: No.1036). The Fourth Extended Meeting is considered very important as it put forward the proposal for formation of a United Revolutionary People's Government of progressive, patriotic, and leftist forces including ethnic, regional, and political forces as an alternative to the present government. After that meeting, the UF has started to set up People's Courts in village areas for the functions of judiciary. In the course of formation of United Revolu-
tionary People’s Government of various forces such as ethnic, regional, and political forces, the United People’s Front was dissolved in February 2001 on the eve of the sixth anniversary of the People’s War.

5.7.4 People’s Power

To defend and consolidate the base area and the guerrilla zone (the process of building a base area), the Fourth Expanded Meeting put forward the concept of people’s power as a parallel force against the state power in a document titled, “Experiences of the People’s War and Some Important Questions”. In the process of building and operating the people’s power, the CPN (Maoist) established people’s power for the first time in local level in Rukum district. These are called Village United People’s Committee and District United People’s Committee. The people of different classes and nationalities, who are anti-feudal, anti-imperialist, patriotic, and nationalist, were encouraged to participate in the new state power through a democratic process. For the defense and consolidation of the people’s power, the party put forward the following points:

i. Without defeating the enemy’s military offense through the development of appropriate powerful military force, neither local people’s power can be protected nor can it be consolidated. Hence, the first condition for defending local people’s power and its consolidation is the development of people’s military power.

ii. It is important to make sure that different classes, nationalities and sections of people, who are anti-feudal and anti-imperialist, should be encouraged to participate in the new state power through a democratic process. In this regard no one should be coerced to become Maoist. Instead, a serious and responsible initiative should be undertaken to involve various political and social organizations which are against feudal, bureaucratic and comprador bourgeoisie classes in the new state.

iii. The process of building a new state should be based on complete democratic system and it should be made clear that, if need be, the people should have the right to call back their elected representatives. Here the main point to be noted is to guarantee people’s participation in the process of total control over decision-making and running of the new state.

iv. Attempts should be made to develop the structure of local people’s power along the village, area and entire base area levels, and while doing so the principle of democratic centralism should be followed.

v. In areas where people’s power is being run or is going to be run, entire masses must be organized under one form or the other. It is important to seriously take the saying that organized mass is the only “iron fort”.

vi. New state power should make efforts in fulfilling people’s daily needs of economic, social and cultural life and to bring continuous improvement in them (The Worker:1999).

After the dismissal of 9-month-old UPF, the CPN (Maoist) formed a 37-member United Revolutionary People’s Council (URPC) under the leadership of Dr. Baburam Bhattarai on November 23, 2001 utilizing the four-month long truce. Krishna Bahadur Mahara, the then head of the Maoists for the talks with HMG, was appointed the assistant coordinator and Dev Gurung, chief, Central Ethnic Department as the secretary. Other members included: Haribhakta Kandel, Top Bahadur Rayamajhi, Rabindra Shrestha, Hisila Yami, Agni Sapkota, Mani Thapa, Barshaman Pun, Chandra Prasad Khanal, Shakti Bahadur Busnet, Rekha Sharma,
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Jayapuri Gharti, Sriram Dhakal, Khadka Bahadur Biswakarma, Lekh Bahadur Bhatta, Ramcharan Chaudhary, Purna Bahadur Ghartimagar, Nandakishor Pun, Hit Raj Pandey, Shanta Darai, Shivaraj Gautam, Suresh Alemagar, Pambah Bhusal, Tilak Pariyar, Jhakku Prasad Subedi, Khop Bahadur Kandel, Hit Bahadur Tamang, Dil Kumari Prajapati, Kumar Dahal, Mukti Pradhan, Chaturman Rajbanshi, Jayakrishana Goit, Gopal Khambu, Bhaktaraj Kandangwa, and Resham Chaulagai. The URPC is formed from progressive, patriotic, and leftist fronts, which include representatives of party, army, oppressed nationalities, dalits, deprived regions and mass organizations. The Council is formed to carry out the administrative, judiciary, and legislative duties and responsibilities and to direct the united people’s committees or governments.

To guide clearly the central people’s power, the CPN (Maoist) has put forward a “New Constitution” called the Common Minimum Policy and Program (CMPP) of the URPC. The CMPP contains 75 articles and is divided into 11 sections. It includes basic policies, state system, people’s army and people’s defense system, land and agrarian revolution, industry and its development, education and culture, health and social work, regional issues and nationalities, women and family, dalits and foreign policy (Annex V-II). The CPN (Maoist) divides Nepal into nine federal structure governments in which six are based on ethnicity, three on region and one on language (see Minority Rights in Chapter-VII).

In the course of exercising the basic policy, the Maoists have put forward the concept of new people’s democratic state of all the progressive classes such as national bourgeois, proletariat, nationalities, and dalits. The policy focuses to establish an equitable society by ending all kinds of exploitation, feudalism, bureaucratic capitalism, imperialism and expansionism. The CPN (Maoist) wants to establish a new regime, a republican state, by smashing the old one through the means of protracted people’s war and wants to form an interim government comprising all anti-feudal, anti-imperialist, and anti-expansionist forces. The republican democratic state will then ensure all fundamental rights and political pluralism. No discrimination will be practised based on race color, sex, age, language, religion, political views, ethnicity etc. and the doctrine of equal opportunity for all shall be adopted. Equal wages for equal work and secular state shall be guaranteed. The new regime shall protect all the rights of common people by fully exercising multiparty democracy. The right of workers shall be guaranteed, including the right to strike.

All unequal treaties, including Indo-Nepal Treaty 1950, and agreements shall be nullified and the country shall be made fully sovereign, independent, and self-reliant. Against the designs of imperialists and expansionists, all natural resources, including water-resources, shall be utilized for the benefit of the people of Nepal. In regard to the economic development and promotion of production, a socialism-oriented capitalist economy shall be developed and private property rights of an individual shall be respected. A joint ownership system among state and private entrepreneurs shall be launched to set up and run large industries and financial institutions (see Annex-VII).

Even after the formation of people’s council at the central level, Maoists have
not been able to fully set up executive, legislative, and judiciary activities in many parts of Nepal except in their controlled areas or districts. Besides, they have not been able to develop infrastructure in their controlled areas with a few exceptions due to the lack of human and capital resources and social security.

5.7.5 Weapons and Ammunition

In general, weapons include rifles, guns, machine guns, pistols, revolvers, cannons, rockets, rocket-launchers or similar other machines or means like spears, and even knives and khukris or any lethal weapon with or without sharp edge which can cause damage to human body. Ammunition includes fog signals, fuse gunpowder, cape mortars, shot detonators, cartridges and similar materials. A bomb includes a grenade, landmine, or any other weapon containing a material that explodes or causes explosion and made to explode automatically or by any other means and used for military or non military purposes. Similarly, an explosive means TNT, amatol, barstool, pentalite, RDX, tropex, plastic explosive, dynamite gunpowder, nitroglycerine gelignite, guncotton, blasting powder, fulminates of mercury or any other materials which are produced or used with the objectives of causing an impact through explosion.

"In the earlier cases of insurgency, the weapons were often primitive. French and American soldiers in Vietnam frequently encountered homemade rifles, hand grenades, bombs, body traps and mines%o (NEB:vol.29/690). Mao also used a very simple weapon at the beginning of guerrilla warfare. In the First Plan of CPN (Maoist), fighter teams used the primitive domestic arms such as khukuris, sickles, bamboo sticks, home made muzzle-loaded guns, explosives, lightening arrows, and so forth to attack the police stations or posts. Gradually they developed their skills and collected some modern weapons, especially by seizing and raiding them from police stations and army barracks. With the advancement in their weapons, the Maoists developed armed militia, squad, platoon, special task force, company, battalion, brigade and division. And then homemade weapons were replaced by modern automatic and semi-automatic weapons. Generally, a variety of advanced weapons are captured from the enemy or procured through their own channels.

By the end of 2004, the Maoists have reportedly gathered a large quantity of arms and ammunition which include: motors 81 mm, rocket launchers, long-range machine guns (LMGs) 7.62 mm, medium-range machine guns (MMGs) 7.62 mm, short-range machine guns (SMGs) 9 mm, self-loaded rifles (SLRs) 7.62 mm, Chinese sniper rifles, Vary pistols, three-nod-three (.303) rifles, magnum rifles, shot guns, sten guns, twelve-bore guns, high explosives (HE), 81 mm bombs, smoke bombs, mortar bombs, grenades, etc.

As the government has imported the latest weapons, viz. Minimis and M16A from Belgium and USA, the CPN (Maoist) is also looking for more advanced weapons against them. They already have nice telescopes and high power communicating sets. In general, prior to any operation by the security forces, the PLA guerrillas get information of the approaching enemy and manage to escape easily. From explosives and detonators, the PLA also manufactures bombs locally. Ambushing through mines has widely been used and has become successful against
the security forces in recent days.

Maoists have already collected hundreds of rifles, bullets, and other armed equipments from supporters and sympathizers, especially from the retired staff of ex-Gorkha and ex-Indian armies. They have also collected weapons from local landlords, manors, etc., promising them to return when the war is over. Many weapons are reportedly imported from India, generally through the Nepalese migrant workers, which include modern automatic rifles, time bombs, circuit bombs, RDX, lightening arrows, etc. Chinese pistols imported from across the border are widely used by the Maoists. As the Maoists can locally make different arms and ammunition, the Nepalese government has restricted the sale of such household items as pressure cookers, electric wires, G.I. pipes, and so forth for public use. If people really want to have or buy these items, they should take prior permission from the police. Otherwise, they will have to face many enquiries by the police. Shiva Gaunle has reported that, in western hills of Nepal, no one can buy a pressure cooker, more-than-three-cells torch light, electric wire, and G.I. pipe even for their personal use (Himal:February 28, 2000:51).

It is remarkable that once the security forces are equipped with some latest weapons, the same agent seeks to supply some advanced weapons to insurgents free of cost for their continued business in Nepal. Providing powerful weapons to Maoists means to make it obligatory for the government to import more and more advanced weapons regularly.

Developed countries, especially USA, have special attention and vested interests in the production and sale of weapons because of the country's main income source and patent rights. The restoration of sustainable peace by peaceful means in the world would automatically reduce the role and influence of USA on the entire world. As long as USA remains the only superpower in the world, conflicts can never end. One ends, another thrives, and yet another erupts.

Besides the traffickers, the CPN (Maoist) also receives weapons from the revolutionary communist parties of India and the people of China. Weapons constitute the heart of the people's liberation army. Since the deployment of the RNA, government unified command policy and formation of village defense committee, one-third of the annual budget is directly and indirectly diverted to buy modern weapons, advanced light helicopters, and on mobilization of forces to fight against the Maoists. This is being done at the cost of development infrastructures. As a result, the annual budget of education, drinking water, and health sectors has substantially reduced.

5.8 Discipline

Three main principles developed by Mao in China are: (i) obey orders in all actions; (ii) do not take a single needle or a piece of thread from the masses; and (iii) turn in everything captured. Mao had also developed Eight Points of Attention: (a) speak politely; (b) pay fairly everything you buy; (c) return everything you borrow; (d) pay for anything you have damaged; (e) do not hit or swear at people; (f) do not damage crops; (g) do not take liberties with women; and (h) do not ill-treat captives.
These pointers are equally important to maintain discipline among party workers. In the course of maintaining discipline and following the policy of organization, Mao said individual is subordinate to organization, minority is subordinate to majority, lower level is subordinate to higher level, and entire membership is subordinate to the central committee at the apex (Zedong:1938:vol.2/203-204).

To properly utilize the party decision, Mao said that minority group should follow the decision of majority. If the view of minority has been rejected, they must wait for the next meeting for a reconsideration of the earlier decision. On study, it has come to be known that there have been ideological, strategic, and tactical differences inside the CPN (Maoist). The majority group is led by Prachanda and the minority group by Dr. Baburam Bhattarai. However, the minority group invariably accepts the decisions of the majority, ensuring the principle of unity-criticism-unity.

Ideologically and politically guided workers of the CPN (Maoist) strictly follow discipline. They do not care what others are doing; they are always attentive towards their own duties and responsibilities. “We only know about the formation of base areas. Only the military command knows about the military logistics, or technical team knows about the technology,” said a guerrilla in an interview in early January 2000. In another interview, one Maoist stated that they follow “one man, one contact” policy. From this fact, it is clear that guerrillas know their own command or section very well and never bother about other matters. Only the concerned persons of the sections are familiar with the specialties, duties, and responsibilities. Even in difficult circumstances, most of the members of CPN (Maoist) do not divulge secrecy of the party and leaders. Hundreds of Maoists have extrajudicially been killed while being brought to police post and even at the time of interrogation in custody, but most of them reportedly refused to reveal the secrets of the party.

Most of the times, Maoists strictly follow discipline, but some lapses have been seen when the leaders knowingly or unknowingly have made serious mistakes against the party and general masses. For example, we can take the case of former Eastern Regional Bureau Chief Yan Prasad Gautam. He was charged of killing some of own party cadres who disagreed with him on some activities of the leadership. The rival group had also charged him of living a luxurious life and taking sexual liberties with many junior female colleagues. Similarly, the weekly newsmagazine Saptahik of Kantipur Publications reported that a 13-year-old Maoist girl became sick because of frequent rape by her male colleagues (Chapter-VII).

As learnt from the past experiences, it is clear that some workers of the CPN (Maoist) did not properly follow the principles and the eight-point discipline. Instead of strictly maintaining discipline at local level, there have been frequent reports of hacking to death, terror, arson, abduction, loot, extortion, and so forth against ordinary people who had directly or indirectly opposed the Maoist demands or policies. The violation of party policies and discipline has adversely affected the Maoist policy and people in general. If the leadership cannot control their activities successfully, the deviation may cause ethnic conflict as violation of
discipline disrupts unity among masses.

In some of the cases, it is seen that the trend of *khaobadi* (corrupt Maoists) is also increasing as the forum enlarges. Some *khaobadis* are also spending luxurious life through extortion, intimidation, and by threatening the civilians. Similarly, some of the mortgaged ornaments seized from the public banks were not returned to the owners, despite the strict policy of the party to return the property to its rightful owner. Such ornaments have reportedly been used as personal property by some of the ambitious leaders and activists of the party.

### 5.9 Education and Training

In the early phase of communist movement in China, Mao had established a military school. He advised that the most important aspect for a military school is the selection of a right director, able instructors, and the adoption of an educational policy (Zedong:1938:vol.1/185). In eight years' period, the Maoists have developed their *Janabadi Pathyakram* (republican curriculum) which has been initiated in the public schools of the area under their control or influence and they are trying to impose these courses in some schools at the periphery of their strongholds in a phased manner. Similarly, the Maoists have established People's Medicine College at Thawang in Rolpa district, where 50 students are studying with the help of two MBBS doctors. However, there have been reports that it is a mobile set-up that can be shifted from one place to another in case of insecure occasion.

Besides, the CPN (Maoist) has been launching *Janabadi* education to the boys, girls, teachers of schools and general masses through formal and informal training courses. The course contains politico-ideology and strategy and tactics of the People's War. In the context of training, a 24-year-old platoon commander Sundar says: „Military training is given by the party's central committee members and the company and platoon provide other types of training as required. There are two types of military training: physical training – jumping, running, crawling, etc., and technical training – how to use the weapons‰ (Onesto:January 9, 2000:No.1037).

There are not many differences between the officers and soldiers in the PLA unlike those existing in government security forces where all policies and programs are imposed without consultation. But, the Maoist workers first share their skills and experiences with one another as a participatory research appraisal (PRA) and develop and refine their policies and programs. In an interview, Mao said, „In training, officers teach soldiers, soldiers teach officers, and officers-soldiers teach one another‰ (Zedong:1948:vol.1/243). Officers should have good theoretical knowledge, but soldiers need practical skills. If people's army personnel share their experiences, they gain from better results in the battles. In an informal meeting, a member of the PLA said: „Party gives political classes on future plan and theoretical classes on Marxism-Leninism-Maoism. Experienced instructors also share their experiences at other places in course of the world movement for the people's war‰. The PLA gets general training from the coerced and hired ex-servicemen within Nepal, and then advanced training in India and Sri Lanka. Similarly, the PLAs are also taught in ambushing, mining, and so forth. However, due to the lack of sufficient knowledge and vigilant precautions, many PLAs get killed on the
spot whenever the bomb they are carrying or planting in a road or in a house suddenly goes astray.

Besides, the people’s army also receives training in emergency medical care. A clinical medical auxiliary (CMA) worker, who is serving as medico task force, informs that recruits are given one month long basic health training by a knowledgeable doctor from Kathmandu. He stated that trained doctors give essential health training which focuses on the treatment of bullet wounds, fractures and communicable diseases, etc. As they have few full time doctors working with the people’s liberation army, the Maoists plan to develop their own full timers who have the skill and necessary qualification. Although many specialized doctors do occasionally visit the Maoist affected areas secretly from Kathmandu and other urban cities and provide medical services to the sick and first-aid training to the recruits.

5.10 Information Warfare

Propaganda is a principal tool for a movement. It helps win international support, get support from general masses for recruitment and funds and to paralyze day-to-day activities of the government. Therefore, the Maoists have given high priority to propaganda actions since the very inception of People’s War. In nine years, Nepal has become a center of world attention due to the intensity and continuity of the People’s War. In general, the propaganda actions includes: (i) frequent announcements for general strike, (ii) killing senior level security forces, (iii) attacking district headquarters, (iv) demolishing district and development infrastructure, (v) frequent closure of educational institutions, (vi) fierce media campaign, (vii) announcement of truce and initiation of talks, (viii) unilateral rupture of truce, (ix) appeals to international community especially to UN/EU for mediation and to stop donating to the old state, (x) meeting with senior leaders of mainstream political parties, and so forth.

In the First Plan of the People’s War, the Maoists gave first priority to establish the politics of armed struggle which is further divided into (i) propaganda action, (ii) sabotage, and (iii) guerrilla action in that order. Under the propaganda action, Maoist workers launched various campaigns such as mass possessions, mass meetings, posturings, paintings, torch light processions, and minor sabotages in various parts of Nepal. For the final preparation of the initiation of the war, Maoists ran the Sija Campaign in Rolpa and Rukum in October 1995 with the principal aim to receive support from common masses. After the initiation of the People’s War, they launched a number of actions from the mid-western to eastern Nepal. Again for propaganda, the Maoist fighter teams attacked several places such as Holeri Police Post in Rolpa, Athbiskot Police Post in Rukum, Pepsi-Cola factory in Kathmandu valley, etc. Likewise, they attacked many houses of senior government officials, including those of ministers, throughout the country. Furthermore, they also destroyed the office of Save the Children Fund · USA in Gorkha. Hundreds of bond papers were seized from local usurers and landlords and returned to the owners. And thousands of leaflets pertaining to People’s War were distributed in the countryside.
Due to turbulent rise of propaganda, the no longer is a national problem alone; it is now the subject matter of international concern. Soon after the initiation of the People’s War, a number of personalities and institutions sent greetings and good wishes in favor of the movement, viz. Central Publicity Committee, Kerala Communist Party, India; Central Committee, East Bengal Proletariat Party, India; Secretary, Central Committee, Maoist Communist Center, India; Secretary, Indian Communist Party (ML-People’s War); and Revolutionary Internationalist Movement (RIM). To support the People’s War in Nepal, the Solidarity Forum of India (SFI) organized a mass rally in New Delhi on December 12, 1998. The American magazine, Revolutionary Worker, published a series of articles from July 1999 to February 2000 featuring the People’s War of Nepal (www.rwor.org/s/dispatche.htm). Australian Television aired a 25-minute long documentary about the movement in the middle of 1999. And the Maoists developed their own homepage and other websites (www.maoism.org/misc/nepal/nepal.htm, Krishna Sen Online, www.cpnm.org, www.insof.org, etc.) so that people all over the world could learn what is happening in Nepal.

A long interview with Prachanda conducted by Li Onesto was published in the Revolutionary Worker on the eve of the fourth anniversary of People’s War. And for the first time, a Danish newspaper published a long article on it in July 2000. Many incidents and news of movement are covered by the websites of human rights organizations, e.g. www.humanrights.de/n/nepal/news/index.htm. To prove their strength and publicity, the Maoists organized an armed shut-down on April 6, 2000 for the first time in the history of Nepal (www.humanrights.de/n/nepal/news/080400 Armed_shut.htm). Besides that, many international news agencies are frequently covering the news of the war. Foreign donors and communities have conducted extensive research on it and their outcomes have been published worldwide. Of late, there has been a high flow of conflict experts in Nepal.

The People’s War of Nepal is supported by Shining Path, Liberation of Tamil Tigers Elam (TTE), Communist Parties of India, Co-ordination Committee of Maoist Parties Organizations of South Asia (CCOMPOSA), and Communist Party of Philippines. Similarly, it is widely supported in terms of both political and economical dimensions in Europe, where several organizations are already formed. These are: RIM-London, Nepali People’s War Coordination Committee-Belgium, Nepali People’s Progressive Forum-Belgium, Workers Party-Belgium, Nepali People’s Progressive Forum-Holland, Internationalist Nepalese Solidarity Forum-Germany, Red Sun-Denmark, Nepali People’s Progressive Forum-Portugal, Nepali People’s Progressive Forum-Norway, Proletariat Communist Group-Italy, and all the revolutionaries of the world who are against American government, its policies of imperialism and its alleged war against terrorism.

Till the middle of June 2004, the Maoists are able to set up six FM (frequency modulations) radio stations to mutually exchange information and to provide recreation to the rural commoners. These stations are named as: (i) Seti-Mahakali, (ii) Bheri-Karnali, (iii) Rukum-Rolpa, (iv) Gandak Region, (v) Valley, and (vi) Eastern Nepal. These stations generally broadcast 2 to 3 hours daily. They transmit news and views, revolutionary songs, and party strategy, tactics, programs, policies,
and activities. But, they are mobile.

Some of the communication agencies have not only supported the activities of the Maoists, but have also sharply criticized such incidents where the Maoists have killed innocent children and civilians. While denouncing Maoists for terrorism, murders, lootings, rapes, extortions of money, and so forth, the state apparatus, mainstream political parties and their supporters and state-owned communication media and journalists have indirectly helped propagate the People’s War by broadcasting their news and views of actions and activities day after day. They too have created public propaganda that highlights the Maoists as a major political force in Nepal. Besides that, even when the dialogue between both sides was fruitless, it made them familiar within and outside Nepal.

5.11 Mass Support

Georgios Grivas, the non-communist Greek professional soldier who led the Cypriot rebellion in 1950s, wrote that guerrilla war stands no chance of success unless it has „the complete and unreserved support of the majority of the country’s inhabitants” (New Encyclopaedia Britannica:1993:vol.29/690). Mao repeatedly cautioned guerrillas to pay special attention toward peasants for their food and property, and not to offend them by undressing in front of a peasant woman (New Encyclopaedia Britannica:1993:vol.29/690). In regard to the importance of common people, Mao says: „We should go to the masses and learn from them first, synthesize their experiences into better articulated principles and methods, and then go for propaganda among the masses, and call upon them to put these principles and methods into practice so as to solve their problems and help them achieve liberation and happiness” (Zedong:1943:vol.3/158). It is true that so long the real problems and difficulties of common people remain unknown, whatever polices and programs we might develop would be meaningless. As a result, people will never feel that People’s War is their own struggle.

The CPN (Maoist) is generally composed of three parts: (i) the relatively active, (ii) the intermediate, and (iii) the relatively backward. First, Nepali people who are politico-ideologically awakened are actively involved in favor of the movement. Intermediate people are the marginal people who indirectly support the People’s War by providing shelter, food, donation, transportation, hiding important documents and weapons, publishing their news and views, pleading their cases, and informing about approaching security forces, etc. The migrant workers to India and other countries also help the party by providing logistic support, carrying weapons and explosives, raising funds, informing friendly forces, and influencing the media and donor countries. The relatively backward (poor, disadvantaged, marginalized, and vulnerable) are those who are politically repressed, economically deprived, and socially discriminated. They are primarily fuelling the People’s War in the hope of attaining freedom from all kinds of human sufferings and grievances in a republican state of Nepal. In general, the unemployed and backward people get recruited into the movement for the sake of fulfilling their basic needs, including adequate quantity of food for their families, and for a bright future for their sons and daughters.
Indeed, all human beings are equal in terms of identity, access to resource distribution and opportunity, and political freedom. A good leader, therefore, must be familiar with the interests of party, purpose for getting involved in the People’s War, party’s workers, and how they perform to achieve the desired goals. Instructing the Red Army cadres, Mao writes: “Wherever our comrades go they must build good relations with the masses, be concerned for them and help them overcome their difficulties. We must unite with the masses, the more of the masses we unite with, the better” (Zedong:1945:vol.4/59).

Unless the people support, have empathy, express sympathy, and participate with the armed struggle, People’s War cannot succeed. In general, the Maoists are getting good support not only by having volunteers in the people’s liberation army, but also in terms of money, food, shelter, transportation, medical facility, and intelligence. Most of the toiling peasants and workers follow the Maoist path in the hope of receiving adequate food, housing, clothing, basic education, primary healthcare, and so forth. When hundreds of thousands of tenants receive their rightful share with the help of Maoists, they support the movement to the best of their efforts. Also, the victims of nepotism, favoritism, sycophancy, bribery, and commission favor the movement.

Besides, the local frauds, cheaters, and goons of society, the khaobadis and informants of the governments who are involved in the People’s War as intermediaries but work for their own selfish interest and benefits have polluted the party. These khaobadis and informants have widened the gap between the party and the people. Such intermediaries and even a few members of the party have reportedly harassed teachers, businessmen, and commoners by launching various kinds of activities for extorting money in the name of donation, confiscating private properties, killings extrajudicially, torturing, kidnapping, and forcefully marrying with their favorite girls and sexually assaulting women and girl children, etc.

Fearing a possible action between the conflicting parties, thousands of people have emigrated mainly to India and other countries too. Leaving entire property behind, thousands have taken shelter in district headquarters, urban centers, and in the capital. The killing of children and innocent civilians must have caused negative impact among the commoners.

5.12 Terrain

People’s liberation armies have to face both familiar as well as unfamiliar terrain. To successfully carry out the movement, a familiar terrain is very essential for any kind of protracted war. Mao initiated guerrilla warfare and escaped towards the countryside through the long march and finally disappeared into the masses. However, Che developed just the opposite. His guerrillas began war from heavily vegetated inaccessible hills. CPN (Maoist) is not completely following Mao’s strategy and tactics nor Che Guevara’s policy. For the final preparation of guerrilla warfare and immediately after the initiation of the war, they used the nearby jungle for shelter and further training. However, due to the absence of state security force in rural areas, they live together with the people, disappearing into the masses. If they find the situation unfavorable when security force is approaching towards
them, they instantly take shelter into the jungle and return as soon as the situation is again favorable. Nepalese Maoists began their war from the battlefields of remote Rolpa, Rukum, Gorkha and Sindhuli districts where they had first become familiar with the terrain.

Throughout the world, countries have become fertile grounds for communist revolutionary warfare due to political instability, unemployment, illiteracy, discrimination, and poverty. Che developed three fundamental inferences for an armed struggle: (i) popular forces can win a war against an army (ii) the revolutionary situation creates by itself in an underdeveloped country like Americas and (iii) the rural areas are the best battlefields for revolution (Peterson:1970:xvii).

The CPN (Maoist) believed that Nepal would be a favorable ground for a protracted people's war due to its semi-feudal and semi-colonial character, politically unstable situation, unemployment, impoverished people, landlocked location with hills and mountains and socially segmented population. So, they initiated especially from the mid-western region. Geographically, both Rolpa and Rukum (where both first and second phases of the movement were initiated) are situated in the upper hills. Both districts are excluded from many development physical infrastructures. Only 31 percent of the people are literate in Rukum and 30 percent in Rolpa. Moreover, 89 percent of women are illiterate in Rukum and one percent more in Rolpa. Almost all youths go to India in search of labor jobs. There is limited supply of electricity in both district headquarters. There is no motorable road in Rukum. The access of communication is very weak. The great majority of population is under the control of a few elite landlords. The hospital building in Rolpa is under construction for two decades now. Both district hospitals are without a doctor for the last so many years. Moreover, the communist ideologue Mohan Bikram Singh had lived for many years in these hills and mountain region; so the communist revolutionary ideology has constantly been present there.

5.13 Sanctuary

The term sanctuary means the state of protection or safeguard to the people of belligerent areas and sometimes even to guerrillas. Ho Chi Minh's guerrillas, in the later stages of the war against France, relied on China for refuge, training, and supply of arms and equipment; later in the war against the United States they used Laos and Cambodia as sanctuaries (New Encyclopaedia Britannica:1993:Vol.29/691). It is, of course, true that sympathetic neighboring countries should act as allies to provide sanctuary during the waging of armed struggle. Nepal is on three sides surrounded by India with a porous border and has little accessibility with China. Nor has Nepal deep forests. In July 2000, the Home Secretaries of Nepal and India agreed to combat terrorism, alleging Maoists as terrorists. After his visit in the first week of August 2000, Indian Foreign Minister Jaswant Singh said: „Whatever help Nepal needs for eradication of the ISI and the Maoist insurgency, we are ready to offer%” (The Telegraph:August 9, 2000). Speaking to Indian media representatives about allegations that India has been sheltering leaders of the outlawed CPN (Maoist), Indian ambassador Shyam Saran said: „As for the question of sanctuary, yes, India is providing sanctuary and refuge to hundreds of thou-
sands of Nepali people, who are fleeing from indiscriminate violence and adversity in their own country. (Himalayan Times: December 16, 2003).

Saran straightaway denied providing sanctuary to Maoist leaders in India. However, a three-member team led by UML General Secretary Madhav Kumar Nepal held talks with the CPN (Maoist) Chairman Prachanda, Dr. Baburam Bhattarai, and Krishna Bahadur Mahara in Lucknow, the state capital of Uttar Pradesh in India on November 19 and 20, 2003. Ambassador Shyam Saran diplomatically opposed such talks held between the CPN (Maoist) and responsible leaders of mainstream political party and said: „We have time and again said that the Maoist insurgency represents as much a threat to India’s security as to Nepal’s and we are committed to cooperating closely with Nepal in meeting this challenge. Thus, the CPN (Maoist) does not receive any formal sanctuary from the neighboring country India. Besides, the CPN (Maoist) does not receive any formal sanctuary from the neighboring country India. Besides, the CPN (Maoist) does not receive any formal sanctuary from the neighboring country India.

Still, the CPN (Maoist) is informally taking sanctuary and receiving training in India and procuring arms and ammunition into Nepal. The revolutionary communist parties of India and the people are assisting it by providing both human and economic resources. As a result, party workers are getting trained and equipped with arms and ammunition from across the border where great number of Nepali origin people are engaged in various professions. Hundreds of Maoist activists, including leaders and militia, have disappeared into the masses of India. Besides, the CPN (Maoist) has been able to form a New Soviet Federation in South Asia, CCOMPOSA, to unitedly combat political repression, social discrimination and economic disparities as well as feudalism, imperialism, semi-colonism, bureaucratic-technocratic capitalism, corruption, etc. in SAARC countries (see Annex-V. III).

Chinese people are also providing sanctuary and weapons and explosives informally. However, there could have been wide extent sanctuary at people’s level in China as the majority of people who are greatly involved in the People’s War live in hills and mountains of Nepal along the border and have Mongoloid origin. The name of Mao would have been another advantage to the CPN (Maoist). Although, Mao had never taken sanctuary in neighboring countries in his protracted people’s war.

The genesis of the People’s War was due to multi-dimensional and interwoven political, social, and economic problems. It initiated and intensified as a wildfire across Nepal within a short period of time due to the lack of state vision and policy; revivalist characteristics of the political leaders; undemocratic and dogmatic tendency in the ruling party; meaningless role of the main opposition party; revolutionary trend in communist parties; polarized bureaucracy and technocracy; handicapped diplomacy and foreign policy; intellectual parsimony; absence of transparency and accountability; poor governance; corruption; feudalistic mode of society and historical roots of social inequality; resource scarcity; unequal access to knowledge, resources, and opportunities; uneven development; negligence on ethnic issues, for instance, language, region, religion, etc; ethnic desire for autonomy; unemployment and frustrated expectations; deteriorating law and
order; culture of impunity; criminalization in politics; media glorification; international support to the CPN (Maoist); India's monopoly over Nepal's resources; and transforming Nepal into battleground for its neighbors (as a proxy battle field for both India and Pakistan who have reportedly established intelligence services here).

The rise in exploitation of the common masses by the rich, of the powerless by the elite class, of the rural people by the urban people, of the uneducated by the educated people, of the numerous nationalities and dalits by bahuns and chhetris are also the other causes of initiation and intensification of the People’s War in Nepal. All these, in varying degrees, encouraged persistent revolutionary trend among the factions of communist cadres in Nepal. Indeed, awareness through social mobilization minus socioeconomic and power transformation is the principal cause of the People’s War. Sher Bahadur Deuba said, „Poverty, illiteracy, lack of jobs, and other socioeconomic factors have all combined to create a ripe situation waiting the Maoists…. In democracy those in power, including myself, made mistakes along the way‰ (Kathmandu Post: December 5, 2001).

The decade-old democracy has introduced a new aristocratic class. Almost all the leaders, most of the bureaucrats and a large number of NGO founders have neither worked in favor of the nation nor for the common people, but for their own needs, demands, and interests. They have worked for their families, parties, constituencies and followers. Accepting the leaders’s misdeeds and faults publicly, ex-Prime Minister Girija Prasad Koirala said: „We all political parties are also responsible to create the Maoist problem as we concentrated for our party, our own constituency, and party workers only rather than the entire people and nation‰.

The present state of conflict in Nepal combines the Chinese model of protracted people’s war in rural areas (surrounding the towns and urban centers from countryside) and the Russian model of armed struggle in urban centers (expanding the countryside from cities or urban centers). The strategy of protracted war will pass through three stages: (i) defensive · it covers the period of the enemy’s strategic offensive and guerrillas’ strategic defensive; (ii) stalemate · the enemy’s strategic consolidation and guerrillas’ preparation for the counter-offensive; and (iii) offensive · guerrillas’ strategic counter-offensive and the enemy’s strategic retreat. The present People’s War is at the stalemate period and so accumulating its energy to enter into the last phase · the offensive strategy to capture the state power by crushing the old one. But, they follow the hit and run tactics.

When people are insecure (due to deteriorating law and order situation of the country), when people’s needs and demands are ignored, when people are deprived of their daily basic needs, when people are discriminated and marginalized, and when people’s grievances are not heard, they are eventually bound to encounter the unjust state through force. Hungry bellies of the unemployed have the fire to sustain prolonged armed insurgency.

War is catastrophic. War uproots people from their homes. Yet, war is the law of evolution. War is not the first choice; it is logical conclusion to accumulated injustices. Eradicating injustices is a daunting task; till then, number of hungry bellies would increase.
Politics of People’s War and Human Rights in Nepal

Endnotes

1 1963:vol.9/441.
3 It is a war between the rivals of the same nation.
4 It is an open and organised resistance against previously established authority.
5 Either is an armed uprising in which the outcome is quickly decided.
6 It is armed fighting to support life by plunder.
7 It is an armed fighting by light troops, detached or separately established from a regular army, whose operations are supported principally by harassing the common enemy, usually without seizing and defending substantial land areas.
9 Twenty-four centuries ago, Sun Tzu wrote The Art of Strategy, which is considered to have been written during the warring period from 480 to 221 B.C., around the era of Gautam Buddha. During that period, about 300 wars were combated separately by numerous states in China against the Chou dynasty. Based on the principle of survival of the fittest, Tzu developed the strategies which are equally applicable even in today’s world. So it is one of the most extensively rephrased and thoroughly read books. It is based on natural laws. The tactics written in the book are to be used to overcome psychological hurdles, environmental dissent, personal opposition, and organizational declaration (Wing:1988).
10 The definition and theory of war is adopted from several works including: Jean Jacques Rousseau. 1917. A Lasting Peace through the Federation of Europe, and the State of War; Norman Angel. 1910. The Great Illusion: A Study of the Relation of Military Power in Nations to Their Economic and Social Advantage.
11 He was born in Pyuthan district in a Pokhrel bahun family.
12 Rolpa district is situated in the central hills of Mahabharat range and lies in Rapti zone of the Mid-Western region. It has an area of 189,385 hectare ranging from 701 to 3,639 meters above the sea level. It has 36,695 hectare of agricultural land; 104,923 hectare forest; 43,573 hectare grass land; and so forth. The headquarters of Rolpa is Liwang. It is surrounded by Pyuthan and Baglung districts in the east, Salyan and Rukum districts in the west, Baglung and Rukum districts in the north, and Dang and Pyuthan districts in the south. It has 51 VDCs and two parliamentarian constituencies. According to 2001 consensus, the population of Rolpa is 210,869 of which 108,946 are women and 101,923 men with a population growth rate of 1.6 percent. The average family size is 5.5. Out of the total population, 44 percent are Magar, 32 percent Chhetri, and 24 percent other castes and ethnicities.
13 Rukum is famous for having Baunna Pokhari Tripanna Thakuri (Fifty-two ponds and fifty-three Thakuris). It is the remotest hill district of Rapti zone, which is surrounded by Myagdi and Baglung districts in the east, Jajarkot district in the west, Dolpa district in the north, and Rolpa and Salyan districts in the south. It has an area of 293,182 hectare out of which forest occupies 58 percent, agricultural land 10 percent, grass field 21 percent, and the rest is barren land. The name of district headquarters is Musikot Jumli Khalanga which is situated from 962 to 6072 meter above the sea level. Topographically, the district is composed of plains, cliffs, and sharp rocks, and it is still deprived of road transportation. Sisne Himal (mountain) acts as the north frontier pillar, separating Rukum from Dolpa district. The district is divided into two parliamentary constituencies and has 43 VDCs. According to the 2001 census, out of 212,522 people, 113,817 are females and 98,705 males, with 1.92 population growth rate. Ninety-four percent of the people depend upon traditional agriculture. The average family size is 5.6 with literacy rate of 31 percent (see Nepal District Profile:1999:693). Magars are the prominent aborgino of
Rukum, who speak Kham language. Others belong to various castes, viz: Thakuri, Chhetri, Bahun, Jogi, Damai, Sarki, and so forth.

14 In the medieval period, the huge Khas Malla empire of western Nepal had started to disintegrate into various small states among their descendents that finally emerged into 22 principalities.

15 About 42 kg.

16 This anniversary day is celebrated each year on Falgun 7 (18 February), when in 1951 King Tribhuvan appointed the coalition government by ending the 104 years old authoritarian rule of Ranas.

17 The CPN (Masal) separated itself from the 4th Convention of Communist Party of Nepal in 1983. In 1985, it got split into two: Masal and Mashal. The parent Masal continued under the leadership of Mohan Bikram Singh and the younger Marshal was headed by Kiran and Prachanda which finally turned into CPN (Maoist) in 1995 when it split from Unity Center, Nirmal Lama Group.

18 He was the younger brother of Janardhan Sharma, who was closely defeated by the rival of NC in Rukum district in the First General Election 1991. He was a local leader of UPF.

19 The founding leader of the Communist Party of Nepal.

20 For the implementation of the political ideology, it appeared as a vicious struggle between revolutionary and parliamentary factions. The revolutionary faction belonging to CPN (Maoist) finally expelled the parliamentary faction of CPN (UC) from the party in May 1994. The Third Plenum of the party held in March 1995 chalked out a detailed politico-military policy and program and outlined strategy and tactics of the People's War in the country. The central committee meeting held in September 1995 adopted the plan called, Historical Initiation of the People's War. For the final politico-ideological preparation of People's War, a series of mass meetings were held under the initiative of UPF. Before going underground, the UPF organised the last public rally on December 7, 1995, in which it protested against the barbaric atrocities of the state and political line. More than 50 thousand people in the heart of the capital of Kathmandu had attended the rally (see CPN-Maoist:1997:One Year of People's War in Nepal).

21 A 7-member body was formed under the chairmanship of the Supreme Court Justice Bishwanath Upadhayay. Other members were Hora Prasad Gautam, Daman Nath Dhungana, Surya Prasad Upadhayay, Ramananda Prasad Singh, Mrs. Kamala Rana, and Bharat Mohan Adhikari (Karki:1999:16).

22 In the far western region of Nepal, Mahendranagar, 30 persons of 5 lower caste families were forcibly prevented from collecting water from a public tap inside the temple. See Nepalnews Flash. June 10, 2000. *Five Untouchable Families Unable to Collect Water.*

23 Persons within Nepal who act as agents for foreign organizations engaged in investment and trade and subsequently play a role in economic and political exploitation.

24 (A) stands for Acceded

25 (R) stands for Ratified


27 The Chinese General Sun has mentioned 12 principles of strategy. However, there is no complete agreement on the number of principles it lists: objective, offensive, cooperation (unit of command), mass concentration, economy of force, manoeuvre, surprise, security, and simplicity. In *The Art of Strategy*, Sun Tzu clearly defined the five strategic arts: measurement, estimate, analysis, balancing (analysis gives rise to balancing), and triumph. Besides that, he has stressed upon six strategic mistakes. He also wrote about five fiery attacks: fire in the group, fire in supplies, fire in transport, fire in treasury, and fire in procedures (Wing:1998).

28 The first stage is called strategic defensive. During this stage, the enemy forces frequently attack guerrilla base areas according to their own strategy and the guerrillas adopt the policy of defending their occupied areas. When Japanese army launched a converging offensive attack on various
columns of guerrillas, they, too, resorted to what is commonly called surprise attack like ambushing, constructing blocks, and destructing motor roads, and so forth. According to Mao, the enemy is invariably weakened by repeated surprise attacks and will often withdraw when he is halfway; the counter units can then make more surprise attacks to weaken him further. The enemy forces generally live in facilitated base areas in towns or cities before embarking on an offensive or beginning to withdraw. This is the time when we should encircle them by cutting off their food supply, communication, and so forth. When they begin to retreat, we must attack their columns and must smash them one by one and shatter their converging attack. "A guerrilla commander should not think of abandoning the base area and shifting to another place, unless the enemy’s attacks are heavily converged attacks," Mao states. If there is a high possibility of great loss, Mao said: "Guerrilla commander should consider other measures instead of using small units for scattered operations, and should temporarily organize large guerrilla formations at some mountainous region, so that they can return and resume their activities in the plains once the main enemy forces have moved away." Thus, guerrilla warfare uses the tactical defensive against the enemy (www.maoism.org/msw/vol2/mswv2_08.htm).

29 The second stage is called strategic stalemate. At this stage, the enemy is forced to fix the terminal points of his strategic offensive owing to the shortage of troops and firm resistance; he will stop the offensive action and concentrate to safeguard his occupied areas. Considering it as a favorable situation, the guerrillas will develop their plan and programs extensively and establish many base areas seriously threatening the enemy’s consolidation of the occupied areas. At this stage, the form of fighting will be primarily a guerrilla warfare, supplemented by mobile warfare. However, for the troops engaged in frontal defence against the enemy, the guerrilla forces will be switched in large numbers to the enemy’s rear (behind or back), get dispersed and will contact the people’s local army. They will launch extensive, fierce guerrilla warfare in the occupied areas, keeping the enemy on the move in order to destroy him in mobile warfare as far as possible. By then the enemy occupied territory will be: first, the enemy base areas; second, our base areas for guerrilla warfare; and third, guerrilla areas will contested from both sides (see www.maoism.org/msw/vol2/mswv2_08.htm). This second stage is also called transitional phase of the war.

30 The third stage will be the stage of counter-offensive to recover our lost territories. In this stage, China’s strength will not be sufficient, and we shall have to rely on the support of international forces. The third stage will be the last in the protracted war. Our primary form of fighting will still be mobile warfare, but positional warfare will rise to importance (Zedong:1938:vol.2/150-155).

31 The revolutionary ideas were held in front of Mao’s eyes, when the revolutionary nationalist Sun Yat-Sen fought against the Manchu dynasty and broke its rule on October 10, 1911. In that movement, Mao had also spent six months in the revolutionary army in Hunan (see New Encyclopaedia of Britannica:1993:vol.23/468).

32 Dinesh Sharma was taken into custody on December 3, 1999 from Banasthali and remained disappeared since then for 11 months. His whereabouts was one of the key points of demand put forward by Prachanda in his ultimatum to create a conducive environment to initiate dialogue with the government.

33 At night the main battalion of PLA, along with the local forces and militias conducted a daring raid on the town of Ghorahi (Dang) and captured the RNA barrack. The same night, district police headquarters, administrative headquarters and some more government offices, the jail, and all the banks were destroyed. The RNA barrack with its 237 men (may be slightly fewer that day) and the district police office were captured within hours without much resistance in a superbly planned swift raid. Fourteen army men, including one with the rank of major, and 11 policemen were killed and dozens injured whereas the Maoists claimed that 3 PLAs (plus 4 more who succumbed to injuries later) attained glorious martyrdom. About 450 pieces of arms (including 99 SLRs, a dozen each of SMGs, and GPMs, several rocket launchers and mortars, etc.), a heavy cache of ammunition and a large quantity of grenades and bombs were captured. It may be interesting to note that a total of twenty-two vehicles, including twelve army trucks, were used to transport the captured arms, ammunition and other valuables. Also, about Rs.100 million worth of cash and gold etc. were captured from the banks. A total of 37 inmates were freed from the jail, and tons of government documents were destroyed. TCO and several other officials were taken into custody, but they were later released (The Worker:2002).

34 On that very occasion, the main company of PLA in the Central Region along with local forces and militia executed another daring raid over the district headquarters of Syangja. As the township of Syangja is located along the North-South Highway just 32 km from Pokhara, the highway
was blocked by the blasting of culverts and bridges at over 50 places and the whole of the district headquarters along with the adjoining municipality of Waling were captured without much resistance. In the process, 14 policemen were killed and over a dozen injured whereas there was no casualty on the PLA side. About 150 pieces of arms, including about a hundred rifles and a large quantity of ammunition were captured. Cash and gold and silver jewelry worth about Rs. 50 million were recovered from several banks. A total of 34 prisoners were set free from the district jail and the administrative offices were destroyed or ransacked. The CDO and other high-ranking officials were taken into custody and later released. The enemy were so panic-stricken that it took more than 24 hours for them to clear the highway and re-enter the district headquarters. Syangja and the surrounding areas were placed under strict curfew for over a month (The Worker:2002).

35 In the Eastern Region, Salleri, the district headquarters of Solukhumbu in the foothills of Mt. Everest, was raided by the PLA on the night of November 25 and was captured after some resistance from the RNA posted nearby. As the plan there was not to attack the RNA but merely to block them from reaching to the rescue of the policemen and the government officials in the district headquarters, there was some bitter fighting with them for some time. However, their move was successfully blocked; the policemen got vanished thoroughly and the district headquarters were completely captured. In the process, there were 33 deaths on the government side, including 4 army men, 27 policemen, the CDO and the land revenue officer, and 15 members of the PLA were also killed. About 200 pieces of arms, including 125 rifles, and a huge quantity of ammunition were captured. About Rs. 50 million worth of cash and gold were obtained from several banks. A total of 26 prisoners were freed from the jail. And the nearby Phaplu airport tower was also destroyed (The Worker:2002).

36 The whole economy of Nepal is grabbed by the Indian origin people. Besides, all the banks situated in Nepal make most of the loan sanctions to the elite businessmen and industrialists of Indian origin. For instance, the industrialist of Indian origin Hulas Chandra Golchha has taken US $ 28,779,840.85 from Nepal Bank Ltd alone. It is reported that very rarely loan sanctions are made to the poor Nepalese people or small businessmen, whereas loans for income generating programs should be made on nominal interest rate. If anyone receives the loan, the debtor has to provide 5-8 percent bribe to the bank officials.
Let’s Concentrate Total Force to Raise Preparations for the Strategic Offensive to a New Height through Correct Handling of Contradictions

[Supplementary Resolution to „Current Situation and Our Historic Task”, presented by Chairman Prachanda and adopted by the Politburo of the Central Committee of the CPN (Maoist) in October 2003.]

This meeting of the Politburo has been organized with a view to introduce necessary refinement of the policy and plan for the coming days by making a general review of the political and military situation after the last plenum of the Central Committee (CC), in general, and after the breakdown of ceasefire, in particular.

1. Review of the World Situation

The analysis and conclusions of the CC meeting on the World Situation have been all the more relevant and correct today. After the Iraq war, the US imperialism has been, with every passing day, isolated politically and caught in the quagmire of greater crisis militarily. This is getting confirmed not only by the contradictions manifested in the recent United Nations General Assembly meeting and the world conference of the WTO held in Cancun, Mexico, but also by the increasing resistance against US troops in Iraq and Afghanistan and the bankruptcy of the so-called Road Map for peace in the Middle East. In the background of this crisis, its (i.e. the US’s) strategy to tighten its hegemony in South Asia is also facing newer problems. In this context, the objectivity of our policy to concentrate ideological, political and military attacks on the US imperialism and the royal military dictatorship surviving on its (i.e. the US’s) leftovers has been proved in a grand manner. As a result of the initiative of the (Party) Center on the basis of the above policy, not only our relations with the communist revolutionaries and anti-imperialist masses the world over have been strengthened and expanded but also the diplomatic relations with reactionary forces having different levels of contradictions with the US imperialism are getting expanded. Hence, the Party should stress on to make the implementation of the said evaluation of the world situation and the formulated policy more extensive and effective.

2. Review of the Domestic Political Situation

The Party has attained a new offensive position politically, due to the flexible tactical stand of making the masses sovereign through a constituent assembly and the overall initiative taken for this during the negotiation process. Party’s political supremacy has been established not only within the country but also outside along with the declaration of cessation of relevance of ceasefire and negotiations and appeal to go ahead with the resistance (struggle) after the presentation of the retrograde Concept Paper by the old state during the third round of negotiation and the massacre at Dhoramba at the same time. In this whole process the Party has been successful to exercise its strategic firmness and tactical flexibility from a new height.

The political existence of the old state, which has become a puppet of Western imperialism, particularly the US imperialism, is now reduced into a royal military terrorism
against the people. The Party’s analysis and conclusion that the old state has degenerated into military fascism dictated by imperialism since the Palace Massacre, has now been vindicated all the more sharply. The fact that the so-called commitment of the feudal elements towards multiparty democracy is nothing but hypocrisy is thoroughly exposed by their unwillingness to co-opt even the parliamentary political parties begging for their co-option within the old state. By exhibiting the extremity of imperialist and feudal obstinacy, the old state is now making utterly ridiculous nominations to the so-called local bodies and is insanely advocating for the organization of parliamentary elections. It is clear that a crafty conspiracy to put a veil of legitimacy to the military fascism of the old state by obliterating the existence of even the parliamentary political parties is inherent in all this. The political inaction of the major parliamentary parties is gradually turning into a cause of their own extinction. The political extinction of such elements that cannot gauze the impossibility of constitutional monarchy in the specificity of the present world situation of the 21st century and the development of civil war in the country is quite natural. The inability to grasp the fact that in Nepal there is no other alternative to either rally behind the leadership of the proletariat to complete the bourgeois democratic revolution or to completely capitulate to the military fascism based on the coalition of feudalism and imperialism has become the destiny of the parliamentary forces. The decision of the last CC that even though it may appear triangular in form but in essence and in class terms the political struggle in the country is bipolar has been proved correct.

In this context it is clear that it is necessary to carry forward firmly the Party policy of concentrating attacks on military fascism by making political exposure of parliamentary capitulationism presenting itself as a middle-roader and by uniting with the broad masses and classes.

3. Review of the Military Situation after the Breakdown of Ceasefire

The strategic plan chalked out by the last CC as part of the preparations for strategic offensive and general insurrection is still in the process of implementation. Hence it is not possible to have its comprehensive review right now. However, as the initial stage of the new initiation projected in that plan has been completed, it is both possible and necessary to make an initial summing-up and to refine and concretize the plan for the future.

It may be recollected that the main spirit of the plan devised by the CC was to carry out decentralized actions in the first phase, relatively centralized ones in the second and big centralized ones in the third. As part of the decentralized actions in the first phase the stress was on inflicting damage to and blocking the speed of the enemy through small or big ambushes in rural areas and small or big raids, commando attacks and small or big sabotages in the cities and the Madhesh (plains).

As per the said forms and goals of the actions fixed for the first phase of the new initiation, this part of the plan has been a complete success. The countrywide chain of varied, intensive and daring decentralized actions have shocked and disarrayed the enemy and forced it to remain in a defensive position. The most important and gainful aspects of the new initiation were the successful and daring commando attacks, raids and sabotages in the capital, Madhesh and small and big cities. As a result of these intensive actions, it was amply testified that the enemy was not secure even in the capital and other cities and the rural areas in the tarai (flat land or plains), as in the hills, were cleared (of the old state machinery). This consequence of the new initiation is an
important achievement towards the goal of preparing grounds for the insurrection. Road mining and ambushes have been carried out as per the expectations in numerical terms. However, the expectations of some qualitative ambushes have not been as much materialized except in the Seti-Mahakali region. In terms of accidental positional skirmishes, the encounters in Handing and Korchawang in Rolpa were noteworthy.

In totality, the new initiative under the new strategic plan has been accomplished successfully. In view of the big shock-oriented attacks in a centralized form carried out in the beginning of every new plan in the past and even the enemy and the people having been accustomed to them, this new strategic plan has been a matter of surprise for everybody. Despite its own heavy loss internally the enemy has made false propaganda of self-indulgence on this new process in the form of ‘weakening’ of the People’s Liberation Army (PLA) and the ‘success’ of its own (royal) army. On the other side, as a result of the deliberate propaganda of the enemy and the ignorance about the essence of our plan, a section of the masses, particularly urban middle class intellectuals, are seen to be in some confusion and apprehensions. Even some revolutionary cadres seem to be disappointed in the absence of big shock-oriented actions.

In spite of some such illusions and confusions, what we should be clear about is that, in view of the entire national and international context after the breakdown of the ceasefire, our own political initiative, a definite kind of preparation by the enemy and our strategy of preparations for a nationwide counter-offensive, our policy of decentralized actions in the first phase was quite correct and objective. We should be clear that there was the danger of a negative consequence both politically and militarily if we had proceeded in the old fashion in the given context. The contrary propaganda of the enemy that it is ‘winning’ and in the ‘offensive’ while it is in the process of defeat and in the defensive, will ultimately benefit the People’s War.

However, in the new context, the existing forms of actions should be continued and stress should be placed on organizing centralized big actions, so that it may exercise a qualitative role in the preparations for counter-offensive and insurrection.

4. Refinement in the Practice of Military Actions

Not only in the hills but also in the plain areas of the Madhesh the old state power in the entire rural areas of the country has been basically destroyed. All such areas have come under the leadership and influence of the Party. This reality has been acknowledged not only by us but also by our enemies inside and outside the country.

In such a situation resulting from the development of the great People’s War the general masses would naturally expect from us all the more seriousness and sense of responsibility. On the contrary, the practices of certain forms of our military actions in certain contexts have now been inconsistent with the level of development of the movement, (our) responsibility and expectations of the masses. If we are not able to refine the practices of forms of military actions in time, it will ultimately give rise to negative consequences. Hence, it is necessary to clarify our concept and practice in the context of immediate military actions as follows:

A. On Destruction and Construction

The principal goal of a revolution is to destroy the old state power and to construct a new one. Until the old state power is completely destroyed or until the revolution is successful, strategically the destruction is the principal (aspect). However, tactically
and practically in areas and levels where the old state power is destroyed, the construction (aspect) gains priority in those areas and levels. Generally the process of construction starts with the destruction and there is a dialectical relationship between the two. Nevertheless, in the context of our practices of some forms of military actions, this dialectical relationship between destruction and construction has not been properly expressed. For example, continuation of activities like setting fire to the earlier Village Development Committee (VDC) buildings in rural areas already in our control and influence, blasting the buildings vacated by the enemy police forces with no chance of their return, sabotaging the economic establishments of traders, small industrialists and others willing to follow our policies and rules, etc smack of assuming destruction in an absolute sense. This raises the danger of increasing people’s grievances against us and the enemy’s capitalization on it.

Hence, it is necessary that we take the responsibility of development and construction activities and security of physical infrastructure and natural resources in the rural areas where the old state power has been destroyed and mobilize the masses for it. We should stress upon to carry forward the developmental and construction activities in a new style by making use of the buildings, land, forest and other economic establishments utilized by the old state and its functionaries in the past for the new state power and by standing against their possible sabotage by the enemy. It is essential to prove this through both our words and deeds in the rural areas in the coming days.

B. On Annihilation of Class Enemies and Spies

As per the physical liquidation of class enemies and spies, our Party’s policy has been to practice it on the selected ones and to the minimum, by informing the masses and obtaining their consent as far as possible and by not resorting to any ghastly methods. The current need of the development of the movement, particularly in the rural areas, has necessitated introducing refinement even in this method. Of course, we should not be unduly carried away by the vicious propaganda of the enemy and the opportunists about the physical annihilation of the enemy. However, while annihilating somebody if we fail to develop and observe concrete policy on class analysis, nature of his/her crime, democratic legal process to establish the crime and the method of annihilation, it may have negative consequences. It can’t just be dismissed as a baseless charge of the enemy and the opportunists that in the past some of the annihilations have taken place flimsily on the grounds of not giving enough donations, not providing shelter and food, having politically opposed our movement, suspicion of being a spy, or having enmity with our local team members. Hence, if one has to resort to annihilation in the rural areas henceforth, it is essential to ensure that it is not done directly by a particular team or its definite members but a certain minimum legal method is adhered to. It should be strictly expressed in both our policy and practice that the red terror does not mean anarchy.

C. On Action against Enemy Soldiers and Police Forces

It is axiomatic and there is no question of any debate that the central and highest function of any revolution is to destroy the armed forces acting as the main organ of the old state through the people’s war. However, while practicing common and known forms of military actions we do and should apply different methods in different situations. For example, during encounters in actions of ambush, mining, raid, commando attack etc, it is, and should be, stressed on defeating the enemy by inflicting maximum damage. Nevertheless, our known policy towards the surrendered enemy soldiers and
policemen is to deal honorably as the prisoners of war, to convince them and provide them opportunity either to join us in the fight or to return home. It is against the principle and practice of the people’s war to liquidate someone when encountered alone, or at home on leave, or anywhere on the spot just because he happens to earn a living in the enemy’s army or the police force, and ultimately its consequence is to unify rather than disintegrate the enemy. Hence, primarily in the rural areas, when someone serving in the enemy’s army or police forces returns home on leave he should not be terrorized or annihilated but indoctrinated and persuaded to abandon the (enemy) service. The manifestation of a correct policy, as we have been hammering since the beginning, is to enlighten the family members of those serving in the enemy’s army and police force, to organize them and to protect them. From now onwards we should strive to assure and make them realize that their family members would be safe when at home either after leaving or without the (enemy) service.

In the case of those who have committed numerous and heinous crimes in the past, or higher officers in the enemy army or police force, they should be captured and dealt with as mentioned in Section ABE earlier.

D. On Dealing with Opposition Political Leaders and Cadres

Generally our policy toward various reactionary and opportunist political parties has been to give precedence to their political exposure. We have been insisting that any physical action against somebody should be not because of his/her membership of a particular political party but due to his/her crime against the people or the People’s War. Moreover, as the parties in power or in the opposition have different immediate tactical behavior, we have been accordingly dealing with them differently and should continue to do so. We should strive to have amicable relations with those political parties which are objectively closer to us politically even if it is only in the immediate and tactical sense.

In the past, some of our actions have gone against the correct and total evaluation of the contradictions against the declared policy of the Party. In the new situation we should on the one hand, strive to strictly implement the above policy and, on the other, strive to follow the earlier mentioned democratic legal process in the context of such persons deserving any kind of punishment or physical action. In case of somebody’s arrest the reasons for the same should be made public without delay.

E. On Collection of Donations

The enemy has been making a big issue of our method of collecting donations to spread illusion amongst the middle classes. To deprive the enemy of this weapon and to prevent the middle classes from getting misled and terrorized, it has been necessary to make our donations policy more systematic and refined. In the past, while collecting donations there have been some lapses in making adequate class analysis of the related persons, organizations, etc in studying their background and in dealing with them accordingly. As a result, a lot of anarchy has been seen in the field of financial collections. Hence, in the future this anarchy should be ended and to make the financial collection process more systematic a concrete criterion for collecting donations from the people on a class basis should be fixed and, on the other side, a system of punishing and taxing the enemy should be developed.

It is essential that the (Party) Regional Bureaus should control the activities of collection of donations and taxes.
F. On Various National and International Non-Governmental Organizations

Even though in the past we made marginal differentiation in the context of ending the hegemony of the old state in rural areas, generally we had an offensive policy against all types of NGOs and INGOs. However, in the changed current situation it is necessary to refine this policy.

It is essential to deal positively with such NGOs, which are not straightway linked politically with the old state and are desirous of working in tandem with our policies and plans in the rural areas. Similarly, except for those INGOs directly financed by the US imperialism that has been most hostile towards the People's War at the international level, we should not carry out any physical action or exercise coercion against the INGOs related with neutral countries or those not hostile against the People's War, like the European Union and others, and should strive to solve the problem through dialogue, interaction and coordination.

It has been particularly essential to demonstrate maturity in this policy in the light of the global watch on our minor activities and the totality of the contradictions.

5. On the Future Military Plan

It has been already mentioned that the military plan prepared by the last meeting of the CC was correct and it is still in the process of implementation. As the use of 'relative centralization' terminology has objectively created some misgivings and pressure on the PLA, while refining this plan the policy of relatively centralized actions needs to be excluded for the time being. We should be clear that objectively relative centralization would be automatically present within the decentralized actions. Hence, in the coming plan decentralized actions should be resolutely carried forward without any pressure and preparations should be made for centralized and definite big actions.

6. On Presentation of the People's State Power

In the light of the current situation of all the rural areas of the country having passed into the influence and control of the People's War and a noteworthy rise in its international publicity and influence, the following steps should be taken to raise the political intervention against the old state to a new height:

a. To appeal to the United Nations and other international forums for the representation of the people's power while opposing the so-called representation of the military fascist old state.

b. To request through formal communication channels all the countries of the world affiliated to the United Nations for support and cooperation to the new state power against the old state.

c. It is necessary to systematize the policy, plan and program of the new state power so as to assume the responsibility for all the rural areas of the country. For this, a concrete program of the people's power in all the economic, political, social, and cultural spheres should be implemented and the preparations for the final insurrection be hastened.
SECTION-I
Basic Policies

1. The main objective of the People’s Council is to institutionalize the New/People’s Democratic Republic in the country. The fundamental character of New Democratic or People’s Democratic republican state shall be the people’s democratic dictatorship with the participation of all the progressive classes including the national bourgeoisie and oppressed nations/nationalities based on worker-peasant alliance under the leadership of the proletariat. It will end all forms of exploitation-oppression of feudalism, bureaucratic capitalism and imperialism/expansionism in the country and implement democracy for the people and dictatorship over enemies of the people.

2. In Nepal, New/People’s Democratic state can be founded only through the protracted People’s War which marches forward building local base areas and in which guerrilla war plays a strategical role. Also, in the specific geo-historical position of Nepal and the present world situation it is essential to incorporate some parts of the strategy of armed insurrection right from the initiation of People’s War. So, applying this particular military strategy in order to carry the people’s revolution up to the apex of final victory, the People’s Council shall unite and mobilize all anti-feudal and anti-imperialist/anti-expansionist forces and the general masses.

3. The sovereignty shall be entirely vested in the people in New/People’s Democratic system. To materialize this, an interim government consisting of all anti-feudal and anti-imperialist/anti-expansionist forces shall be formed after smashing the present reactionary state by means of People’s War, and a new constitution shall be drafted and implemented through the people’s representatives elected on the basis of universal suffrage under the interim government.

4. In the New People’s Democratic system the fundamental and political rights of all the people, including the rights to speak, write, publish, hold meetings and demonstrations and form organizations and political parties, elect and get elected, profess or not to profess religions, settle in the place desired etc. shall be guaranteed. Employment, education and health shall be considered as fundamental rights of the people. Contrary to the propaganda of the reactionaries that there would be one-party dictatorship of the communist party in New/People’s Democracy full freedom will be guaranteed to various patriotic, democratic and leftist parties on the basis of mutual co-operation and supervision with the communist party for a long time. However, those who would play reactionary role during the people’s revolution and act against the cause of the country and the people shall be deprived of all political rights for a definite period. Along with the exercise of fundamental rights, all citizens shall have to abide by the duties like defending the country, obeying the constitution and laws protecting public properties, observing labor discipline, serving in the army, paying taxes etc.
5. There shall be no discrimination against anybody on the basis of race, ethnicity, religion, language, gender etc. and the state shall guarantee equal behaviour to and opportunities for all. Equal wages for equal work shall be guaranteed to all.

6. The State shall be delinked from religion and it shall be fully secular. Religion shall be regarded as a personal matter of an individual and there shall be no favor for or discrimination against any religion. However, cheating, fraud, corruption, exploitation-oppression, subversive activities etc., in the pretext of religion, shall be curbed.

7. All the semi-colonial and neo-colonial treaties and agreements including the Treaty of 1950 and debt burdens imposed by imperialism and expansionism upon the country shall be nullified and the country shall be made fully sovereign, independent and self-reliant. The Gorkha Recruiting Center which is there as a national shame shall be closed down forthwith and measures shall be taken to avail all the citizens with appropriate employment within the country. The plunder of national resources including enormous water-resources by imperialists and expansionists shall be stopped and the entire resources shall be utilised for the common cause of the people.

8. All feudal, bureaucratic, and imperialist/expansionist relations prevailing in the field of economy shall be ended and national capitalist relations shall be developed. Instead of imposing socialist relations in the economy from the very beginning socialism-oriented capitalist relations shall be developed. Therefore, a proper balance of private ownership, joint ownership and collective ownership shall be maintained in the New/People's Democratic system. In other words, there shall be collective ownership of the state on large and basic industries and financial institutions, joint ownership of the state and individuals on certain large means of production and private ownership of peasants in agriculture which constitute an overwhelming proportion of the economy along with the entrepreneurs and traders on small and medium industries and commerce. Except through legal means, nobody's private property shall be confiscated. In order to continue transforming the extremely backward condition of productive forces, the principle of „Grasp revolution and promote production“ shall be made the basic guiding policy for economic development.

9. Democratic centralism shall be the fundamental principle of state organization and attention shall always be paid to maintaining proper balance between democracy and centralism. A policy of „Politics in command“ shall always be pursued in order to maintain proletarian leadership in every sector and to prevent bureaucratization in the organs of the state, and a method of high application of the mass-line shall be followed. The state shall protect the rights of the masses for exercising democracy e.g. to debate openly, express opinions freely, display big posters in public places etc. The right of workers to strike shall also be guaranteed.

SECTION-II
State System

10. The state shall be fully in the hands of the people. The House of People's Representatives and People's Committees/Governments of various levels shall be the organs of the state of the people. The people on the basis of adult franchise shall elect the Houses of People's Representatives at all levels. The Houses of People's Representatives shall elect the People's Committees/Governments of the levels concerned. People's Committees/Governments shall act as organs of state for the concerning levels during and when the House of People's Representatives is not meeting.
11. There shall be four levels of the House of People's Representatives and People's Committees/Governments: namely at the Center (Union), Autonomous Regions, Districts, and Village/Town/Autonomous Town. But, keeping in view the specific situation of people's war, they may be formed at the area level above the village and at region/sub-region levels above the district. As per the wards below the village level there shall be only Ward People's Committees and they will function under the Village House of People's Representatives or Village People's Committees. There shall be Houses of People's Representatives and People's Committees/Governments at appropriate levels in the ethnic autonomous areas.

12. Unlike the bourgeois parliament which is merely a toothless debating club, the Houses of People's Representatives shall be the most powerful organ equipped with legislative and executive rights. They shall make the people experience not only formal democracy but also genuine democracy since they shall have the representation of various classes, nationalities, regions, and also of patriotic and democratic eminent personalities. Delegates of the people shall be more responsible because the people will have the right to recall them if they do not function properly.

13. As the People's Council is a mechanism of revolutionary united front of the people which enjoys the representation of workers, peasants, people's army, petty bourgeoisie, national bourgeoisie, oppressed nations/nationalities, Dalit (oppressed caste) community, women, expatriate Nepalese and various patriotic, democratic and leftist forces, its National Conference shall exercise, until a conducive situation materializes for its election on the basis of adult franchise, the functions and the rights of National House of People's Representatives, and it shall enact necessary constitution and laws elect a Central People's Government and grant it authority to run the state.

14. During the period of war, the Central People's Government shall depute military and non-military delegates to organize local people's governments in places where reactionary state apparatus would be destroyed but direct elections for Houses of People's Representatives at various levels would not be possible, and the delegates shall hold local conferences/conventions of all the forces and organize local people's governments. Later on when a conducive situation will have developed, elections for local Houses of People's Representatives shall be held.

15. Houses of People's Representatives and People's Committees/Governments of various levels shall function according to the principles of democratic centralism. Accordingly, Houses of People's Representatives shall be responsible to the people and the People's Government to the respective House of People's Representatives. In the Houses of People's Representatives and People's Governments, the minority shall obey the decisions of the majority, the appointments of People's Governments of various levels should be approved by the higher level, the People's Governments of lower level should obey the decision of higher-level governments and all the local People's Governments should obey the decisions of the Central People's Government. In the case of autonomous organs while implementing democratic centralism, attempt shall be made to arrive at a consensus through wide democratic exercise.

16. The jurisdiction of the Central People's Government and local People's Government shall be defined in accordance with the nature and need of various works and the Central People's Government shall issue necessary directives keeping in view the national unity and local utility.
17. All laws, orders and judicial systems of old reactionary state that exercise exploitation-oppression on the people shall be declared null and void. New laws and directives favorable to the cause of the people shall be issued and people’s democratic judicial system shall be founded.

18. People’s Courts at various levels shall be constituted in order to impart justice to the people. Its office-bearers shall be appointed by the House of People’s Representatives of the concerned level to which they shall be responsible.

19. The security organs of the concerned level shall exercise the functions and rights of the procuratorial organs that administer cases against criminals. While conducting trial against a person, the mass line should be properly exercised and the masses should be involved in debates on major counter-revolutionary criminal cases.

20. All organs of the state should follow the revolutionary working style of honesty, simplicity and service to the people and they should strongly oppose red-tapism, corruption and extravagance.

21. People’s supervisory organs shall be established to suppress the functions of office-bearers of the People’s Governments at various levels and to take disciplinary action against them in case they violate the laws or do not discharge their duties properly. People shall have the right to lodge complaints against such office-bearers or state organs in the people’s supervisory or judicial organs.

SECTION-III
People’s Army and People’s Defense System

22. In order to completely smash the old reactionary state through the means of People’s War and defend the New/People’s Democratic state, there shall be a unified People’s Liberation Army which will be comprised of the Main Force, Secondary Local Force and People’s Militia. The Chairman of Central Committee of the Communist Party shall be the Supreme Commander of the People’s Liberation Army which shall be mobilized through the Central People’s Government led by the Party. The Main Force shall be mobilized at the central level and Secondary Local Force at the local level whereas People’s Militia shall take care of local defense and order.

23. In the present imperialist era, it will be necessary to organize the People’s Army also in a centralized way in order to fight against excessively centralized army of the reactionary state but the policy of putting the people’s army under the command of revolutionary politics uniting it with the masses, and maintaining greater democratic relations between the officers and soldiers in the People’s Army shall be pursued in order to prevent the growth of professionalism as in the reactionary army. A policy of militarizing the entire masses shall be pursued to check the threat of counter-revolution and, for this, people’s militia shall be expanded widely.

24. The principal task of the People’s Army is to continuously advance the People’s War until the completion of the revolution and defend the New/People’s Democratic state and motherland after the revolution but at the time of leisure and peace it should also play the role of (political) organizer and (economic) producer among the masses.

25. During the entire period of revolution, the masses shall be specially inspired and encouraged to join the People’s Army and special priority shall be accorded to the task of looking after the families and dependents of the soldiers of People’s Army and martyrs, and those wounded and handicapped in the war. The People’s Govern-
ment shall pay special attention to necessary resources for the People’s Army. Special encouragement shall be given to those who rebel from the reactionary army and police and join the revolutionary camp.

SECTION-IV
Land and Agrarian Revolution

26. The agrarian revolution is the basic foundation of the New/People’s Democratic Revolution. Therefore, the main policy of agrarian revolution shall be to abolish the feudal, semi-feudal and bureaucratic capitalist production relations in the land and develop national capitalist relations, of which "land to the tiller" shall be the main policy tenet. In other words, the lands owned by feudal, bureaucratic capitalists and various guthis (a type of feudal ownership by social and religious institutions) in the places where the old reactionary power structure have been smashed, shall be seized without any compensation and distributed to landless and poor peasants, and the tillers shall be made the owners of the land. In the cases of rich and medium level peasants, their lands shall not be seized but ceiling shall be imposed on them keeping in mind the ratio of availability of land and population. In the places where old state structure has not been totally smashed or people’s state power has not been founded as yet only reformative measures shall be taken in the initial stage, according to which ceilings on lands shall be implemented, tenurial rights of tenants shall be guaranteed, the rate of land rent shall be reduced and made one-third interest rate of credits shall be reduced, guthi lands shall be turned into raiker i.e. governmental lands etc.

27. Landless and poor peasants shall be relieved of all kinds of debts and all labor-service and other charges levied on them shall be abolished.

28. Medieval feudal practices like kamaiya, harwa-charwa (different forms of labor services against debts from the landlords) shall be completely abolished and resettlement and employment shall be arranged for them.

29. Minimum wages for agricultural laborers shall be fixed and it will be strictly implemented. Women laborers shall be provided wages equivalent to men.

30. Agricultural credits shall be made available at cheap interest rates and with ease. Proper irrigation facilities shall be provided to all cultivable and irrigable lands. Rural infrastructure shall be developed by appropriate utilization of reserve labor force existing in agriculture.

31. Fertilizer, seeds, pesticides and agricultural tools shall be made available to the peasants at cheap rates and with ease. Special attention shall be paid on the development of agricultural industries and proper arrangements shall be made for agricultural markets. Balance shall be maintained in the prices of industrial and agricultural products.

32. Cooperation shall be taken from local revolutionary peasants’ organizations, particularly in preparing the actual records of ownership of the land, determining class status (i.e. landless, poor, middle, rich and feudal) of the peasants in the villages, determining the real tillers and implementing effectively the land reforms during the implementation of revolutionary land reform policy and programs, and general masses of the peasants shall be mobilized. In addition, the land reform programs shall be implemented in stages both in class and regional terms, and during this process, full attention shall be paid to local particularities. While implementing revolutionary land reform programme in the autonomous areas of oppressed nationalities and
33. The lands seized from feudal and bureaucratic capitalists and that acquired from rich peasants above the ceiling during the implementation of land reforms and all uncultivated land shall be distributed among the village peasants without any ethnic or gender discrimination and on equal basis as their private property. In this context, the proportion of the quality of the lands or irrigated and unirrigated lands shall be obviously taken care of.

34. The livestock, agricultural tools, houses, grains etc. seized from the feudals shall be distributed among the poor and other peasants who run short of them, and they shall be their private property.

35. Large forests, big irrigation projects, mines, grazing meadows, large uncultivated lands, rivers, lakes etc. shall be in the possession of local People's Governments as public properties. Similarly, places of historical and natural (scenic) importance, arts and artifacts etc. also shall be in possession of the People's Governments.

36. Land and property shall be distributed to the office-bearers of the People's Army, People's Governments and mass organizations and their families coming from villages like other common peasants. In doing so, special priorities shall be given to the families of martyrs. Old landlords, their families, and office-bearers of the old state coming from villages and their families shall be given, like common peasants, land and property to earn a living. Reactionary traitors and war criminals shall not be given any land and property. Nevertheless, the members of their families who were not involved in any criminal activities and want to earn a living shall be given land and property like other common peasants.

37. All documents of land ownership, other transactions and credits enacted before the implementation of revolutionary land reforms shall be declared null and void and the People's Governments shall investigate and issue new documents to the concerned. Those who resist revolutionary land reforms and violate rules and laws shall be punished by the People's Courts.

38. Even though the ownership of land and other properties would be private in the stage of New/People's Democratic Revolution, agricultural production shall be encouraged to be organized into various kinds of cooperatives, given the small average size of cultivable lands and extremely low level of productive forces particularly in hilly areas so as to develop productivity, utilize the labor properly, and to accelerate the pace of economic development. A policy to develop production and distribution cooperatives from small to big and from low to high level shall be pursued systematically.

39. Taking into account the geographical diversity of the high Himalayas, the mid-hills and the tarai (or plains) and the possibility of specialization in animal husbandry, herbal farming, horticulture, forest products and grain production, a policy to make an integrated balanced and interdependent development efforts for those diverse regions and agricultural sectors shall be pursued. Special emphasis shall be given to attaining self-reliance in food-grains during the entire period of war and after it.

SECTION-V

Industry, Commerce, Finance and Infrastructure Development

40. It is not possible, without rapid national industrialization, to fulfill the advanced physical and cultural needs of the society and to radically transform the present
economy of Nepal viciously trapped in acute poverty, unemployment, under-unemployment, underdevelopment and dependency. Therefore, in New/People's Democratic system, industry shall be regarded as the leading sector of economy and planned attempts shall be made for its rapid development. For that, the path for rapid industrialization of the country shall be paved by nationalizing the capital which is being misused in the hands of comprador and bureaucratic bourgeoisie in the country, by liberating the labor trapped in agricultural sector and promoting internal markets on the one hand, and by liberating national industries from the grip of imperialism and particularly Indian monopoly capital on the other. Also, the industrialization process shall be aided by providing protection and encouragement to the capital of the large number of small and domestic entrepreneurs and national bourgeoisie who are in minority in the country.

41. During the entire period of war, special emphasis shall be given to developing industries that supply essential war logistics consumer and other goods (such as cloth, shoes, equipment, paper etc.) to the base areas and to those which are dependent on local raw materials and skills. Taking into consideration possible economic sanctions by the imperialists and expansionists during and after the war the import-substitution industries shall be given special encouragement.

42. As there would be shortage of capital and excess of labor in the country for a long time, labor-intensive industrialization shall be mainly stressed upon. Special attention shall be paid on development and use of local technology. Particularly, special emphasis shall be given on supplying the most essential industrial energy by utilizing the immense water resources through small hydroelectric projects and guaranteeing self-reliant, pollution-free and sustainable development. The economic, sectoral, and geographic regional inequalities and the process of extroverted development prevailing at present shall be ended and planned attempts shall be made for balanced development between agriculture and industries, small and large industries, cottage and modern industries, rural and urban areas, and the hills and the plains.

43. For the workers, 40-hour work per week and minimum wages shall be fixed and strictly implemented. Participation of workers in the management of industries shall be guaranteed. Policy of encouraging cooperative system in cottage and small industries shall be followed.

44. Trade in basic goods and foreign trade shall be under the control of the State, whereas trade in other sectors shall be in the hands of the private sector. Stranglehold of Indian monopoly capitalists in the commerce sector shall be ended and the state shall offer protection to the national traders. Commercial relations shall be maintained with all on the basis of mutual benefit and equality.

45. Consumer cooperatives shall be encouraged so as to avail the people of consumer goods at cheaper prices and with ease. The State shall make necessary interventions in order to keep the prices of commodities stable and well managed. Appropriate customs policy shall be pursued to provide support to the indigenous goods. Special measures shall be taken to avail of consumer goods at cheap prices in remote areas.

46. The exploitation and oppression of imperialist financial capital in the country shall be ended the country shall be freed of foreign debts and there will be state control over major financial institutions in the country. In the rural areas, financial cooperatives shall be developed to make credits easily available. Private financial institu-
tions shall be given permission to operate within rules and laws. But the interest rate shall be controlled.

47. Public expenditures shall be made under a well planned budgetary system. Tax policy shall be applied in keeping with the needs of the war and economic reconstruction.

48. Imperialist financial penetration and internal sabotage on the pretext of NGO / INGOS shall be ended.

49. Considering the inaccessibility and complexity of most of the hill regions, transport and communication system shall be developed in a planned manner. Special attention shall be given on building infrastructure like roads, bridges, etc in the rural areas. The haphazard expansion of cities shall be controlled and a policy of planned urbanization shall be pursued. Attention shall be paid on developing planned settlement in the new liberated zones.

50. Instead of large and dependent hydroelectric projects, emphasis shall be given on constructing small, medium, multi-purpose and self-reliant projects. Attention shall be paid on developing the tourism sector in such a manner that it serves the cause of the country and the people.

SECTION-VI
Culture and Education

51. The basic character of New/People's Democratic culture and education shall be national, democratic and scientific. In the field of culture and education, the main task of the People's Government shall be to promote cultural standard of the people, produce red and expert manpower for social and national reconstruction, and develop progressive and scientific outlook that serves the people in place of the feudal, comprador and anti-people ones. New/People's Democratic culture and education shall generate a sense of patriotism, respect to the masses, belief in science, respect to labor and responsibility towards public property.

52. Education shall be made universal, free and compulsory. Special literacy campaign shall be conducted and all types of illiteracy, including adult illiteracy, shall be eliminated. Education shall be connected with labor and made useful to life. Education shall be imparted so as to maintain balance between natural science and social science. Special stress shall be given to polytechnical education. Necessary attention shall be paid to higher education especially in science and technology. Proper arrangements for sports and entertainment to all shall be made.

53. Old textbooks shall be proscribed and textbooks in line with the new scientific values shall be prepared. Provision for education in mother tongue up to a specific level shall be made.

54. Special attention shall be given to the preservation and promotion of literature and art. Literature and art that serve the masses, promote their political consciousness, and increase respect to labor shall be promoted. People oriented plays and cinemas shall be encouraged. Excellence in literature and art shall be rewarded. Vulgar and obscene literature and films shall be prohibited.

55. Freedom of expression by the people shall be protected. Newspapers and journals which publish objective news and views shall be encouraged. People's radio and broadcasting shall be promoted. Special attention shall be paid to the publication of
socially useful and popular books and journals.

56. Proper attention shall be paid to the preservation of old cultural heritages. Special attention shall be given to the preservation of languages and cultures of the oppressed nations/nationalities.

SECTION-VII
Health and Social Welfare

57. Health services shall be made available to all freely and universally. Special attention shall be paid to extension of health services in the rural areas. Traditional systems like witch doctor etc. shall be eradicated and modern and scientific medical system shall be implemented. Special stress shall be laid on producing lower and medium level health activists. Use of medicines based on indigenous herbs shall be encouraged instead of importing numerous harmful medicines distributed by the imperialists.

58. Rights of disabled persons, the elderly, destitute, and children shall be protected and special attention shall be given to their care.

59. Minimum housing facility shall be guaranteed to all. Proper arrangements shall be made for settlement of the squatters.

SECTION-VIII
Nationalities and Regional Question

60. The state shall guarantee equal treatment to all nations/nationalities and languages of the country. All nations/nationalities traditionally oppressed by the ruling Aryan-Khas nationality shall exercise the right to self-determination but their problems shall be resolved within the framework of national autonomy program in the New/Peopleâ€™s Democratic system. Accordingly all forms of exploitation/oppression of the oppressed nations/nationalities shall be ended and they shall exercise their own autonomous rule in the land they inhabit. If the nationalities are scattered in more than one area, there shall be more than one autonomous areas. The House of Peopleâ€™s Representatives and Peopleâ€™s Committees/Governments elected by them shall be the means of their state power. Except for the Peopleâ€™s Army, foreign relations, finance, currency, measurements, communication, international trade, large basic industries, and large hydel projects, all other sectors shall fall under the jurisdiction of the autonomy. They shall exercise the autonomy within the framework of the approved rules and laws.

61. In the areas of mixed nationalities or in an autonomous area of a particular nationality where there are other nationalities as well, there shall be representation of all on proportional basis in the local state powers.

62. All the oppressed nations/nationalities shall have the right to join the Peopleâ€™s Army and they may form Peopleâ€™s militia under the central command as a security force at the local level.

63. All the oppressed nations/nationalities shall enjoy the freedom to promote their languages, to preserve or reform their traditional values and systems. The Central Peopleâ€™s Government shall assist the people of oppressed nations nationalities in their political, economic, cultural and educational development.

64. In the high Himalayan regions of Karnali and Seti-Mahakali which have been op-
pressed because of unequal economic development there shall be regional autonomy. The nature of regional autonomy shall be basically the same as national autonomy.

65. The issue of Tarai which is inhabited by the people of various linguistic groups, is an issue both of national and regional oppression. However, since it is primarily an issue of national oppression, there shall be separate national autonomous regions for the nations/ nationalities speaking different languages (e.g. Maithili, Bhojpuri, Awadhi etc.), and all the oppression and unequal treatment meted out to Taraians particularly Madheshee people, shall be ended. The prolonged issue of citizenship of the Madheshee people shall be resolved in a scientific, just, and democratic manner.

SECTION-IX
Women and Family

66. All forms of patriarchal exploitation of women shall be ended and women shall be given all rights equal to men. Like son, a daughter shall enjoy equal rights to parental property. Women shall be provided with special rights for participating in all organs of the state. All kinds of prostitution shall be prohibited and Badi, Jhuma traditions shall be totally eradicated. Traffickers of women and rapists shall be sternly punished. Nepalese women sold to brothels inside the country and abroad, mainly India, shall be freed and honorably rehabilitated.

67. Marriage between a man and a woman shall take place only on the basis of mutual love and free volition and not under any coercion or through tradition. There should be strict monogamy in marriage. Polygamy shall be prohibited. Minimum age of man and woman for marriage shall be 22 and 20 years respectively. If both man and woman willing to get married apply to the concerned officer of the local People's Government they shall be issued certificate of marriage after necessary investigation. Family planning and maintaining a small family shall be the responsibility of the couples. Women's right to abortion shall be protected. Widow remarriage shall be encouraged. Special arrangements shall be made for childcare.

68. If both husband and wife desire and request for, divorce may be granted. If only one party demands for it the People's Government shall reserve the right whether or not to allow the divorce, after necessary investigation. Taking into account the traditional oppression of women, more sympathetic consideration should be given to women in such disputes. After divorce, the common property shall be divided on equal basis but as far as taking care of children is concerned, the father shall bear 2/3rd and the mother 1/3rd of the responsibility.

SECTION ·X
Oppressed Castes (Dalits)

69. All forms of prevailing exploitation/oppression of Dalits (depressed castes) as per Hindu Varna system shall be ended and Dalits shall be considered completely equal to other citizens. Untouchability shall be totally abolished and those practicing any kind of untouchability against Dalits shall be severely punished.

70. Since Dalits are oppressed castewise for long, and are generally weak and backward economically socially, culturally and otherwise, the State shall make provision for the special rights to them until they turn practically equal to others and this shall be governed by rules.
SECTION-XI
Foreign Policy

71. Diplomatic relations shall be established with all countries of the world on the basis of five principles of peaceful coexistence (Panchsheel), i.e. mutual respect to each other's sovereignty and national integrity, policy of non-interference in the internal affairs of one another, equality, mutual benefits and peaceful coexistence and attempts shall be made to promote friendly relations.

72. Principal basis of foreign relations of the Democratic Republic of Nepal shall be the preservation of the country's independence and national integrity, defense of New/People's Democratic system, promotion of people's interests and wellbeing, opposition to imperialism and expansionism, and support to national liberation movements in different countries and New Democratic or Socialist movements worldwide.

73. New/People's Democratic Government shall review all agreements concluded by the old state with various countries and institutions, and the treaties and agreements that run counter to the causes of the country and the people shall be cancelled whereas those which are favorable shall be renewed.

74. As Indian expansionism is the principal external enemy and threat to Nepal and all the countries of South Asia, particularly close relations shall be developed with various communist revolutionary groups and national liberation movements which have been fighting against Indian expansionism and attempts shall be made to build South Asian Soviet Federation when the revolution is completed in all the countries of this region.

75. The causes of the Nepalese living abroad, particularly in India, shall be protected. Such Nepalese who are compelled to leave the country and go abroad due to poverty and unemployment shall be provided employment and settled properly. Special attention shall be paid on checking the increasing brain drain and utilizing their talent and skill within the country. Foreign nationals obeying the laws in Nepal shall be given protection. A citizen of any country of the world who is forced to leave the country due to his/her involvement in revolutionary activities shall be offered political asylum.
Annex – V.III

Declaration of CCOMPOSA*

The inherent characteristics of ever concentration and centralization of capital and the resultant uneven and unequal development in the world scale has aggravated the crisis of the world imperialist system and created an excellent objective condition for the world proletarian revolution in the beginning of the twenty-first century. However, subjectively, the International Communist Movement suffered one of the greatest setbacks in its entire history in 1976, when the revisionists usurped state power as well as the leadership of the Party by a reactionary coup d'Etat in China following the death of Mao Tse-tung. Restoration of capitalism resulted in depriving the proletarian class of the leadership at the international level and the socialist base as well. In that course it had to fight against not only Khruschovite and Dengist modern revisionism but also Hoxaite dogmato-revisionism. Despite fierce attacks from imperialism and its lackeys and betrayal of opportunists from within the movement itself, the genuine Marxist-Leninist-Maoists throughout the globe refused to abandon the struggle for communism. Contingents of the world proletariat made their utmost efforts to reorganize our class at the international level giving birth to various new initiatives out of which the initiative of Revolutionary Internationalist Movement (RIM) is a prominent one.

In South Asia the struggle against various forms of revisionism and right opportunism within the Maoist movement has played a powerful role in promoting Marxism-Leninism-Maoism and strengthening the unity of Maoist forces which at present has taken concrete form through the Coordination Committee of Maoist Parties and Organizations of South Asia (CCOMPOSA). Upholding the „Joint Statement” signed by ten Maoist Parties and Organizations of South Asia in June 2001 as the primary basis of our unity, we are committed to building on our achievements in order to further advance our unity at the ideological, political and organizational level.

World Situation

The present day world is marked by ever deepening crisis of imperialism and advancing world revolution. The imperialists are implementing „globalization” and „liberalization” as the panacea for their ailing imperialist system. Nevertheless, it is ultimately bound to herald its final demise.

The so-called globalization and liberalization policies propagated through the imperialist institutions of World Bank and IMF have sharpened the gap between a handful of rich countries and a vast number of poor countries in such a scale that this gap which was 31 times during the sixties has reached to the level of 74 times by the late nineties, and it is aggravating by every passing day. The plundering of oppressed countries mediated through the WTO is bound to further escalate this glaring inequality. The contradiction of imperialist powers with the oppressed nations and people will go on accelerating and give rise to a new upsurge against imperialism on a world wide scale. This contradiction between imperialism and oppressed nations is the principal issue at the world level today.

* Adopted by the Second Annual Conference of Coordination Committee of Maoist Parties and Organizations of South Asia, August 2002
The September 11 (2001) incident and the subsequent so-called global war against terrorism initiated by US imperialism are the latest manifestations of this global contradiction. The rivalry even through temporary collusion among various imperialists as according to the logic of the system is also intensifying. The inter-imperialist contradictions are sharpening in new forms and the danger of a new world war still persists. Though, after the collapse of Soviet Social imperialism, its rival US imperialism gained superiority and took temporary advantage, other imperialist powers including Russian imperialism are competing with it. In order to resolve the inherent contradiction, imperialists are piling up even more lethal weapons, which are again giving rise to other major contradictions, ultimately preparing the ground for their own destruction. The globe-encompassing information technology they have developed for plundering and carrying out disinformation to hoodwink the masses is also being used by the revolutionaries to disseminate their ideas and information about the revolutionary movements to all nooks and corners of the world. This creates the basis for the world revolution of the 21st century to be coordinated and spread on a global scale. The notion of Asia, Africa and Latin America as the storm center of world revolution envisaged by Mao continues to be relevant and accurate till today. People’s Wars waged by the oppressed masses and led by the Maoist parties of Peru, Nepal, India, Turkey Bangladesh and Philippines and the armed struggles in other countries provide living testimony to this truth. Not only the oppressed countries of Asia, Africa and Latin America, but also the people of imperialist countries are fighting against ‘globalization’ and ‘privatization’, which have plunged the working class and sections of the people of the imperialist countries into crisis and despair never felt before. Instances of expression of people’s wrath against the big bosses of imperialist countries, in their own citadels like Seattle, Prague, Nice, Washington, Cancun, Gothenburg Genoa and Calgary clearly reflect how the revolutionary situation in the imperialist countries is developing. All these facts reaffirm the objective truth that the main trend of the world today is revolution, as had been analyzed by Mao.

**International Communist Movement**

The International Communist Movement has been advancing through twists and turns, according to the materialist law of history. There are excellent examples of epoch-making successes achieved by the proletariat and also serious setbacks. The unprecedented setback experienced by the proletariat and the masses, especially after the coup d’état in socialist China following the death of Com. Mao Tse-tung, was the latest one. The collapse of former Soviet Union and its block during the 90s was celebrated and propagated by the imperialists and their lackeys as the demise of socialism and communism. Their objective was to hoodwink the masses by launching a concerted ideological offensive against the science of Marxism-Leninism-Maoism (MLM) and to deny the possibility of achieving the highest form of society, communism. Many petty-bourgeois elements within the communist movement were so influenced by this heinous propaganda that they changed their color to become apologists of imperialism and a vehicle to spread this vile imperialist propaganda. But, in reality, it was the collapse of a particular sort of imperialism - social imperialism - which was equally the enemy of the proletariat and people of the world that played a very nasty role in perverting the essence of ‘socialism’ and ‘communism’. The real communists and the proletarian revolutionaries of different parts of the globe fought against this concerted offensive and mobilized all efforts to establish the invincibility of the ideology of MLM. This was based on carrying out sustained political propaganda and by leading class struggles and People’s Wars under the leadership of proletarian parties guided by MLM.
The protracted People’s Wars advancing in Peru, Nepal, Philippines, India, and Turkey under the leadership of Maoist parties and combined with the preparations for initiating the same in various other countries of the world and the rising tide of militant struggles in the imperialist countries along with the formation of new Maoist parties are clear manifestations of the new wave of advancing world proletarian revolution.

Thus, the situation has changed dramatically in favor of revolution and the prospect of a new wave of world revolution is visible on the horizon. New opportunities and new challenges have come upon the shoulders of Maoists to initiate and lead the revolution and we have to assume this responsibility with pride and honor.

Ours is an international class, our ideology is proletarian internationalism and our mission is to conquer a new world. Therefore, our class certainly needs an international organization. This need is more profound in the era of imperialism and proletarian revolution and when major developments are taking a global shape. In this situation, international solidarity and support to others are also important to accomplish a revolution in a country. Thus, the unity of all genuine Maoist forces which are seriously engaged in the advancing class struggle/ People’s War in their respective country is the urgent need and all the Maoist parties have to seriously grapple with this.

**South Asian situation**

The correctness of Mao’s pronouncement that Asia, Africa and Latin America are the storm centers of revolution is still relevant and applicable and this is clearly seen in South Asia (SA) today. With more than one-fifth of the world population, SA is a huge reserve of natural resources and manpower for which various imperialist powers are contending with one another. The whole of SA has been subjected to neo-colonial forms of rule and exploitation which are generally reproducing and reinforcing semi-colonial and semi-feudal stage of development placing the New Democratic Revolution on the historical agenda with even greater urgency than before.

The centralized Indian state which is working as heir to the British colonialists, is instrumental in dominating the neighboring countries and their people and internally oppressing her people of various nations and nationalities by forcing them to come under its yoke. This internal oppression is buttressed by the big nation’s Hindu chauvinism which is aimed at suppressing the minorities including religious minorities. Indian expansionism, which is subservient to the big imperialist powers, has become the dominant regional reactionary power to oppress the nations and the people of SA. Indian expansionism, which was working hands in gloves mainly with the Soviet social imperialism for many decades, has now shifted more towards the US imperialism. Now, Indian expansionism backed by the world imperialism mainly US imperialism, is the common enemy of the oppressed nations and the people of SA.

A revolutionary uprising burst out in Naxalbari under the guidance and leadership of Charu Mazumdar (CM) as a ‘spring thunder’ which placed MLM at the forefront, established the GPCR, the highest pinnacle of the development of Marxism, and fought against all shades of revisionism. The drums of Naxalbari are reverberating till today throughout SA and beyond. The ongoing People’s Wars of Nepal and India (in Dandakaranya, Bihar, Andhra and elsewhere) and intensive preparations going on in other parts of SA should be objectively grasped as the continuation and further development of Naxalbari uprising and the teachings of CM. The People’s War in Nepal is advancing in leaps and bounds and facing the prospects of nationwide seizure of power. The level of People’s War advancing in Dandakaranya, Bihar and Andhra is also
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higher than that of Naxalbari during the early seventies. Nevertheless, it was Naxalbari which ignited the fire and provided a correct orientation in general.

Apart from the revolutionary class wars, powerful national liberation movements and nationality struggles are also continuing and developing in SA, chief among them being the national liberation movements and nationality struggles of Jammu and Kashmir, Nagaland, Assam, Manipur and other North-East states, Tamil Eelam of Sri Lanka and Chittagong Hill Tracts in Bangladesh which are all well known. Among the problems faced by the national liberation movements and nationality struggles are lack of proletarian leadership and continuing inability to subsume national liberation struggle within proletarian democratic revolution. Communist revolutionaries of this region should confront this problem and make genuine efforts to resolve this.

Even though there are some historical, geographical, economic and cultural specifics in this region, Indian expansionism backed by world imperialism, mainly US imperialism, is the common enemy of the people. Hence, the revolutions taking place in the countries of this region are closely inter-linked and inter-related. Though revolution in any particular country may achieve its goal of establishing nationwide people’s political power, depending upon the specific situation, it will need active support of the revolutionary movements in the region to sustain, advance and consolidate it. Thus, in SA where New Democratic Revolutions are advancing in a new wave and there are strong possibilities that some of them are succeeding, this will depend on the ability of the Maoists to collectively work out a correct line of united action. Therefore, building unity among genuine Maoist forces in the entire region has become an immediate task. As real successors and disciples of Marx, Lenin and Mao, it is necessary to seize this rare opportunity to accomplish New Democratic Revolutions in this region and advance the world revolution of socialism and communism.

Unity among the Maoist Forces of SA

The unity of Maoist forces must primarily be based on upholding the doctrines of MLM not only in theory but more particularly in its application to practice of which advancing People’s War is the principal task. Besides as one of its main tasks CCOMPOSA has to focus its attack on Indian expansionism which is the main bulwark of reaction in this region. It is only on the basis of intensifying the class struggle/People’s War in this region that the unity of genuine Maoists of SA can deepen and grow basing on M-L-M principles.

Apart from fulfilling its responsibilities in the region CCOMPOSA is a part of the international proletariat and must see its growth as part and parcel of the growing unity of the Maoist forces internationally. “Workers of all countries unite” as declared in the Communist Manifesto always reminds us of the need and scope of our unity. We the Maoist Parties and Organizations of South Asia cannot deviate from this dictum. Therefore CCOMPOSA must be a part and parcel of the attempts at unification of all Maoist forces internationally.

CCOMPOSA has its specific objectives to be realized in the particular context of South Asia. In order to give a clear perspective of CCOMPOSA in relation to its specific objectives, we quote some passages of the Joint Statement:

“The Coordination Committee of the Maoist Parties and Organizations of SA (CCOMPOSA) has been formed in order to unify and coordinate the activities of the Maoist parties and organizations in SA to confront this developing situation by spreading Protracted People’s War in the region, in the context of
hastening and advancing of the World Proletarian Socialist Revolution. This is a historic step of far-reaching importance.”

“The Coordination Committee resolves to combine their efforts and raise their revolutionary struggles with the aim of fanning the flames of Protracted People’s War throughout the region and beyond, in conjunction with the Protracted People’s Wars in Peru, the Philippines, and Turkey. We resolve to combat and defeat revisionism – both parliamentary and armed – as the main danger to developing Protracted People’s War. We declare our principled unity and conscious determination to hoist the Red Flag of Marxism-Leninism-Maoism and Communism in its entire splendor on the silver summits of the Himalayas and throughout the region. We undertake this responsibility as our internationalist duty and contribution towards destroying the system of imperialism and achieving our final goal of Socialism and Communism by accomplishing the New Democratic Revolution through the path of Protracted People’s War.” “The Indian Expansionist State backed by world imperialism, particularly US imperialism, constitutes the common enemy of the people of SA. This provides a concrete political basis for building the unity of the South Asian revolutionary forces.”

Thus, the ÂJoint StatementÂ has clarified the basis for achieving the unity of the Maoist parties and organizations in SA:

1. Our unity will be based on the scientific ideology of our class, which is Marxism-Leninism-Maoism. The Great Proletarian Cultural Revolution is the pinnacle of this development, a path through which we march ahead.
2. Our common goal is to achieve Socialism and Communism on a world-scale by accomplishing the New Democratic Revolution and continuing the revolution under the dictatorship of the proletariat.
3. We are committed to opposing all shades of revisionism including armed revisionism and parliamentary cretinism.
4. We must propagate MLM widely, particularly in the subcontinent and also worldwide to counter revisionism in all its forms.
5. We must build solidarity with anti-imperialist struggles throughout the world.
6. We must build a strong anti-imperialist resistance movement particularly against US imperialism and Indian expansionism.
7. We must build a broad front with the ongoing armed struggles of various nationality movements in the subcontinent.
8. We must lend mutual assistance and exchange experiences and deepen bilateral and multilateral relations amongst Maoist forces in the subcontinent.
9. We must coordinate and consolidate the unity of Maoist parties and organizations in SA.
10. We must bring out journals and periodicals as instruments of ideological and political propaganda.

Hold high the red banner of Marxism-Leninism-Maoism!

Spread the flames of revolution from the high Himalayas to the seas! Develop South Asia as the storm center of world revolution and as a base area for marching towards world communism!

**Organizational Rules for the Functioning of CCOMPOSA**

**General**

The Coordination Committee of Maoist Parties and Organizations of South Asia (CCOMPOSA) is a body for coordinating the Maoist parties and organizations and their struggles and actions in South Asia. Each party or organization is independent to make its own decision and implement it into revolutionary practice. All the participating
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member organizations are equal. Therefore, any organizational method being applied in a particular party or organization cannot be applicable here. The Coordination Committee will function on the basis of consensus. The participating parties and organizations are those which are either waging or leading the people’s war or are making serious preparations in their own countries and most of them are known by the enemies. Therefore it will work on an underground basis and secrecy should be an essential part of its functioning. It is always necessary to remember the Maoist understanding that organizational principles and rules can never be substitute for ideological and political struggle and can never be relied upon as the principal means for resolving the problems.

1. **Conference:** The meeting of all the participating parties and organizations of CCOMPOSA will be called Conference. The Conference will be the highest body of CCOMPOSA. It will be held every year.

2. **Standing Committee (SC):** The Conference will elect a Standing Committee. The number of Standing Committee members will be decided by the Conference. There will be one Convenor in the committee who is to be elected by the Conference. The meeting of the Standing Committee will be held at least once every six months.

3. **Participating members:** The question of participating members will be decided by the Conference. It can also be decided by the Standing Committee, but the opinion of existing participating members should be taken and decided by a two-thirds majority.

4. **Criteria for membership:** (a) A member must uphold and practice Marxism-Leninism-Maoism. (b) A member must accept and adopt the Declaration of CCOMPOSA and abide by its organizational rules. (c) A member must be leading a people’s war in the respective country or must be making serious preparations for it without indefinitely postponing its initiation. (d) At least the central leadership of the member party should function from underground. It should aim to build the main framework of the party on an underground basis (if it is not already so). (e) A member must fight against all forms of revisionism even those that take the name of Mao. (f) In the light of splits in any existing member party/organization CCOMPOSA will not immediately give membership to any of the splinter groups/parties. The SC will investigate the genuineness of the groups and recommend for a decision by the Conference.

5. **Circulation and collection of opinion:** The SC will inform and make calls to all the participating members through circulars and letters. It will also invite suggestions and proposals from other participating members. If the SC feels it necessary to circulate the views of any participating member it can do so and also if any participating member requests for it.

6. **Specific circumstances:** If the Conference cannot be held due to specific circumstances in the scheduled duration, SC will inform all the participating members with reasons.

7. **Early meeting:** If any member organization demands early meeting of the Conference, SC will seek the votes from other participants. If a two-third majority agrees with the proposal, Conference will be called.

8. **Functioning:** Basically the organization will function on the basis of consensus specifically on all ideological and political matters. On technical and practi-
cal issues, if full unanimity is not there the respective parties/organizations can reserve their position.

9. **Financial Contribution:** Every participating organization will be obliged to make financial contribution as decided by the Conference or the SC.

10. **Maintaining Secrecy and Security:** Question of secrecy and security is an important question and it must be taken seriously. Basic norms for it will be chalked out and their violation will be considered as violation of discipline.

11. **Disciplinary actions:** Disciplinary actions ranging from warning criticism to expulsion may be resorted to against erring members which will have to be ratified by the Conference.

12. **Miscellaneous:** (a) In case of emergency or urgent questions, the SC will be authorized to take necessary decisions which will have to be ratified by the Conference. (b) These rules may be amended only by the Conference.
Chapter Six

Civil and Political Rights

“Injustice made anywhere is a challenge to justice everywhere.”
- Martin Luther King Jr.

“I never tell a lie, but they are already killed.”
- Krishna Prasad Bhattarai

The Constitution of the Kingdom of Nepal 1990 has imparted due honor to national sovereignty and integrity and dignity of an individual by incorporating the international human rights obligations in order to bring them into national law and practice. After the overthrow of 30-year-old Panchayat system, a new constitution was promulgated with the restoration of democracy through the process of traditional constitutional commission. The constitution has ensured for the civil and political rights which include: the right to life and personal security; the right to a fair trial; the rights of prisoners; the right to participation in political life; the right to freedom of peaceful assembly; the right to freedom of association; the right to liberty of movement; and the right to freedom of press and publication. Civil and political rights primarily denote freedom to all human beings from all kinds of restrictions in a free and genuine democratic state. Even in an emergency, certain fundamental rights cannot be suspended. No state party can derogate its international obligations to protect the right to life from involuntary disappearances, freedom from torture, freedom from arrest, and freedom of the press. Marx states: “If any part of freedom is restricted, freedom of the whole in general will be rejected” (www.marxists.org/archive/marx/works/1840/free-press/ch02.htm). In this chapter, I have tried to analyze the aspects of People’s War on extrajudicial killings; involuntary disappearances; torture and other cruel, inhumane or degrading treatment or punishment; arbitrary arrests and detentions; and freedom of press and its compliance in terms of national and international measurements.

6.1 Extrajudicial, summary or arbitrary executions

“Everyone has the right to life, liberty, and security of person.”
- Universal Declaration of Human Rights

“No one shall be arbitrarily deprived of his life.”
- International Covenant on Civil and Political Rights

The state authority has repeatedly committed unlawful killings in alleged encounters or armed confrontations when armed guerrillas, ordinary members, supporters, sympathizers of the CPN (Maoist), and even innocent civilians have been gunned down in armed battles. However, a great majority of people have been killed while walking on roads, working in farms, sleeping in houses and cowsheds, carrying food grains, grassing cattle, etc. Besides that, many Maoists and civilians
have been killed while being brought to police post, being transferred from one place to another, confessing the alleged charges, and so forth. Similarly, dozens of women were killed through torture and after gang rape even while in custody. The CPN (Maoist) is also responsible for revengeful killings of policemen as well as civilians on the charge of being surakis—especially the hardliner, corrupt, and feudal members of the mainstream political parties. The police source says that a total of 1,513 Nepali people have been executed by the end of December 2000. Of them, 263 civilians, and 251 police persons have been killed by the CPN (Maoist) and the rest 999 by the state security forces.

The Informal Sector Service Centre (INSEC) states that a total of 1,403 Nepali were killed in violent incidents since the initiation of the People’s War (see Table No.E.1 and E.2). Of this, 65 percent (913) were CPN (Maoist) supporters or sympathizers and other innocent civilians who were deliberately killed by the state security forces and 35 percent by the Maoists. The number of recorded killings varies from governmental to non-governmental reports. As state security forces always count the heads of the deceased bodies and INSEC records the details of the killings, we can see the variations. However, it is believed that the number of actual killings would be 25 percent more than what comes out publicly.
The frequency and intensity of extrajudicial and arbitrary executions suddenly multiplied (Table No. 6.1.1) except in 1997. In 1998, the number of killings increased by eight and half times more than in the previous year as the government mobilized the security force intensively under the *Sierra Kilo Two* operation in the mid-western Nepal. In response, the CPN (Maoist) also intensified their struggle after 1998. As a result, the number of killings proliferated many times.

In the beginning of the People’s War in 1996, the state had adopted an offensive strategy to crush the anchoring of Maoists. However, when the RPP-UML coalition government (March 12 to October 6, 1997) showed a liberal attitude towards the Maoists for seven months, the number of killings suddenly came down in 1997 compared to the previous year. But, when the coalition government (NC, RPP, and SP) led by Sher Bahadur Deuba launched an intensified security mobilization under the *Sierra Kilo Two* operation from May 26 to November 7, 1998, the number of killings heightened by 21 times in 1998 compared to that in 1997.

After the mobilization of intensive security force, the CPN (Maoist) adopted a defensive strategy, hiding in the jungle or getting fused with the common people in neighboring districts. In 1998, the Maoists were fighting a losing battle. When the
government was compelled to withdraw its security forces on November 7, 1998, after strong protests by human rights activists and civil society, the CPN (Maoist) moved ahead offensively and announced the setting up of temporary base areas, following the principles of Mao. The Maoists fiercely attacked enemy columns and gathered many weapons, arms and ammunition by confiscating them from the police posts or stations. The state security forces started to withdraw their police stations toward safer places and accumulated their scattered forces as they were losing the battle. A part of the state security forces, especially policemen and many hardliner political activists, local feudals and usurers who were very close to the government mechanism and were working as surakis, also left the countryside or rural areas and migrated toward safer places such as the district headquarters and urban centers including Kathmandu. With the involvement of greater number of frustrated and alienated unemployed youths, the People’s War spread like wildfire throughout the nation. And the Maoists appeared as winning the battles in the countryside. Consequently, the number of killings on the side of the Maoists suddenly intensified compared to that in the previous years.

At the start of the People’s War, the state security forces had adopted an offensive strategy, concentrating their activities especially in Rolpa and Rukum. But, they were confused about the strategy and tactics of the Maoists and did not know how to tackle the situation. On the other hand, the Maoists did not have adequate weapons nor enough people’s support. Still, they showed daring bravery to fight against armed and well equipped state security forces with local handmade weapons and high moral spirit for winning the battle. When the policemen killed six people in Rukum district on the 14th day of the initiation of the People’s War, the news of the incident gradually spread out and all the local masses suddenly stood against the state’s atrocities and brutalities (also see Annex-VI.I). How the people are extrajudicially killed by the state police can be understood by the following case study, taken from Ravi Nair’s Return of the Maoists · Midnight Knocks and Extrajudicial Killings in Nepal.

**Case 6.1.1: The First Massacre in Rukum**

On 25 February 1996, Mr. Narajeet Basnet, a primary school teacher and a resident of Pipal VDC-3 of Rukum district was allegedly attacked by an unidentified group wearing masks. He was attacked
with sticks and *kukris*. Eyewitnesses say that Mr Basnet was allegedly cut with *kukris* and thrown into the pond. The attackers were allegedly wearing black clothes, red headbands and carrying the SMJ flag.

After the attack, the incident was reported to the police by NC supporters on 26 February 1996. They reportedly alleged that Mr. Basnet was not allowed to go to hospital as he was *gheraoed* (surrounded) by about 300 Maoists. The Assistant Minister for Industry, Mr Gopalji Jung Shah who was at the time visiting Musikot, the headquarters of the Rukum district, and the NC supporters demanded police action to nab the culprits.

On 26 February 1996, a police team left for Pipal VDC-3. After reaching the village, local NC supporters allegedly informed the police that SJM supporters were staying at the house of one Mr Setu Jaisi. The police went to the house of Mr Jaisi in Ward No. 3 of Pipal VDC and asked him to identify Mr Basnet’s murderers. As Mr Jaisi was unable or unwilling to identify the murderers, he was publicly beaten by the police. Mr Jaisi was then taken to Lekh, in the Melgiri area to show the police his other house. The police were also accompanied by Mr Basnet’s nephews, Mr Tek Basnet and Mr Man Bahadur Basnet. The police reached Lekh at 5 am on 27 February 1996. There were 18 people in Mr Jaisi’s house including his family members and some SJM supporters. Mr Jaisi’s wife, Ms Shashi Jaisi was staying at Lekh to look after the buffaloes.

After reaching Mr Jaisi’s house, the police blew a whistle to give notice of their arrival. Upon hearing the warning, the youths tried to escape by opening the windows in the southern and western sides of the house. The police fired three shots at Mr Bhagiram Khatri-Chhetri (KC) and Mr Budhi KC. They jumped from the window and escaped.

The police inside the house started to panic. Around 18 policemen had gathered at the side. The police then entered the house. The police fired without any provocation and shot dead 24-year-old Mr Pashupati KC and 25-year-old Mr Nara Bahadur KC, both residents of Ward No. 6 of Pipal VDC and 25-year-old Mr Dal Bahadur KC, a resident of Ward No 3 of Pipal VDC.

After shooting the above three people, 25-year-old Mr Kal Bahadur KC of Pipal-6, 25-year-old Mr Man Bahadur KC of Pipal-3 and 15-year-old Mr Khadga Bahadur KC of Pipal-6, were dragged out into the veranda. They were severely beaten up by the police. While trying to escape, Khadga Bahadur KC was shot dead by the police. After a while, Mr Man Bahadur KC and Mr Kal Bahadur KC were also shot dead at the veranda. Around 500-600 NC supporters were present as bystanders at the time of the incident.

Out of 18 people staying in the house, six were shot dead and four had escaped. The remaining eight were taken to a nearby house. The men were separated from the women.

The police raped Ms Khal Kumari KC, who was only 14 years of age, 18-year-old Ms Thirtha KC and 17-year-old Ms Deosari KC. According to 45-year-old Ms Shashi Jaisini, all of them were ordered to strip. Since Shashi Jaisini had a one-year-old child with her, she was spared from rape after stripping. The others were repeatedly raped.

The dead bodies were sent for post-mortem but were not returned to the family. In addition, the relatives were not officially informed about the dead victims.

In the first year, the People’s War primarily focused on propaganda, sabotage, guerrilla attack, and annihilation. It basically targeted the state mechanism, local feudals, local capitalists, *surakis*, and American NGOs. At the outset, the Maoists had no strategy and tactics for annihilation, although they extrajudicially killed some policemen as well as some civilians suspected as *surakis*. They collected weapons by raiding the state security forces. Some weapons were confiscated from feudals and some from their sympathizers.

When NC-RPP-SP coalition was ousted through the vote of no-confidence, the RPP led coalition government of CPN (UML) was formed in March 1997. It
adopted a defensive strategy unlike the previous government. Showing liberal attitude towards the CPN (Maoist), the then Prime Minister Lokendra Bahadur Chand, for the first time, invited Maoists to a dialogue. To solve the ongoing problem of the People's War, a High Level Investigation Committee was formed under the chairmanship of Prem Singh Dhami. The report was submitted with recommendations. But, the coalition government was ousted on October 5, 1997. Neither the reports were published nor were recommendations ever implemented. However, in the seven-month period of the coalition government, only one Maoist was killed in Rukum by the state security force. Taking the advantage, the Maoists extended their People's War in many other districts (Annex-VI.II).

The number of killings surprisingly intensified in nearly one-third of all districts as the state security force adopted offensive strategy and launched the *Sierra Kilo Two* operation in 1998. The state security force killed 21 times more Nepali citizens in 1998 compared to that in 1997 (Annex-VI.III). Adopting the strategy of „search the Maoists, encircle them, and destroy them silently,” the state security force killed four and half times more than the executions carried by the CPN (Maoist). Out of that, 63 percent of Maoists and common people were done to death within six months of *Sierra Kilo Two*. Violent attacks were carried out even outside the core areas. Consequently, the Maoists intensified their counter-attacks wherever the attendance of the state power was weak, ensuring for their defensive strategy. During the killings and counter-killings, many people were displaced and compelled to migrate from their village to take shelter in urban areas as internal refugees. The *Sierra Kilo Two* operation was condemned both nationally and internationally.

Rather than solve the problem peacefully, human rights violations and abuses were on the rise in 1999. The government undertook *Peter One* operation under the direct command of Inspector General of Police (IGP) Achyut Krishna Kharel. Ministry of Home Affairs informally set up special awards to anyone who succeeded in eliminating a Maoist member of the politburo, central committee, regional committee, and also district or village level. *Peter One* did not merely focus on „search and kill silently,” the Maoists, but it also tried to conduct political warfare, ideological warfare, psychological warfare, and paper warfare simultaneously against the CPN (Maoist). Therefore, Prime Minister G. P. Koirala frequently used to stress to form a village security committee in each ward of VDCs to retaliate the Maoists. When the Maoists kill a policeman or a civilian, the government provides large sums of money to the victim's family as compensation. But, there is no facility or program for compensation if the victim is a Maoist, nor the alleged Maoists can have access to medicine in public or private hospitals on their own. If an alleged Maoist visits a hospital for treatment, s/he would either be arrested or guarded by the security forces in the hospital until his/her recovery. Sometimes, the security forces would transfer him/her to the departmental hospital for security reasons.

Despite such repressive policy, the CPN (Maoist) has developed a strong force for *guerrilla warfare* and has confiscated large quantities of weapons from their „enemies” such as security forces, *surakis*, usurers, moneylenders, and feudals. Out of 469 killings in 1999, 43 percent were policemen and civilians who were...
killed by the Maoists (Annex-VI.IV). Indeed, the CPN (Maoist) has emerged as a very strong political power in Nepal on both the politico-ideology level and armed fronts in 1999. As the Maoists were boycotting the elections since 1994, they amounted to a great threat to the common voters as well as the candidates of all political parties in the third general election 1999. During the election campaign, they not only threatened the parliamentary candidates, but also killed one of them in their most affected district Rukum.

Case 6.1.2: MP candidate Yadu Gautam killed

The CPN (UML) candidate of Rukum constituency number 2 and district committee secretary of the party, Yadu Gautam, had gone on an election campaign at Garayala VDC with a dozen of party workers to participate in the forthcoming election on May 3, 1999. When Yadu, also a former member of the CPN (Maoist), reached Sarbachour of Garayala VDC situated on the bank of Bheri river near the district border of Jajarkot at 7.30 AM on March 5, 1999, a group of Maoist guerrillas asked him, "Is your name Yadu Gautam?" three times. As soon as Yadu answered them "Yes," they suddenly attacked him by khukuri. Fearing possible victimization themselves by the Maoist guerrillas, Yadu's friends fled the scene immediately. Yadu jumped down very quickly and ran towards Bheri river. However, they followed him. After running about 2 km, Yadu slipped down due to his sandals. Yadu, a lawyer of Rukum, was then hacked to death by khukuri. Two days earlier, while visiting his constituency, he had received threatenings even in open mass meeting to instantly leave the place and not to participate in the election campaign, as the Maoists had called for its boycott. Furthermore, he was also kidnapped on three previous occasions when he had joined the UML, a couple of years earlier, disagreeing with the Maoists. Each time, his former comrades freed him after trying to convince him to rejoin the Maoist party.

The pro-Maoist weekly newspaper Mahima reported that a retaliation committee was formed under his leadership in Rukum against the Maoists and had been creating terror in the areas (December 19, 1998). Another weekly paper stated, "The reactionary and neo-reactionary forces have begun to oppose the People's War openly by forming retaliation force in several districts including Rukum% (Jana-Ahwan:December 25, 1998). In response and condemning the Maoists, the UML stated that he was an honest district leader and did not associate with any such retaliation force. It is reported that Yadu had submitted a report at the central office of the UML while holding the office of the CPN (Maoist) in Rukum district.

While the Maoist People's War leaped qualitatively and quantitatively and started an offensive strategy to confiscate modern weapons by destroying the police stations, the state removed hundreds of police posts from the countryside and accumulated its scattered forces together, specially at the district police headquarters. Therefore, the number of killings dropped to 152 in 2000 from 328 in 1999. On retaliation, the CPN (Maoist) alone was responsible for 56 percent of the total number of killings in 2000 and security forces were the prime target (Annex-VI.V). During 2000, many civilians were also killed. Such arbitrary and extrajudicial killings of unarmed civilians were widely condemned by the human rights activists in land as well as outside. In response to the intensification of extrajudicial killings, UN Special Rapporteur Asma Jahangir submitted a report to the Commission on Human Rights Resolution 2000/31 (E/CN.4/2001/9/Add.1). It states:
In March 2000 the bodies of Sita Pun, Sirjana Pun, Bal Bhadra Thapa, and Ram Bahadur Karki Chhetri were recovered from an abandoned police station at Simrutu, Rukum district. Sita Pun, 13 years old, and Sirjana Pun, 16 years old, were arrested on 3 January 2000. It is reported that Bal Bhadra Thapa and Ram Bahadur Karki Chhetri were allegedly taken into custody at the police station on 1 February 2000 and on 27 January 2000 respectively. All of them reportedly died in custody as a result of torture or deliberate killing.

The People’s War was spreading all over the country; the killings had occurred in about two-third districts of Nepal by the end of 2000 (Annex-VI.VI). Out of 1403, 71.1 percent were killed in 17 districts of the mid-western region and 14.3 percent in 14 districts of the central region. The People’s War was gradually encircling the urban areas by forming the People’s Governments at the epicenters of the Maoists’ parallel-authorized local governments in districts and villages.

A total of 35 innocent children, aged below 14 years, have been killed (Table No. 6.1.4). Of them, 60 percent were killed by the state in fake encounters deliberately and the remaining 40 percent in bomb explosions by the Maoists. A total of 23 children were killed in three districts: Rolpa, Rukum and Jajarkot. The minor innocent children who neither support nor refute the state nor the Maoists are living with great mental shock and risk. It is reported that six students were wounded when a socket bomb blasted at Khalanga VDC-9, district headquarters in Pyuthan, abandoned by the Maoists (Nepal Television News:April 9, 2001).

Nineteen people comprising five children, one woman, one man, and 12 policemen were killed by the Maoists when they attacked on the striking police force at Panchakatia of Dhime VDC in Jajarkot district on June 8, 2000 injuring 36
policemen. All children were having meals inside the house when the Maoists exploded the bomb, suspecting that a few policemen were taking shelter in there. Out of five, four children including one girl child mutilated were from a single family. This was the first ever incident in which so many children were killed.

When the headmaster of Surya Jyoti Secondary School, Bir Bahadur Gurung, was arrested on the charge of setting fire the office of Save the Children US in Gorkha, the students protested against it. When the police opened fire at Pandung VDC-3, a bullet seriously injured one 11-year-old Dil Bahadur Ramtel studying at Brahmacarini Lower School in Class 4 on February 26, 1996. He died while he was being brought to Kathmandu for treatment. However, the government publicly broadcasted that he was killed in an armed confrontation. The Maoists announced him as the first martyr of the great process of the People's War (Prachanda:1998:41).

On September 4, 1999 the Maoists themselves killed 9 of their own fellow comrades such as Prasanta, Birat (Sindhuli), Sandesh, Salyan, Archil and others, when they had reached Chhiwang VDC, Rukum district in police uniform without any weapons to train the District Guerrilla Command, Rukum district. According to the Kantipur dated March 4, 2000, they were killed when they had received a different signal. However, after a long debate, the Maoists decided not to publicly announce the killings fearing that the incident would have bad impact among the party members and others. The slain Maoists were coming from the Mid-Regional Bureau, Platoon no. 2. It is not known whether the families or relatives of the deceased were informed.

Likewise, half a dozen of their own comrades including Ramesh Dhungel were killed by the order of the Eastern Regional Bureau Chief Yan Prasad Gautam (Comrade Alok) in 1999. Ignoring the order of senior leaders, the former Regional Bureau Member I.P. Kharel said, „The Maoist party committee does not rule by system, but operates through dictatorship‰ (Mulyankan:Year17:No.73:15). Puspa Gautam who left the Maoists disagreeing with the action of the leadership stated, „While the Maoists raid and seize five to ten rifles by destroying police post, they make great propaganda, but the loss of three or four members of their own party is given less priority (Mulyankan:Year17:No.73:13). In an informal conversation, a guerrilla remembering Ramesh Dhungel states that the leadership was very much happy with him as the party had given him a job of survey to raid Khimpti Bank which was successfully carried out but the Maoists deserted him accusing that he was corrupt and exploiter. If such exercise of killing the opponents does not stop, the Maoists will heavily lose ideologically, politically, physically, and in armed fronts as well. However, the central committee of CPN (Maoist) has taken action against politburo member Yan Prasad Gautam denouncing him for his „Alok attitude‰ and has sent him to the shram shibir (labor camp) and directed him to publicly apologize. Once Marx said: „if someone is ready to change his or her attitude (abandoning the past evils and falsehood) through public apology, he or she should no longer be punished.‰

Table no. 6.1.5 shows that Prime Minister Girija Prasad Koirala has alone governed Nepal for more than half the period of 11 years (see Table No. E.6). A large number of people were killed during his premiership within six and half
years of the People’s War. Girija Prasad Koirala had launched *Sierra Kilo Two* and *Peter One* operations against the CPN (Maoist). Since the beginning of restoration of democracy, he has been very hard hitting on the communists. While speaking in the first historic mass meeting on April 9, 1990 in the open theater, Kathmandu, he was compelled to stop by the crowd within two minutes of his historic speech. He had then publicly said, “Male, Mandale ra Mashale Ak Hun” [the CPN (UML), ex-panchas, the CPN (Mashal), and the CPN (Masal) are all the same]. Another NC leader Krishna Prasad Bhattarai has secured his name as the prime minister under whom the second highest number of killings were carried out compared to any other prime minister (Fig. 6.1.3). In the seven months’ period of RPP-UML coalition, only one person was killed when Deputy Prime Minister Bam Dev Gautam of the CPN (UML) was looking after the Ministry of Home. Indeed, the CPN (UML) has adopted the principle of *bhai-bhai* (communists are brothers) with the CPN (Maoist).

During the State of Emergency period under Sher Bahadur...
Deuba, large sections of innocent poor villagers were killed by the RNA. No one felt secured during his regime. The following case study would be useful to show how the RNA in the countryside had victimized the ordinary citizens (Baldauf, Scott: August 5, 2002: www.csmonitor.com). However, this incident was neither the first nor the last one.

**Case 6.1.3: When Maoists hunt, villagers are hardest hit**

The Royal Army arrived at Thulo Sirubari on July 31, 2002 before dawn at 4 AM. They were dressed as Maoists, complete with the Velcro red stars attached to their camouflage caps, and they greeted villagers with a pumped fist, called *lal salaam* (red salute).

“They said, *lal salaam, comrade,* but I knew they were Army, so I didn’t respond, otherwise I knew I would be dead,” says Guruprasad Chaulagai, a young farmer. The Maoists usually wear their weapons openly, Mr. Chaulagai says, but these soldiers had their weapons under their Maoist-style camouflage uniforms.

Chiring Tamang, a farmer from a neighboring village, wasn’t as observant. He returned *lal salaam* and was promptly arrested. An hour later, he was marched about 10 minutes away to a pine knoll for interrogation along with Shiva Hari Gautam, Ganesh Gautam, Jhalal Dulal, Tika Dutta Dulal, and Bhakta Lal Dulal. At 9 AM, the villagers heard shots ring out. The bodies of six captives were later found in the woods where they had been killed.

The spokesman for the joint force of 70 soldiers and policemen said that six people were shot dead while trying to escape. The troops recovered a cache of weapons and crude pipe bombs from the suspects’ homes. But villagers of Thulo Sirubari (which means “big pasture” in Nepali) say Chiring Tamang and the others shot were just farmers, shopkeepers, and family men with no interest in either the Maoists or the government.

According to some villagers, the army and police personnel returned to the village after the shooting and forced village elders to sign a document that they were killed in an encounter. One villager, who refuses to give his name, says he signed the form. “They had made a document saying that they were killed in an encounter, and they asked me to sign it,” says the middle-aged farmer. “I didn’t have any alternative.” Security forces said, “We have a list, and we kill those people who are on the list.”

The dead bodies of those killed in the alleged encounters are usually cremated on the spot by the security forces, burning the face of victim in such a way that the victim may not be identified. Under legal provisions, bodies of the victims killed under such suspicious circumstances are required to be brought to the nearest hospital for post-mortem examination. It is also required to hand over
such bodies to their families or relatives for funeral ceremony. However, 90 percent of such dead bodies are cremated within less than an hour of the incident without following any ritual. The CDO has the authority to protect the right to life and public property under the Public Security Act, not to kill a citizen, not even in public emergency.

In an informal talk an inhabitant of Jankot VDC of Rolpa said: „Our main problem is that we can’t distinguish between the police and the Maoists, as both wear similar uniforms%. Still, the villagers can identify them from their treatment with people. He further said: „If they are security forces, they treat in an indisciplinary manner and appear as a group. But on the contrary, the Maoists follow discipline strictly and divide themselves among villagers% homes and mingle with them as their own sons and daughters%. From the study it has come to be known that generally the locals are ready to share with the Maoists whatever they have, but not with the security forces. The marginal people feel more secure with the Maoists, and they are familiar with the Maoists% merits and demerits and are willing to help them in all kinds of difficult circumstances in the countryside.

The security forces do not go on offensive against their so-called enemy „Maoists, but sometimes they also victimize their own friends, seniors, and subordinates. On June 19, 1998, the police at Barayani of Chhoprak VDC-5, Gorkha district killed two policemen, while they were patrolling. An Assistant Sub-Inspector died on the spot and a head constable died on the way while being brought to Kathmandu for treatment. DSP of District Police Office, Pyuthan had arrested two students suspecting them as Maoists in January 1999 and he was very much pressurized to kill them. As he refused to kill them without completing the investigation, he was reportedly taken into police custody for departmental inquiry and action. Eleven police inspectors were dismissed from their jobs between June to July 2000 as they refused to go back to the Maoist-affected districts. Sixteen policemen, including the police inspector serving in Dhading district, were kept in custody for surrendering their weapons to the Maoists (Radio Nepal: April 5, 2001). When the funeral ceremony of the police inspector Bhruba Prasad Dulal was proceeding at Pashupati Aryaghat on April 7, 2001, the police officials shouted slogans against the Prime Minister, Home Minister, and Inspector General of Police. Opposing the decision of His Majesty’s Government, the police refused the flight of helicopter to take back the dead bodies of policemen from the Naumoole, Dailekh (Punarjagaran: April 10, 2001) where 32 policemen were killed in an encounter with the Maoists on April 6, 2001. These are a few examples of security forces against themselves. Moreover, even surakis of the government in the countryside are not secure. As a result, the security forces have been weak in the Maoist affected areas.

A 20-year-old student Rabi K.C. of Magma VDC-6, Rukum district had returned home in connection to party’s work. A relative named Maniram Khatri informed the police of Baphikot on July 13, 1996, but Rabi managed to escape. Just when he had traveled about 1 km, the police shot him dead in the back. When Maniram did not go to receive the deceased body, a policeman publicly shouted, „sale Maniram insisted to kill the Maoist, but did not come to receive the dead
In retaliation, black masked people killed 35-year-old Maniram of Magma VDC-1, while he had gone to buy a cigarette in front of his house at the corner of Lower Secondary School, in mid-day on August 6, 1996 labeling him as an inform-ant and cheat against the poor villagers. These are a few examples only.

The security forces are divided into two classes: oppressors and oppressed. Oppressed forces have neither a backing of near and dear ones nor money to please their superiors to get promotion in time. Therefore, they are usually sent to the Maoist affected areas. While oppressors have good links with power, politics and property, and they always can manage to get transferred to customs points or comfortable places where they can earn huge sums of money through bribe, commission, corruption, and smuggling without taking any risk. All the police persons who have been working in the Maoist sensitive districts express their dissatisfaction with the discriminatory handling of seniors against the spirit of Police Service Act. By February 2002, it was reported that many dozens of police personnel had tendered their resignations and left their jobs. Hundreds of police persons deserted their jobs on their own by expressing their disagreement with seniors and fearing possible action from the Maoists. If discrimination and disparity are not controlled in time, there is a high possibility of an armed revolt within police forces which would prove very costly to the entire nation.

Besides, there is no cooperation and friendship among the security forces, for instance, between soldiers and policemen. The following incident of enmity is not just one example, nor the last. It is taken from the Kathmandu Post of May 25, 2004. If such incident can happen in broad daylight in a public place in the capital of Nepal, what would be happening to the commoners in rural areas where most of the people have allegedly been killed?

Case 6.1.4: Bizarre shooting at TIA gate leaves three injured

On mid-day May 24, 2004, two policemen, Som Bahadur Bhujel (head constable) and Jaya Singh Samant (constable), the bodyguard and the driver respectively for the Senior Superintendent of Police (SSP) Man Bahadur Rawal, along with Ganesh Koirala were injured as soldiers deployed at the main gate of the Tribhuvan International Airport (TIA) opened fire. SSP Rawal was there for his trip to Sri Lanka.

When they were returning on the vehicle with red number plate, Ba. 2 Cha 3692 from the airport after delivering the luggage of Rawal, one of the soldiers stopped them. Bhujel said, “He asked me why I was trying to act smart earlier and said he would teach me a lesson for it.” The soldiers opened fire when Samant was trying to park the vehicle and he was injured by a bullet on his back and his arm. Bhujel was injured in the head by splinters of the window glass of the vehicle. Bhujel said, “Earlier during the entry into the airport we had produced our identity, vehicle description and even declared the possession of arms with us.” He further said, “If the army can shoot at us even after knowing that we are policemen, what about the commoners?”

When a security force person is killed in an encounter, his family receives a very handsome remuneration from the government in the form of compensation, but the family of victim gets nothing if the security forces kill a common individual, a suspected Maoist or a Maoist cadre. If a policeman gets wounded, he
receives medical service immediately, but when a suspicious Maoist is injured, s/he hardly gets any treatment. Medical services at public hospitals and nursing homes in cities like Kathmandu and peripheral border areas of Nepal with India are unavailable to the Maoists due to police intervention, which is against the principle of human rights and humanitarian law. For example, even while two suspected Maoists, Srijana Phuyal and Ranjan KC, were undergoing treatment in Miteri Hospital in Kathmandu, the police intervened despite the protest of hospital management and human rights activists. It was suspected that they were injured during the clash between Maoists and police forces at Jarayotar VDC, Sindhuli on August 23, 2000. Against such police intervention and attendance, a writ petition was filed at the Appellate Court. The Judge finally denounced the intervention of police without the permission of hospital authority. The Court verdict directed the police not to obstruct the treatment of patients. Ignoring the court order, the policemen had been guarding the hospital at Miteri for a year until the government freed them on September 1, 2001.

Jeopardizing the peace process for the first time, the government stuck price tags on the heads of the Maoists on April 24, 2002. These price tags came at the most inappropriate time when there was a growing pressure on the government and the Maoists to peacefully resolve the problem. The government had announced Rs. 500,000 (US $6,666.70) reward for each of the top Maoist leaders, such as Puspa Kamal Dahal (Prachanda), Mohan Baidhya (Kiran), Dr. Baburam Bhattarai, and Ram Bahadur Thapa (Badal). A reward of Rs. 300,000 (US $4,000) was announced for Post Bahadur Bogati, Nanda Kishor Pun, Krishna Bahadur Mahara, CP Gajurel, and others of similar rank. For other central committee, regional and district members tags of Rs. 200,000 (US $2,666.70), Rs. 100,000 (US $1,333.40) and Rs. 50,000 (US $666.70) per person were fixed respectively. Similarly, any individual who provided the information leading to their arrest would get half of the specified amount.

Denouncing the government's "head hunting policy," the members of Foreign Relations and Human Rights Committee (FRHRC) of the Parliament stated that sticking price tags on the heads of rebels have come at the most inappropriate time when there was a growing pressure over the government both from inside and outside the country to seek for a peaceful resolution of the problem. The former foreign minister and senior NC leader Chakra Prasad Bastola stated that whether or not the government is getting pressure from international communities, NC would support holding peace talks with the Maoists, not for chopping their heads. The FRHRC expressed apprehension that in the guise of helping Nepal to curb terrorism, the international forces might turn the kingdom into a playground (Kathmandu Post: April 29, 2002). Similarly, all the political parties including a section of NC, civil society, National Human Rights Commission and other human rights organizations accused the hefty rewards for capturing Maoist leaders dead or alive.

Many civilians have been killed while working in farms, walking along the road, carrying food grains or sleeping in houses and cowsheds. Similarly, the teachers while teaching and the students while studying in schools have extrajudi-
cially been killed by the state. Many civilians, arrested arbitrarily, have been shot dead in the name of armed confrontation while being transferred from one place to another. The cold blooded killings of suspicious people while in custody and in the process of extorting confessions have been reported as casualties during the exchange of fire or attempted raid on police posts. The study (1996-2000) reveals that only 25 percent of the suspected Maoists have been killed in a real encounter or an armed confrontation. In an interview to the Kathmandu based newspaper, immediately after being elected MP from the Maoist affected Salyan district, Netralal Shrestha of RPP said: „I speak truly, the police kill innocent people‰” (Jana-Ahwan:July 30, 1999). I agree with Chitra Krishna Tiwari that the police have killed more innocent civilians in fake encounters than the Maoist guerrillas (Tiwari:January 20, 2001:no.187).

The Maoists are also responsible for deliberate killings of security forces, including civilians, in the name of saphaya, the cleansing campaign against alleged surakis (informers), pratikriyabadis (reactionaries), and bargiasatru (class enemies). After the announcement of ceasefire on July 23, 2001, Maoists seem to have increased their offensive against anti-Maoist campaigners (vigilante groups), especially the UML activists and have denounced Madhav Kumar Nepal as the second Rayamajhi. Indeed, there is no consistency in Nepal’s statements and he frequently changes his opinions like the changeable skin color of chheparo (lizard). Nepal sometimes calls the Maoists as brothers and sometimes labels them as „terrorists,”% and also orders his activists to fight against them. However, the Maoists often seem more honest and consistent than the rest. They readily accept their responsibility for their offensive incidents and often apologize when non-targeted civilians including children and women are killed.

But one incident of killing, in particular, shocked the people when it came out recently. A 27-year-old primary teacher Tika Ram Nepali, an inhabitant of Liwang VDC-5 in Rolpa district, was taken into Maoist custody on the charge of being an informer for the state security forces. The Maoists executed him on March 27, 2002 after interrogating him twice. He was, however, allowed to write a letter to his family when the Maoists granted him a bit of consolation for his last wish. After his execution, the letter was passed to his family. This case study is taken from the story published in the Kathmandu Post of June 15, 2002 which was written by Arjun Bhandari.

Case 6.1.5: Maoist victim’s last will addressed to his parents and wife

My thoughts right now lie with my dearest parents, sister Durga, youngest brother Shravan, wife Meena and my only little son, Jayandra, who are my blood relations. All of you, including my son who does not understand the whole incident, read this last letter with care. I am not able to say much as my time is uncertain. As long as I am writing this letter, I am still alive. I had expected the investigation and interrogation would keep going for a while. I have been interrogated twice till now. I had also expected that I would return home, be released from all allegations. But my hopes are dying down and I am not going to live. I had pleaded my innocence before them but it was all in vain.

Nevertheless, had I returned home alive I would have solved our family problems. I think our family members act as individuals, but you should not do so. I advise you all to make decisions
collectively and preserve our family image. Once again, please listen to me. Do not make a mountain out of a molehill. It is customary that daughters-in-law and mothers-in-law quarrel in a family. But you have to be skillful in settling family differences fairly. Oh my parents, sister and brother! Although you do not speak to my wife, Meena, I hope you will not treat her unjustly as an outsider, or as an unwanted family member. Please do not discriminate against her because she cannot read well and is innocent.

And my dearest beloved Meena! My wish is for you to maintain your widowhood. My hope is that you will be polite to the family and obey your father-in-law and mother-in-law’s orders. You will be taking care of my father and mother as long as they are alive.

To my brother Shravan, I especially request you to take care of my widow and my son even after our parents pass away. I seek my youngest sister, Durga’s, forgiveness for the time when I scolded her as a small child. I had no bad intentions at all. I wanted to help all of you for as long as I lived, but I am going to be gone soon.

I am particularly worried about my son. Please consider his future. He will face many troubles without education. I intended to give him a good education. Hopefully my brother can help him receive education. My dearest son Jayandra! Never lose your courage just because you are fatherless. I also hope for my brother, Shravan, to financially help my son if required.

My last memory is for my relatives and friends. I want my wife to preserve my academic certificates so that you can recall those bygone days spent with me.

Lastly, I say farewell to all of you. My life will come to an end after I finish this letter. I am going to be killed despite the fact that I am totally innocent. I have also given details about the debts I owe to my relatives and friends. Please do according to my wishes as to how payments are to be made.

In the skirmishes when Maoists get wounded or killed, they often carry the bodies in tractors, baskets, or on bamboo poles, tractors, and bury them in ditches which are dug up before carrying an armed attack on security forces. In an armed battle in Satbariya, Dang district, 47 armed police persons were killed. The Maoists also faced heavy casualties. Later the police stated that they managed to recover some 200 bodies from the ditches of surrounding areas of Satbariya. Security forces repeatedly stated that some of the faces of the bodies were allegedly burnt in order to make them unfit for identification. Eyewitnesses about 23 km west of Satbariya said that they saw the rebels carrying two tractors loaded fully with bodies towards the jungle. Later, it was reported that the armed Maoists had used a large number of innocent civilians as human shields. Some women turned up at Satbariya in search of their husbands and relatives when they did not return homes even after four days (Kathmandu Post:April 15, 2002). Several human rights activists including the members of National Human Rights Commission, who had later inspected the areas, did not confirm whether human shields had been used or some faces had been burnt. Human rights activist Ghan (pseudonym) of Rolpa stated that they never saw the burnt faces of dead bodies. But they had found dead bodies of some porters shot dead by the security forces whose luggage they were carrying (Personal conversation: January 23, 2003). They also urged to further investigate the incident whether such large numbers of alleged Maoists were killed in real confrontation or not. From the past, it has been proved that the state often announces false statements to expose the Maoists before the mainstream people.

In some of the incidents, where large numbers of Maoists were killed, the
concerned authorities often cremated the dead bodies. Security forces usually bury the dead bodies in shallow ditches without any legal procedures, for instance, post-mortem. However, in regard to the uncared for dead bodies of Satbariya, a member of NHRC Shushil Pyakurel said, "We have already written to all the security authorities and also to the Banke CDO to make immediate arrangements about the disposal of the corpses and inform the Commission within 24 hours." About 220 Maoists were killed during an armed struggle with the security forces at the end of May 2002 in Duduwa river of Fimdi VDC just about 5 km away from Nepalgunj market area where four corpses were lying without cremation for a long time (Kathmandu Post:June 19, 2002).

Except the officials of NHRC, human rights activists as well as journalists often get an opportunity to see what is happening in the countryside. Therefore, none of the human rights activists can carry out an in-depth study for any casualty due to the restrictions imposed by the security forces on one hand and the Maoists on the other.

After the end of the world wars and with the beginning of the process of polarization and decolonization, the international community laid down the foundations for promotion and protection of human rights by introducing various human rights declarations, conventions, and treaties through the General Assembly of the United Nations. The safeguards of human rights recognize the inherent dignity and equal and inalienable rights of all members of human society. The promotion and protection of the right to life have been ensured in several international human rights instruments such as Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Laws of War, etc. Article 3 of the UDHR states that every man has a right to life, liberty and security. Similarly, Article 6 of the ICCPR ensures an inherent right to life of every human being. This shall be protected by law. No one shall be arbitrarily deprived of his life. Having an inherent right to life, liberty, and personal security, the General Comment No. 6 adopted by the Human Rights Committee states:

(1) The right to life enunciated in Article 6 of the Covenant has been dealt with in all State reports. It is the supreme right from which no derogation is permitted even in time of public emergency, which threatens the life of the nation (Art. 4). However, the Committee has noted that quite often the information given concerning Article 6 was limited to only one or other aspect of this right. It is a right which should not be interpreted narrowly. (2) The Committee observes that war and other acts of mass violence continue to be a scourge of humanity and take the lives of thousands of innocent human beings every year.... The Committee considers that the States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life. Every effort they make should avert the danger of war, especially thermonuclear war and to strengthen international peace and security would constitute the most important condition and guarantee for the safeguarding of the right to life. (3) The protection against arbitrary deprivation of life which is explicitly required by the third sentence of Article 6(1) is of paramount importance. The Committee considers that the State Parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such states:
"Everyone has the right to liberty and security of person," is stated in Article 9(1) of the ICCPR. Similarly, the General Comment No. 9 adopted by the Human Rights Committee in Sixteenth Session in 1982 reads:

Article 9, which deals with the right to liberty and security of persons, has often been somewhat narrowly understood in reports by State Parties. They have, therefore, given incomplete information. The Committee points out that Paragraph 1 is applicable to all deprivation of liberty, whether in criminal cases or in other cases such as, for example, mental illness, vagrancy, drug addiction, educational purposes, immigration control....

Article 14(1) of the ICCPR states that all persons should be equal before the courts and tribunals. Article 3 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1949 stresses that in case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth, health, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person in particular murder of all kinds, mutilation, cruel treatment, and torture; (b) taking of hostages; (c) harms upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

The high contracting parties may request Red Cross for social service in wartime. The underlying principles of convention states that both combatants, non-combatants, and followers are to be considered humanely and protected against violence and fierceness.

Ensuring the international human rights obligations, the Constitution of the Kingdom of Nepal 1990 has incorporated many fundamental rights through Articles 11 to 23. Article 11 (1) of the Constitution states, "All citizens shall be equal before and under law. No person shall be denied equal protection of the laws." Similarly, Article 12 (1) ensures that no person shall be deprived of his/her personal liberties save in accordance with law and no law shall be made which provides for capital punishment. Even though, there have been blatant violations of Nepal’s obligations against both the national and international laws.

6.2 Enforced and Involuntary Disappearances

Some men arrive. They force their way into a family’s home, rich or poor, house, hovel or hut, in a city or in a village, anywhere. They come at any time of the day or night, usually in plain clothes, sometimes in uniform, always carrying weapons. Giving no reasons, producing no arrest warrant, frequently without saying...
who they are nor whose authority they are acting upon, they drop off one or more members of the family towards a car, using violence in the process, if necessary (Disappeared! Technique of Terror:1980).

For a longtime, unacknowledged detentions, disappearances, and abductions have emerged, especially after the intensified security mobilization in *Sierra Kilo Two* operation and it is on the rise. Within three years (1998-2000), 338 people are reported to have disappeared by both sides. But, the number of disappearances does not include all and the Maoists requested Prime Minister Sher Bahadur Deuba to disclose the whereabouts of 374 detainees in the first phase of dialogue after the announcement of ceasefire on July 23, 2001. In response, the government publicized only 270 names of detainees. Both sides agreed to mutually exchange the prisoners. The process of exchange of prisoners is welcome, but where are the remaining detainees? Moreover, where are the non-recorded civilians and Maoists who disappeared in different places and times? Where are the people who had been involuntarily abducted by the Maoists?

The involuntary disappearances were carried out for the first time in 1998 by the state. And the state authorities allegedly arrested eight people suspecting them as Maoists. Such disappearances have significantly intensified each year (Fig. 6.2.1). In retaliation, the Maoists also started to abduct civilians charging them as...
surakis. Compared to a total of 73 disappearances by the state, the Maoists abducted only six in 1999. The number of abductions has suddenly increased by 34 times more in 2000 (Fig. 6.2.3) by the Maoists compared to that in 1999. After 1999, while the Maoists appeared on a strategic stalemate, the state lowered down its activities in the countryside and concentrated its forces in urban areas to protect the elite class citizens such as feudals, politicians, bureaucrats, usurers and so forth.

There was no report of disappearances in 1996 and 1997. But in the epicenters of the Maoists such as Rolpa, Rukum, Salyan, Jajarkot, Gorkha, Kavre, Sindhuli, Ramechhap, and Udayapur, civilians as well as Maoists were informally disappeared.

Table no 6.2.2 shows that June is the precious time for offensive strategy and green belt, because of the good weather. It is reported that only 42, including 10 women, were released by the state, even though the Maoists released 95, in-
cluding four women by the end of 2000. The data shows that the Maoists look more liberal than the state authority which might be the reason the Maoists frequently appeal to the state authority to follow the rules of the Geneva Convention Relative to the Protection of Civilian Prisons in the Time of War 1949. But in recent days, the number of disappearances by either side continues to rise. The Maoists accept their responsibilities for the offensives conducted by them, unlike the state authority. On the other hand, even according to the international human rights organization, the state sends false news to hide their brutalities and detentions. For instance, we can take the case of pharmacist Bhanu (Personal conversation:February 5, 1998):

**Case 6.2.1: How was Bhanu released?**

A 35-year-old pharmacist and former chairperson of All Nepal Independent Students' Association (Revolutionary) Bhanu Sharma was arrested from his pharmacy in Lamahi, Dang district on November 30, 1998 at 10 PM on the pretext of taking some medicines. When Amnesty International asked for the whereabouts of Bhanu, the concerned authority replied, “He was not arrested by the police,” and further claimed that he had gone underground voluntarily. On the contrary, he was taken to Kathmandu in police uniform on January 5, 1999. Before releasing him, the CDO of Kathmandu proposed him to organize a press conference to publicly announce that he had been arrested by the Maoist guerrillas. Moreover, he was pressurized to sign a statement in favor of NC before his release. Notwithstanding that, he was finally released on February 7, 1999 when a writ petition of *habeas corpus* was filed in the Supreme Court by one of his family members.

On September 22, 1999 at 9 PM, Maoist guerrillas attacked the Area Police Station of Mahat VDC at Rukum, where seven cops were killed including a Nepali Congress activist taking refuge at the station and a dozen others were injured. The guerrillas reported that a fierce battle had been held for three hours, before Deputy Superintendent of Police (DSP) Thule Rai and other police personnel were taken into their custody. All the police personnel were later released except DSP Rai.

When the father of DSP Thule Rai, his relatives, and human rights activists demanded to release him according to the Geneva Convention, he was released and he was back home safe and sound on his own in Kathmandu on December 232

**Source:** INSEC
19, 1999. Immediately after his release, In-charge of the Western Regional Military Commission Diwakar had declared that Thule Rai was liberated by the Maoists on Sunday night respecting the Geneva Convention 1949. On December 23, 1999, the weekly Mahima published how he was freed from the Maoist captivity. The full text of unofficial translation has been given below:

Case 6.2.2: How was Thule Rai freed from the Maoist detention?

The CPN (Maoist) has been launching a long-term protracted People’s War for the last four years in order to establish a new people’s government. In the course of People’s War, the CPN (Maoist) guerrillas attacked the temporary police station of Mahat VDC, Rukum District on September 21, 1999. During the incident, some policemen, including the DSP, were arrested. Except DSP Thule Rai, all of them were released some days later. The guerrillas of CPN (Maoist) had given shelter to Thule Rai respecting the Geneva Convention 1949. It is known to all that CPN (Maoist) General Secretary Comrade Prachanda was requested by all the human rights activists, legal experts, journalists, Red-Cross, and other institutions to make necessary attempt to release him. But, no significant attempt was made. We want to make it public that Thule Rai was freed in the presence of his relatives and the representatives of the CPN (Maoist) and the People’s Liberation Army.

We appeal to all human rights defenders, journalists, intellectuals, and agencies to publicize this release respecting the laws of the Prisoners of War that have been ensured by the Geneva Convention. Similarly, we wish the government also will comply with the laws of Prisoners of War.

On January 8, 1999, a lawyer and human rights defender Rajendra Dhakal had involuntarily disappeared while two teachers Prem Bahadur Thapa and Naina Dutta Adhikari were also arrested along with him from Jamdi of Khairenitar VDC, Tanahu district. They were taken into Bel Chautara Area Police Station. Both the teachers were released two days later, but Dhakal could not be found anywhere. He is now featured in the list of disappeared of Amnesty International. His younger brother Rabindra and other family members filed a habeas corpus petition in the Supreme Court on January 26, 1999 demanding to release him. The Supreme Court issued a written order to the police to bring him before the court within 7 days. But, the Gorkha District Police replied that Rajendra had not been arrested by them at all. Since then, he is disappeared. Similarly, many people such as Gore Bahadur Purkoti (Sindhupalchowk), Milan Nepali (Kathmandu), Pasang Lama (Kavrepalchowk), Dundu Tiwari (Ramechhap), and Bikash Sharma (Dang) were arbitrarily arrested from Bagbazar, Tebahal, Sundhara and so forth, on the allegation that they were members of the underground CPN (Maoist). The families and relatives of the disappeared have filed writs of habeas corpus at the apex Court, but none of them has appeared yet.

On behalf of human rights organizations and civil society, human rights activists
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and scholars, a five-point agenda was passed on November 17, 1999 requesting both sides not to blatantly violate human rights of the prisoners of conscience and the Maoist detainees. After the appeal, the Maoists released some abducted personnel including DSP Rai, but the government turned a deaf ear. The unofficial translation of the statement of demands to release the prisoners has been given below:

We, the representatives of various human rights organizations and individuals, present the following demands while the People’s War is being launched in the country and request both sides for the necessary action:

i. Both the government and the CPN (Maoist) must stop all illegal behavior and human rights violations against innocent citizens;

ii. Both parties must thoroughly follow the ratified international treaties and conventions that concern human rights and the common Article 3 of the Geneva Convention;

iii. All individuals in captivity should be released. All those who have been illegally arrested or made disappeared either by the government or by the Maoists should be set free. For a good initiation, DSP Thule Rai · the detainee of the Maoists and human rights leader Bishnu Pukar Shrestha · the detainee of the government should be released;

iv. A free and impartial committee should be formed to carry out investigations on the incidents of human rights violations committed by either side. The offenders should be punished and victims should be given proper compensation; and

v. A political dialogue process should be initiated between both sides in the presence of human rights representatives and individuals to end the problem.

Similarly, a team of Citizen Concern Society (CCS) led by former PM Kritinidhi Bista submitted a memorandum to the then Prime Minister Krishna Prasad Bhattarai on August 6, 1999 to make public the whereabouts of Milan Nepal, Danda Pani Neupane, Kamala Sharma, Nabin Gautam, Gore Bahadur Purkoti, Pasang Lambhu, and Dandu Tiwari. In regard to the arbitrary arrests and alleged disappearances, PM Bhattarai said, „I never tell a lie,“ but „they are already killed“ (Janadesh:August 24, 1999). In the mean time, while parliamentarians raised questions on their whereabouts, Home Minister Purna Bahadur Khadka answered that they had not at all been arrested by the police. Rishikesh Shah said, „PM Bhattarai assures that no one will be killed after being taken into custody from today onwards.“ In addition, Bhattarai assures, „if a detainee is killed in the name of false encounter or armed struggle, I will take stern action against the concerned official“ (Shah:August 24, 1999:Janadesh). But, these assurances and commitments were never fulfilled. The full text of unofficial translation of the memorandum submitted to the Prime Minister on behalf of the civil society is given below:

August 5, 1999
Ref.: Memorandum for the Life and Security of Citizens

Right Honorable Prime Minister:

Several newspapers have mentioned that the government had arrested some Nepali citizens from various parts of the kingdom but nothing is known about them. Similarly, the relatives of the victims have also asked the human rights organizations about the disappearances. They have also filed *habeas corpus* petitions at the apex court – the Supreme Court. After several requests, workshops, and discussions, we as conscious people have come to visit you for your attention on such a serious and sensitive issue.

All Nepali citizens had hoped that the series of violent actions committed by the autocratic Panchayat system would end after the restoration of democracy. The Constitution of the Kingdom of Nepal and its fundamental rights have replaced 30 years’ old Panchayat system and established the multi-party democracy. The state sovereignty rights are under the sway of the people unconditionally. Democracy, human rights, and rule of law have ensured the fundamental rights of Nepalese. The rights against the extrajudicial killings are guaranteed to a citizen. Nepal is one of the 25 countries in the world where capital punishment has been abolished as under Article 12(1) of the constitution. The right of the citizen against death penalty is one of the important achievements of the popular people’s movement 1990.

The subject matter of arrests and making them unknown is getting very serious. The government is unable to give information on a matter of public importance over a long period of time. Unless the government is liable for the life and property of each civilian, civilians’ trust with the government will gradually decrease. In any crime by a citizen against the state, legal action and punishment must be carried out. This is the importance of the rule of law. The government should not make any discrimination over the life of the people against the democratic norms. The individuals who are reported as unknown, must be identified publicly. We, therefore, request the Right Honorable Prime Minister of Nepal that steps be taken to identify these unknown people and also inform their families and people in general.

The struggle launched by the people for the restoration of democracy in the country will be meaningful only if the government plays the role of a guardian by securing the right to life of the common people. We as conscious Nepali people are taking interest on a matter of such public concern and we will also make the government aware for the same in future as well. We have, with this memorandum, included the list of the people who are reported to have disappeared. We strongly demand the government to quickly find out the facts and inform the families of victims and the common citizens. We, furthermore, wish to make a special request that the government should wake up in time and prevent such events occurring again.

Yours faithfully,
On July 4, 1999, in an Interaction Program on "Disappeared Citizens and Responsibility of Government," one of the architects of the constitution of 1990, Daman Nath Dhungana furiously said, "This is a pre-exercise for disappearance of democracy." He further said, "Unless we throw out the devil of Singha Durbar, citizens will continue to disappear." Finally he concluded, "If the government does not ensure justice, responsibility should be taken by the people." In fact, no one is happy with the duties and functions of the state machineries. Still, the government has never respected the voice of civil society; instead it has treated them as its opponents. The past has witnessed that the Maoists are honest and sincere enough towards the voices of the civil society and the human rights activists.

The practice of involuntary disappearances of persons infringes the entire range of human rights incorporated in Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and other international human rights instruments. Disappearance is a violation of the Standard Minimum Rules for the Treatment of Prisoners ratified by the UN Economic and Social Council 1957, the Code of Conduct for Law Enforcement Officials approved by the General Assembly in 1979, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment by the General Assembly in 1988. In the course of a disappearance, various individual rights are infringed: the right to recognition as a person before and under law; right to liberty and security of the person; right not to be subjected to torture and other cruel, inhumane or degrading treatment or punishment, and the right to life. On December 18, 1992, through the resolution 47/133, the General Assembly introduced the Declaration on Protection of All Persons for Enforced Disappearance (DPPED) which contains 21 articles. Article 1 of the DPPED states any act of enforced disappearance is an offense to human dignity. "No state shall practice, permit or tolerate enforced disappearances" is clearly mentioned in Article 2 of the DPPED.

In Article 13 (6) pertaining to the right regarding criminal justice, the Constitution of the Kingdom of Nepal 1990 clearly guarantees, "A person arrested and detained in custody shall be produced before judicial authority within 24 hours of such arrest, excluding the period of journey from the place of arrest to such authority, and no such person shall be detained in custody beyond the said period except on the order of such authority." Disappearances infringe the right to family life as well as economic, social and cultural rights. When men are the victims of disappearances, the children, women and elderly people of their families are deprived from having an adequate standard of living, the right to education, etc. and all socio-economic hardships are borne by the women alone. Similarly, when women are the victims of disappearances, they become particularly vulnerable to sexual assault and other forms of violence, because they are women.
Immediately after recruitment, security forces administer basic training to the new entrants and the training course generally emphasizes that a suspect or detainee must be considered innocent until proved guilty by the court. But, in many cases, it has been noticed that the patterns of behavior of security forces have been found inconsistent toward suspects and detainees. Most of the citizens arrested have complained of arbitrary torture, cruel, inhumane, and degrading treatment etc. to confess the allegations. Security forces often use coercion and various forms of physical and mental torture to extract confession from suspects and detainees. The methods of torture include: (i) *falanga* (continuous beatings on the soles of feet or other parts of body with batons) which causes extreme difficulty in walking, (ii) *belana* (a heavy wooden or bamboo stick is rolled over the body parts of a detainee with policemen standing on either side) which may damage muscles and kidneys, (iii) slapping hard on cheeks, (iv) hanging upside down, (v) repeated pulling of ears and hairs, (vi) forced inhaling of dry chilli smoke, (vii) pouring chilli solution into nose, (viii) holding upside down and delivering repeated blows on knees, (ix) applying *sisno-pani* (nettle and water), and (x) inserting pins into fingers and toes, etc.

The other forms of coercion and torture include intimidation to death, applying electric current, rebuking parents by calling names in slang and so forth. Oral sex, brutal rape, gang rape, and repeated gang rape are also forced on women while in custody to extract confession. Touching their sensitive parts and stripping them naked are very common whereas such treatment is widely considered as inhumane and degrading. Human rights activist Mandira Sharma says, „50 percent of the detainees are physically and mentally tortured in custody” (Personal Conversation: February 23, 2000).

The Advocacy Forum affiliated with the International Commission for Jurists and Penal Reform International states that 90 percent of people are arrested illegally, over 60 percent of suspects and detainees are tortured, 50 percent are forced to sign statements against their will, 54 percent are not informed of their alleged offenses and 33 percent are not allowed to see their family members.

INSEC states that more than five thousand people are recorded to have undergone both physical and mental torture within five years of the People’s War (Table No. 6.3.1). During *Sierra Kilo Two* operation in 1998, the total number of male and female detainees who underwent inhumane torture was the highest. In an informal meeting, a lawyer in Rukum stated that dozens of women were humiliated and sexually harassed during the operations.

Arbitrary arrests and tortures are very common in Nepal, whether the victim is an ordinary person or an elected representative of the people. But those of lower status, ie poor, disadvantaged, marginalized, and vulnerable people in terms of...
power, politics, and property suffer a lot compared to elite and higher level people of society. How state security forces torture even senior elected representatives can be understood by the following case study of Jaggu Prasad Subedi, Chairman of District Development Committee, Rolpa (Nair:1997:22-24):

Case 6.3.1: DDC chairman of Rolpa cruelly tortured

At around 9 pm on February 14, 1996, Jaggu Prasad Subedi, Chairman of District Development Committee, Rolpa was arrested at his residence in Libang, the district headquarters. However, he was served the warrant of arrest only on February 15, 1996. He had been attending the District Development Committee meeting with the CDO and DSP, which had commenced on February 13, 1996 to discuss the Drought Assistance Program in the area.

Subedi was implicated in the attacks on the Holeri Police Post on February 13, 1996 and charged with inciting violence against the police, burning police papers, disconnecting the telephone lines, and attempting to loot arms and murder.

Four days after his arrest, he was brought before the Rolpa District Judicial Magistrate at Libang on February 18, 1996. The Judge remanded him for 10 days. On February 28, 1996, he was remanded for another 15 days.

He was kept in the district guest house until February 20, 1996, a date which corresponded with the visit by the home minister of Nepal, Khum Babadur Khadka. When Subedi queried DSP Jit Bahadur Pun Magar about the reasons behind his arrest, the DSP reportedly claimed ignorance and said that the instructions came from the top, implying Kathmandu.

On February 20, 1996, after the home minister’s visit, an order was issued not to allow anyone to meet Subedi and he was moved to the Libang police lock up. Tika Ram Regmi, a local correspondent, who later met Subedi when he was transferred to Tulsipur jail, was told by Subedi that he could see a marked difference in the behavior of the police from February 21, 1996 onwards.

According to the local political leaders, the home minister made another visit to Subedi, at the Libang army barracks on March 6, 1996.

On March 7, 1996, two police persons wearing masks tortured Subedi for more than four hours. They were reportedly brought from outside Rolpa district. One of the torturers was identified as Khem Bahadur Khatri Chhetri. They used iron rollers on his thigh. Subedi told Regmi that he became unconscious after some time and therefore he was unable to remember what kind of torture methods were used later on. After gaining consciousness, he realized that he could not move his legs and other parts of his body.

The SAHRDC researcher interviewed Subedi’s wife, Kumari Subedi and Regmi.
On March 30, 1996, Kumari Subedi was allowed to see her husband and to speak from a
distance of five feet between the bars and the window. His left leg was visibly swollen up. He was
unable to stand by himself. He was aided by two persons who held his shoulders and a stick in his
hand to help him walk.

According to a member of the District Bar Association, Rolpa who sought anonymity, the Bar
Association members were not given access to Subedi when the hearing took place on March 13,
1996. This was confirmed by Subedi when Regmi met him on March 31, 1996. DSP Magar
allegedly threatened the lawyers not to defend all those accused of being Maoists; else they would
also be termed as Maoists and face the same fate.

Subedi claims that he was charge-sheeted on the basis of complaints made by people unknown
to him. He further claims that he has no relationship presently with the SJM as he had been expelled
from it. Although he was President of the District Development Committee when he stood as an SJM
candidate in 1992, he was reportedly expelled from the SJM in January 1996. He was also reported
to have submitted the expulsion letter to the District Court Judge.

On April 19, 1996, the SAHRDC researcher was denied access to Subedi who is presently in
Tulsipur Jail of Dang district. He is currently being held in virtual incommunicado detention. With the
exception of one visit by Regmi, only his wife has seen him since his arrest.

Although the case against him is pending at Libang in Rolpa district, he was transferred to
Tulsipur Jail. The authorities are hard pressed to explain why he has been transferred to this jail.
Indeed, it is difficult for his family to have access to him. The CDO of Dang categorically told the
SAHRDC researcher that the Ministry of Home Affairs was the only authority that could give permis-
sion for access to him.

Arrest, torture and virtual paralysis of Subedi has created panic and fear. He is reportedly
suffering from severe pain and is unable to move his left leg. Unlike those victimized by the Maoists,
he has not been provided proper treatment.

The torture of Subedi has reportedly been perpetrated in acquiescence of the highest political
authority of the present coalition government of the NC and the RPP.

Similarly, 38-year-old Tilakram Budha, the vice-chairman of Kotgaon VDC, Rolpa was severely beaten while being brought to Madichaour police post on the pretext of taking some advice at 9 PM on April 11, 1996. Both police and members of NC pressured him to oppose the People’s War and support NC. As he refused, his nose, ears, arms, and legs were completely chopped off by the police and NC activists, and he was then finally shot dead. However, the state authority later aired that he was killed in an armed confrontation.

In another incident, one Ms Malati Lamsal was arrested by Sri Ram Ghimire and Harsa Narayan Pandit at Parabhanjyang VDC-1 of Tanahu district. She became unconscious when police slashed her breast and thigh with a razor blade (Janadesh:April 27, 1999). Besides that, sexual harassment and rape in police custody are very common. Similarly, an 18-year-old Miss Devi Khadka of Jugu VDC, Dolakha district had been raped by 78 policemen for three months (Personal conversation with Krishna P. Siwakoti:February 23, 2000). Two girls and a young woman, Khal Kumari Khatri (14), Tirthi Khatri Chhetri (17), and Deosari Khatri (18) were gang-raped by the police after killing six people in Pipal VDC, Rukum on February 27, 1996.
Case 6.3.2: What atrocity can security force do?

A 33-year-old community health worker, Lali Rokka of Thawang VDC, Rolpa, while administering polio vaccination at the health post on January 18, 1997 on Polio Day, was arrested by the police and taken into custody. She was brutally tortured during the course of interrogation. When she became unconscious, she was set to fire after pulling down one side roof of the cowshed at Chaubang Khola, nearby the police post. According to the local witnesses, while she was being set on fire by the security force, her loud screaming was heard around the village. Indeed, she had just been unconscious because of cruel, inhumane, and degrading treatment. The following morning villagers gathered at the site and saw the unburnt leg and later identified that she was Lali (Gautam:1998:17).

While in custody, most of the detainees are allowed to go to toilet only once a day. For the remaining time, they have to urinate in the corner of the same room. While detainees are being brought or transferred from one police station to another, they are forced to wear police uniform and cover their eyes. Incommunicado detention or solitary confinement usually takes place in order to extort confession on allegation of offenses that subsequently deprives the victim to meet family members, doctors, lawyers etc. "If you are not going to tell the truth, we will take you to the jungle and kill you," is the common form of psychological torture to most of the detainees. Similarly, the suspected Maoists face great difficulties during the course of treatment. The National Human Rights Commission (NHRC) and other human rights organizations expressed their deep concern over the intervention of police in Miteri Hospital, Kathmandu and the attendance of police in front of the patients when two injured persons suspected as Maoists, 30-year-old Ranjan K.C. and Srijana Pyuyal, were undergoing treatment (NHRC:December2000:no.1:8). NHRC strongly denounced it by writing a letter to the Ministry of Home Affairs on September 4, 2000.

Despite their constitutional rights, the state authority under Ministry of Home always wants to show its superiority over judiciary, legislative, and other independent constitutional bodies. The Kathmandu Post writes, "On April 2, 1999 the local development officer (LDO) and district land revenue officer had been beaten while entering the quarters of the district headquarters of Rolpa at 6 PM by the police officers in Liwang." The civil society raised its voice that the system should be regularized without prejudice to take appropriate action against the concerned person responsible for the negligence, but no action was taken. Most of the incommunicado detainees are also compelled to sign in a paper which they are not allowed to read what is already written and sometimes they have to sign even on a blank white paper. Due to the severe lack of sanitation and medical facility, prisoners suffer from various chronic diseases and a few of them have already died.

The CPN (Maoist) is also responsible for deliberate torture, cruel, inhumane and degrading treatment, alleging the victims as surakis, gaddars (traitors), dhokebaj (deceivers), and feudals. The Maoists often target political leaders, local elites, and suspected informers. They usually spring surprise attacks and kill the suspected civilians. The Maoist guerrillas wearing black masks, red headbands and chanting pro-Maoist slogans, attack the opponents with khukuri, sickle, bharuwa banduk (local gun), and automatic gun in the name of retaliation. However, unlike
the police, in most of the cases the Maoists provide an opportunity to the alleged offender to clarify his/her defense against the allegations publicly. The Maoists send prior notices to the alleged offenders, explaining their crimes and ask them first to improve by themselves. The People's Court is an authorized body to send letter for attention and administer fine to the accused person. If the offender fails to accept an order of the People's Court, the higher body sends a team for marmat (teaching a lesson) and fine. The team punishes the offender sometimes by fine only and sometimes by minor beatings or both. If s/he still disobeys the order of the People's Court for a third time, the CPN (Maoist) attack violently and take physical and mental action sometimes even up to death. The Maoists attack the mainstream political parties particularly who have state power. In minor offensive cases, the People's Court publicly takes action and punishes by applying kan samatera uthabas (sit-ups while holding both the ears) and bhate karbahi in front of the local masses. Not only against the members of opposition parties, they often take action against their own cadres and leaders, if it is proved that they have undermined the vision, mission, objectives, and goals of the party.

In the epicenters, the CPN (Maoist) punishes people even in broad daylight. Following their principles and policies, instead of killing the charged opponents, in general they mutilate and injure their bodies - smashing their hands and legs, etc. If the CPN (Maoist) finds a serious fault, they behead or chop off the legs, arms, etc. of such offenders as surakis including civilians and security forces. For example, the 40-year-old chairman of Pipal VDC in Rolpa district Deuchan Basnet was killed by black masked people while he was returning home from the construction site of drinking water on June 14, 1996. He had reportedly taken bribe from the innocent villagers to free them from fake allegations, as most of the activists of the UPF were charged by the opposition political parties especially NC and government officials that they were Maoists. In some cases, the Maoists have killed even innocent civilians and social workers on fake charges or personal disputes. In such instances, they have also received severe condemnation for their actions from all quarters.

On December 3, 2000, the daily newspaper Nepal Samacharpatra wrote that the Maoist People's War had disabled (handicapped) 1,650 people, including those who had fractured their hands, legs or backbone or damaged eyes or had paralysis. Among them, 40 percent are children. A 17-year-old Gopal Rana Magar lost both his hands in an armed battle with police in Gulmi in March 2000. He had married just six months earlier. Remembering his past activities, he said that Maoists were very much cooperative with him when he was able enough to work. He adds: „When I lost both hands, neither I am supported by the Maoists nor my family. Although, I am an only son.“ On study it has been found that for every (single) person killed, at least three get injured or wounded either in real or fake encounters of which one-third become handicapped. This number also includes all those who have been tortured or undergone other cruel, inhumane and degrading treatment.

On November 10, 2000, campaigning against torture and abuse, General Secretary of Amnesty International said: „Torture is reported almost daily; however
all of us have it in our power to put an end to this gross act of inhumanity. He called upon the government, political parties, the police, the National Human Rights Commission, and non-governmental organizations to work together towards the abolition of torture.

Several human rights instruments such as Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment have prohibited all kinds of maltreatment. Article 5 of UDHR and Article 7 of ICCPR state that no one should be subjected to torture or to cruel, inhumane and degrading treatment or punishment. Nepal is also a signatory to the UN Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT)-1991; however, the state often violates the convention in order to extract confessions from the detainees, instead of complying with it.

Article 14 (4) of the constitution of Nepal prohibits physical and mental torture and other forms of cruel, inhumane, and degrading treatment or punishment. Torture Compensation Act (TCA), passed in 1996, ensures some rights of compensation to the torture victims or to the relatives of those who have died in custody during investigation or in a trial or for any other reasons. Torture victims must apply for compensation to the local district court within 35 days offense has occurred. The concerned court shall make an order to assess the physical and mental torture within 3 days. The cost of subsequent treatment has to be borne by the state. Similarly, if the matter of such a complaint is found true, the court may order the offender to compensate up to a maximum amount of Rs. 100,000 (US $1,282) to the victim or his her relatives. The district court may also recommend for a departmental action upon the offending officer. According to Amnesty International, out of 35 victims who had petitioned, only one of them, Hasta Bahadur Chamlung, was awarded Rs. 5,000 (US $640) by the Ilam District Court till August 2000. In 1998, 12 people made claims under TCA. However, six cases were withdrawn because of intimidation (US Department of State:February 25, 2000:3).

Similarly, the Muluki Ain (Civil Code) of 1962 prohibits the acts of mutilation, beating, and physical and mental assault. The penalties range from two years for physical and mental assault to a maximum of eight years imprisonment for mutilation including one-year imprisonment and a fine for beating. Despite these measures, torture widely prevails in Nepal and it is on the rise. But it is remarkable that neither the compensation has been provided to the victims nor action has been initiated against the perpetrators.

6.4. Arbitrary arrest and detention

On March 6, 2001, Deputy Prime Minister and Home Minister Ram Chandra Poudel in a press conference stated that a total of 282 rebels had been taken into police custody as they were involved in the terrorist activities since the beginning of the People’s War. All of them were arrested on suspicion of their involvement in murder, seizure of arms and ammunition, and arson. Of 282 rebels arrested, 33 were in the eastern, 66 in the central, 68 in the western, 96 in the mid-western, and 19 in the far western region (Fig. 6.4.1).
Besides, another 20 rebels were kept in solitary confinement from 1996 till early March 2001. In order to create a conducive environment for a dialogue, the central committee member Rabindra Shrestha had handed over a list of 74 members of the party to Home Minister during an unofficial talk under the mediation of Padma Ratna Tuladhar and wanted that their whereabouts be made public soon. The Home Ministry published some names of the prisoners. Commenting on it, Prachanda criticized the government for making public the whereabouts of only three members from the list that they had handed over on March 7, 2001. The Central Committee Member of the CPN (Maoist), Matrika Yadav, who had in fact been in custody since March 24, 2000 was stated to have been arrested on Monday, March 5, 2001 only. Whatever is presented in public is a good initiation, but what about dozens of other detainees? There was a great debate whether the government has already killed the detainees or hidden the facts. It is apprehended that the data presented by the government is many times less than the real figures. In fact, the government always fears to tell the truth of arbitrary arrests and detentions. If they were to tell the truth, the public may react adversely on actual number of arrests and detentions. Similarly, the police sources said that the Maoists had abducted 412 citizens, including policemen, by the end of 2000 (Fig. 6.4.2).

According to the government figures, Rautahat district in the central region is greatly influenced by the People’s War where 29 activists had been detained. On March 10, 2001, commenting on the number of prisoners listed from Jhapa district, Assistant Superintendent of Police (ASP) revealed, „There are 23 Maoist detainees in Jhapa, but we are surprised to see such a small number 7 in the list.‰ The People’s War that had started from the hill and mountain districts, especially from the mid-western and the central regions, has now spread all over Nepal and is extending in the urban areas of tarai. Both
Rautahat and Jhapa were the stronghold districts of CPN (UML). After some years of the People’s War, these districts are now highly influenced by the Maoists. Indeed, UML loses its workers to the Maoists.

Against the government figure of 282, Deputy Inspector General of Police (DIGP) Rajendra Bahadur Singh said, „A total of 5,943 ordinary people had been detained and 1,656 kept in jail after preliminary inquiries in January 2001.” The above figures show that neither the government authorities has coordination among themselves nor they have any ideas of future implications of the information they have. As a result, there is no trust upon the government figures. In Sierra Kilo Two operation alone, 1,659 people were arrested and taken into custody (Fig. 6.4.3.). The state authority arbitrarily detains teachers, farmers, minor girls and women, journalists, and human rights activists suspecting them as members or sympathizers of the CPN (Maoist) and keeps them in custody for many months without pakrau purji (warrant). From the study it is found that 90 percent of civilians are arrested without a warrant. The following unofficial translation of the memorandum written by the victim himself and published in the Janadesh weekly on July 6, 1999 reflects how Dipendra Rokaya was arrested without a warrant and inhumanely tortured while in custody:

**Case 6.4.1: Memorandum: 40 days in police custody without warrant of arrest**

In broad daylight on January 5, 1999, a group of policemen came into the office of the Janadesh weekly and arrested some journalists and workers. I was working with the weekly as a reporter and used to reside in a room of the same flat. The police took away even my books and certificates after breaking the windows. After the incident, I started to reside in a friend’s room. A couple of days later, my uncle Jagabir Rokaya came to Kathmandu from home. He told me that my 83-year-old father was in bed and struggling against death and wanting to see me – the youngest son. My mother had passed away during my childhood. Father was the only person to take care of me and to educate me. So, I set out to go home from Kathmandu with uncle on January 19, 1999.

In Nepalganj, we could not get plane tickets for Humla for 15 days. Although, senior officers and elite people easily get a ticket within a day. We, therefore, decided to walk on foot from Bajura, Kolti on February 4, 1999. When we reached Kolti, we saw that some policemen with rifles had encircled the airport, and were writing the names of passengers. As they wrote my name, they instantly arrested me and carefully searched my bags and goods. My bag contained nothing more than the press release of the Janadesh weekly, news collection diary, and income receipts of ANNFSU. The police also arrested my uncle and kept him in the room for inquiry. They asked us a few queries. After
a while, we heard sounds from the adjoining room that someone was informing to the seniors that in such and such place of Humla district two Maoists had been taken under control including some important documents of the Maoist party....

I was deprived from food, drinking water, medicine, and toilet, as they kept me in the police lock up. I had to urinate in a corner of the room. I did not know where and in what condition my uncle was. Next day, the room door was opened at 7 o’clock in the morning and we were ordered to go to Bajura district police headquarters. Some 10 to 12 policemen in civil dress were sent there before we ed in. Five armed policemen were with us. The villagers were looking at us all through the route. When we reached at the District Police Headquarters, Martadi at about 6 o’clock in the evening, the DSP came to us and furiously asked, “Are these the Maoists arrested at Kolti?” Our bags were checked again and they ordered me to write “everything.” I was kept in custody and my uncle was kept in another room. We were given food to eat at about 6.30 PM after unfastening the shackles. Thereafter, I wrote everything; how I went to Kathmandu, started working in the Janadesh weekly paper, and became a member of ANNFSU (Revolutionary). Besides, I was inquired further about the plans and programs of the CPN (Maoist) party and the whereabouts of the party documents. When I said I was ignorant of those matters, they started to beat me atrociously, repeating the same question time and again, “Why don’t you tell the truth?” They were continuously beating and blowing me from 8.30 to 11 PM. Thereafter, they left me alone in custody.

I was very much exhausted due to the beating and was suffering from cold. I also spent the night fighting with bed bugs. The following morning at 7 o’clock, the policemen started to beat me on my naked body, hanging me upside down. My nose and mouth were bleeding and I felt that my teeth were broken. Whole day I felt half-dead. However, they did not get any new statement from me till noon. Then, I was sent to the kitchen and given some stale food to eat. But, as my mouth and teeth were aching, I could not chew anything; still the policemen were ordering me to eat “fast.” In this way, I was tortured for 8-9 hours a day, repeating, “What level among workers of the Maoists are you? What is your name in the party? What is your program visiting this district? Where are the Maoist leaders? etc.” I simply answered: “I have come home to see my septuagenarian sick father.” The cruel policemen did not believe me and continuously tortured me, without giving me a warrant of arrest. I was beaten with a very strong stick with thorns, was pressed hard with a large cylindrical piece of wood, belana, and so forth which caused severe pain and swelling. I could not even stand up properly.

On February 7, DSP Ram Binayak Singh, two sub-inspectors, an assistant inspector and some policemen began to inquire me, “Your death and security is in our hands. We will save you if you expose all the secret things of the Maoists, otherwise you will be killed.” I repeated the same as I had given earlier. “Even senior leaders have already been arrested and have referred your name, muji-sikute (a rebuke in slang)! What can you do? We have already arrested Prachanda?,” the DSP said. I opposed it, raising the questions of human rights, democracy, and rule of law. I was again stricken and kept in custody. Then I was called on February 8. They dictated me to write what they wanted me to write, but I refused to do so. They again beat me like an ox. Finally, the DSP stopped by saying, “A marla shala yo!, napita (Ah! he may die, stop). Afterwards, the DSP told me to write all my activities after the SLC exam. I wrote about nine-page-long document on my past activities.

Upon reading the description, the DSP ordered his assistant to bring the rifle and bullets. “It is now your time to be killed.” Then, I thought for a while myself: “All right, I am ready to be killed. If they really want to kill me, my blood will be an additional energy for the people’s revolution.” Then I said aloud to the DSP, “Please give me two minutes to meet my uncle before I am killed.” DSP replied, “Your uncle is also killed. I have killed so many men like you. I will kill you in the toilet and say that you were killed while escaping away.” They loaded bullets in the rifles. I said, “Kill me here, not outside or in the toilet.” DSP questioned me, “Why do you want to die? You have parents, you are young in...
age. If you tell us everything, you will be saved, don’t worry.” I replied, “I have told you everything I have to say. I have given my biography too. I have no other alternative except to die. I am ready to be killed.” I added, “I had heard that policemen are given human rights training. But, I was given no food to eat or even water for the whole day. If you kill me in Humla, I will be able to see my sick father.” Finally, the DSP gave me time to think again until 4 o’clock next morning.

The bell rang at 4 o’clock in the morning. I woke up and thought about myself and felt proud for becoming a martyr rather than to surrender before the police. However, they didn’t come to me even at 9 o’clock. Thereafter, they called me to have food at 10 o’clock and I met my uncle there. My hands were untied. There were armed police around me. My uncle was released and went home on February 10. Thereafter, they stopped giving me physical torture, but continued torturing me mentally. I was alone in the custody. But on February 13, Bir Kami and Bal Sarki were arrested and taken into custody on an accusation that they had repaired a hand-made gun. Hemanta Prakash Oli from Rukum, Man Bahadur Bam from Bajura, and a student from Bajhang were also taken into custody and brought to the same place the following day. Because of the torture, Hemanta was deeply wounded on the forehead and his whole body was swollen. On February 23, I was taken to Humla from Bajura. We reached Simikot, the headquarters of Humla, on March 3, 1999 via the police posts at Kolti, Kunna, Maila, Kawadi, Srinagar, and Sarke.

Before I was sent to Humla from Bajura, they told me that I would be released soon after reaching Humla. I had spent many days in the hope of early release. Finally, I was freed from the police custody in the presence of Kailash Lama, CPN (ML); Surendra Karki, CPN (UML); Rajendra Rawal, NC; and Nara Bahadur Raut, RPP after 40 days of detention on March 16, 1999 only. Next day, I reached my home where my father was in a very serious condition. His tearful eyes were looking at me. After meeting with my relatives and friends, I came back to Kathmandu. I have been taking medicines since then.

The above mentioned case study is one example only. This is a true narrative to show how the state security forces disregard all the legal measures and grab the law in their own hands. Compared to the security forces, the Maoists respect the international human rights obligations and humanitarian law to a greater extent. The following memorandum written by victim Ratna Prasad Sharma, who was involuntarily arrested by the Maoists, shows significant difference which is there between the security forces and the Maoists in so far as their methods of treatment of their captives is concerned. This was published in Deshantar weekly on November 12, 2000.

**Case 6.4.2: Memorandum: Escape from the mouth of death**

The NC President and Prime Minister Girija Prasad Koirala had called upon all the displaced people to return home before Dashain (greatest Hindu festival usually held in October). We were duty-bound to assist the party president, as I was the district chairman of Tarun Dal (the Youth wing of NC). After the frontline workers had returned home, common people could gather courage to do so. We, therefore, decided to go home before Dashain. The Maoists had given no indication to do anything before Dashain. Nor any dangerous situation was reported. We spent six days of Dashain at home with some sort of suspicion or fear. On October 10, 2000 at 6 PM, while we were staying at home, some 10 armed persons climbed. We suspected them for police, but they were not policemen. They arrested me and asked my name with a sentry outside the house. As I told them my name, one of them said, “We are Maoist guerrillas. Our party has decided to keep you in custody for two days for enquiry, let’s go.”
I was under their control. I put my clothes on and walked with them. All the family members were weeping. After walking some distance, they fastened my hands with a rope. After a while, a group of about 40-45 people’s militia appeared, then they fastened my hands with a shackle and my eyes were closed with a bandage. After reaching Chhudi Pusako VDC, they gave me wheat bread and milk. They took me to Budabaluwa, Achham at 3 o’clock the same night. They used to keep me in a locked-up room during daytime, my eyes closed with a bandage which would be removed at night as we had to walk. We finally reached Vulu VDC Achham. I was kept there for seven days. They had looked very happy after my arrest. Sometimes, the guerrillas would threaten me that I would be buried in the ground, sometimes they said that they would hang me up till death, and sometimes they just preferred shooting bullets.

Thereafter, I was taken to a Maoist shelter at Rap Village Development Committee of Achham district. The members of regional and district headquarters interviewed me. They tried to compel me to give a statement as they had wished that I and the other members of my organization Tarun Dal had conspired against them and had gained from unjustified money collected for the “Ganeshman Singh Peace Campaign.” Neither my friends nor myself were involved in such affairs. I, therefore, did not want to make any untruthful statement. After taking my statement, the investigation meeting of the regional and district committees was held to decide upon my punishment on October 25, 2000. Finally, it came to be known that the decision was “to execute the chairman of Dailekh Tarun Dal as an admonition to the police administration and the government.”

During the period of 17 days, I also developed a close relationship with several Maoist workers. I used to talk with Prabhat, Dhruba, and Apil of People’s Red Army. I had a little money in the pocket of my pants that had been given by my family. When I knew that I would be murdered soon, I did not consider the money worth keeping and gave it to those who had become very near to me. About 6 o’clock in the evening Prabhat said to me, “Ratna, it has already been decided to execute you. Now, you will be asked about your final wish. Perhaps, you can get a chance to meet your family with your eyes closed. We won’t meet together afterwards.”

Accordingly, they asked my last wish. I said I had no aim to spend two hours with my wife on the eve of death. There was really no value of such meeting with my beloved. I remembered my newly born daughter and imagined for her future. I also remembered other family members, but saw no meaning to meet with them in such a state. Then, I finally presented three demands:

1. Till I am executed, please let me walk freely and without shackles;
2. For cremation and funeral ceremony, please send my dead body to my home; and
3. Please do not execute me while I am conscious and in normal condition. Execute me after making me unconscious using some intoxication.

While they were planning to slaughter a he-goat to feed me, I begged for their permission to go to the toilet when they had already removed my handcuffs. I was sent to toilet with people’s militiaman Sujan. That was the only chance for me to get out from certain death. With the pretence of toilet, I gradually escaped away into the jungle. When I did not return in time, I heard Sujan shouting, “Ratna Dai (brother), have you escaped away?” He threw a grenade towards me; it reached my right foot, but fortunately, it did not explode.

While staying with them, I had somehow been informed by them about the geographical location of the surroundings. There was the Karnali river to the east of Rap VDC, but I could not swim across it. Three boats and a bridge were under their own control. It was not easy to escape away through the west, because of the difficult terrain and also the night was approaching. I did not have enough courage. Finally, I opted for the eastern direction. I spent the night in a rock cave. The following morning, as I was very much hungry, I ate bhalayo (a kind of plant, sp. Gaultheria Fragenthissing, which causes swelling but its fruit can be eaten) and became unconscious inside the cave. When I
woke up, I saw an old man collecting fodder for the cattle and singing a song. I approached him and told all my problems and difficulties. That man, at first, did not believe me, but on repeated requests, he promised me to take me to the nearby village.

I carried his load of fodder grass and he brought the cattle towards the shed. We reached his cowshed, but even that place was not quite safe from the Maoists. On the way, I heard some people asking, “Where did the man go? Perhaps, our friend has already made him a victim.” I asked the old man to search for a secure place. I went with him in his house. Later, I changed shelter from time to time. At night, in the house where I was staying, two Maoist guerrillas came and asked the old woman to feed them. The woman was in a very difficult situation. If they took shelter in her house, I would surely be killed, and her family also would be victimized by the Maoists. I asked her to give me a ladies’ dress and I wore it and freed away pretending to go to toilet, then stayed in another cow-shed. I wrote a letter to Dullu Area Police Station giving my situation. I had mentioned that it was very difficult to get out of the Maoists’ control and if there be any encounter to occur, I would surely be killed. A helicopter came to the place in the evening; the Maoist hit it by bullets. When grenades were thrown out from the helicopter itself, they began to protect themselves. The safety workers came to me and I reached Dullu. The policemen had gone there in army uniform. I had escaped away from the mouth of death as such, but the Maoists are giving the false statement that I had been released by them with a liberal attitude.

The above mentioned case study speaks itself that the Maoists are more liberal in terms of torture and other forms of behavior, unlike the security forces.

Article 9 of UDHR has forbidden arbitrary arrest, detention or exile. In addition, ICCPR also ensures for liberty and security of a person so as to not to make arbitrary arrest and detention. Article 14 (6) of the constitution 1990 guarantees that the arrested and detained person should be brought before a judicial authority within 24 hours of arrest, besides the time required for the journey. The constitution has prohibited to detain a person beyond a certain period except upon the order of the concerned authority. But the state often violates such provisions and obligations. Under Some Public Offenses and Penalties Act, the police must obtain a warrant unless a person is caught while actually perpetrating a crime.

There are no legal hurdles for the family members of the detainees to visit them in prison. In practice, the state only sometimes grants access to the families or relatives of the detainees to visit them, although the extent of this privilege varies from one prison to another. But, there are no such provisions with the Maoists. Prisoners have a right to legitimate representation and to have a court nominated lawyer, but the government lawyers or private attorneys are allowed only on request. There is also a system of bail, although it is very expensive. But there are no formal procedures for bail with the Maoists. Besides, there is a very slow process of appeal and court inventory, very poor access to legal representation and pre-trial detention is often very long due to the slow departmental inquiries and investigations.

There is widespread abuse of the Public Security Act. Article 4 (2) of the act states that in case an order for the detention of any person has been issued, the local authority must send notice within 24 hours to the concerned district court along with a copy of the order. However, a person may be held in preventive detention for a period of 90 days to prevent the detainees from taking an action that could have
adverse effect on security, peace, and order in the kingdom, or upon amicable relations with friendly states or among people of different classes or regions. This period can be extended for another 90 days, if the local authority writes to Ministry of Home explaining the reasons and grounds for doing so. The detention may also be extended up to 12 months from the original date, if the Advisory Board\(^6\) gives approval under the act. In 1997, the police had asked the government to enact a legislation which would extend the time of detention between 2 to 10 years (US Department of State:2000:5), but it is yet to be approved. From the legal viewpoint, no one can be detained for more than a year; however, many detainees who have confessed to charges of being members of the Maoist party have been detained for many years. Suresh Ale Magar, a lecturer of Tribhuvan University, has been repeatedly arrested on many occasions from the court compound soon after the court had released him. On June 25, 2000, Tara Bhusal was also forcefully arrested from the court compound soon after the court verdict to release him. While arresting him, the policemen also threatened and manhandled the staff of the court, lawyers, and journalists. His case description is given below:

**Case 6.4.3: Intervention of police in the court**

The Special Bench of Appellate Court, Butwal had ordered the release of Tara Bhusal on June 25, 2000. Soon after the decision was made by the court, 12 armed policemen *gheraoed* (encircled) the court under the command of Inspector Iswar Karki and entered into it the same afternoon. Earlier, the police had failed to oblige when the court authority and Butwal Bar Association strongly opposed the police interference. But, after a while the police threatened to shoot the protestors and forcibly intervened and arrested Bhusal at 7 PM by manhandling the Bar executives, court staff, lawyers, and journalists. Four journalists were injured and a camera was seized. When the Judge came to stop the police action, the inspector informed him that he had an order for the arrest from the DSP, while the DSP had been instructed by the police headquarters and the Secretary, Ministry of Home. Afterwards, Tara Bhusal was kept inside the Indian number plate car UP 78 C2329 and taken towards the district police headquarters. In the past, Tara had been ordered release from Nawalparasi, Parwat, Syanja, and Papla district courts. Notwithstanding that, all the times he was taken into illegal imprisonment by the police, undermining the court and the authority of the judges soon after each court's verdict to release him.

When Bhusal's family members and relatives enquired the DSP about him, he answered them very irresponsibly, „We don’t know, ask the IGP and Home Minister.‰ Protesting against the state terror, the Appellate Court judges boycotted all the official work on June 26, 2000 and demanded to punish the irresponsible officers. They also demanded to have their own security force to provide security to all the courts throughout the country instead of the police guards. Similarly, the Appellate Court's lawyers boycotted all the official work for two days by writing a letter to the Supreme Court to investigate the incident. Likewise, Nawalparasi Bar Association, Rupendehi Bar Association shut down all the official activities in favor of the lawyers and judges of the Appellate Court from June 26 to 28, 2000. Many human rights organizations also issued press statements condemning the police action. Moreover, nine leftist parties, Chairman of Foreign and Human Rights Committee of Parliament Som Prasad Pandey, Chairman of Public Accounts Com-
mittee Subhas Nembang, and MPs Lila Mani Pokhrel and Pari Thapa also con-
demned the police atrocity and demanded to have independent investigation into
the incident. Still, the state did not take any initiative at all. It has been witnessed
many times in the past that the executive authority has become the supreme body,
often intervening into the functioning of judiciary and legislature against the con-
stitutional spirit. Although, in the democratic process, all three organs · executive, 
judiciary, and legislature · must not overbear upon one another.

The right against preventive detention in Article 15 of the Constitution states:
(i) No person shall be kept under preventive detention without sufficient grounds
of the existence of threat to the sovereignty, territorial integrity or public peace,
and order of the kingdom of Nepal; (ii) Any person if detained by any authority
against the law or in a malafide way, shall have the right to compensation as
specified by law. But the implementation is not there at all. The state wants to
suppress the People’s War by means of force only without any socio-economic
transformation. All major political leaders, specially NC, are very much afraid that
if the Maoists ever come to power, they will have to go to jail as they had severely
misused state machineries, power and property in the past for their own benefits
and interests against the will of the mainstream people. Sher Bahadur Deuba once
publicly said, „If the Maoists come to power in Nepal, we should go to jail‰
(Mahima:June 12, 1999).

6.5. Freedom of Press

The term freedom is merely used as the right of an individual, though it does work
as one of the „special privileges of all mankind.‰ If free press and freedom of the
press are rejected, universal freedom will also be rejected. If seeds are bad, the
products will never be good. It means that if the intent of the state institutions is
bad and if the state tries to enslave the human mind, the fate and essence of free
press, freedom of the press and universal freedom will suffer a lot. A bad press is
the product of certain individuals who try to enslave the mind of the majority.
Marx concludes, „Bad press is the greatest possible dissemination of bad prin-
ciples and greatest possible furtherance of bad frames of mind‰ (http://marxists.org/
archive/marx/works/1840/free-press/ch04.htm).

On August 17, 1998, K. P. Gautam, a journalist of the state-owned Gorkhapatra
Daily summarized the report of judicial corruption presented in the Public Ac-
counts Committee (PAC) under the title, „Judges take away the salaries of their
attendants.‰ On the charge of defamation of the judges, District Court Judge of
Kathmandu Iswar Prasad Khatiwada forming the single bench handed a verdict of
five-day long imprisonment to K. P. Gautam. Similarly, Chairman of the
Gorkhapatra Shiva Adhikari and Editor Uddhav Upadhaya were fined Rs. 500 (US $ 6.67)
each. It is remarkable that Judge Khatiwada was one of the main accused of the
corruption mentioned in the report (Budhathoki:1999:5). Similarly, the vernacular
weeklies Jana Astha, Prakash, Ghatana Ra Bichar etc. were also fined. It is a
shame that the alleged corrupt judge himself decided to punish the publisher, edi-
tor, and journalists. This decision is like a cat-and-mouse game. If a cat itself
introduces the rights of mice, can mice receive the rights that are supposedly
guaranteed by the cat?

Since the initiation of the People's War, the universal free press and freedom of press are endangered against the norms, values, and principles of democracy, human rights, and rule of law. Dozens of newspaper offices have been raided and their papers seized in nine years of armed struggle. On January 5, 1999, the office of the pro-Maoist newspaper, Janadesh weekly, was raided and 13 civilians, including 4 journalists, namely Shakti Lamshal, Dhan Bahadur Magar, Rewati Sapkota, and Ashok Subedi, were arrested. The state forces also seized their private property such as computers, printing materials, and newspapers on the accusation of their links with the Maoists, as it had published news including photos of the Bhattedanda Police Post raid, 20 miles south of Kathmandu. Except the press workers, the journalists were released only after the Supreme Court verdict. In another confiscation, the policemen reportedly seized computers and printing materials from the office of the Maoist leaning newspaper Jwala weekly in Kathmandu on April 1, 1999. Likewise, Bhim Prakash Sharma and Om Prakash Sharma of the weekly Jana-Ahwan were arrested and the computer and printing equipments were seized in April 1999. On April 20, 1998, Krishna Sen, Editor of the Janadesh was arrested along with two staff members and thousands of copies of the newspaper.

From May 3, 1997 to May 2, 1998, a total of 27 journalists were arrested by the state authorities (Budhathoki:1998:5), especially on the charge of their links with the Maoists. Likewise, between May 3, 1998 to May 2, 1999, the police arrested 21 media persons and seized 16 printing presses (Mephate:undated.1). Similarly, since May 3, 1999 to May 2, 2000, one journalist was killed, three journalists disappeared, and nine were arrested (www.humanrights.de/n/nepal/humanr/.htm). Thus, the state has forcefully tried to censor the news against the constitutional fundamental rights. Marx says: „Censorship is not a law, it is a police measure; but it is a bad police measure, for it does not achieve what it intends, and it achieves what it does not intend. If the censorship law wants to prevent freedom as something objectionable, the result is precisely the opposite“ (marxists.org/archive/marx/works/1840/free-press/ch05.htm).

While the People's War was advancing, the criminalization in politics increased and bureaucratic blockage paralyzed all the government functions. As a consequence, the law and order situation inside the country continued to deteriorate. The arrested journalists were often threatened to write in favor of the government. The action taken by the authorities against the editor of the daily newspaper Kantipur along with its two officials on June 6, 2001 on the charge of sedition terrorized the media people. Referring to a possible conspiracy behind the royal killings, Kantipur had published an article written by Dr. Baburam Bhattarai. After the announcement of the Public Safety Regulations 2001, the government, moreover, tried to cease the right to freedom against the spirit of the constitution. According to INSEC, 80 journalists were arrested and only a few of them were released later during the SoE. Raiding and seizing the pro-Maoist newspaper offices became very common. Pro-Maoist and other papers affiliated to the communist parties were absolutely banned during the SoE and thereafter and the CDOs in Nepal imposed nocturnal curfew, from dusk to dawn violating Article 12 (2c), which allows the citizens the „freedom
to move and reside in any part of Nepal. Against the constitutional rights, the government banned all kinds of processions and public meetings in Kathmandu, Lalitpur, and Bhaktapur for a month when the Maoists announced to hold a central level public meeting in Kathmandu on September 21, 2001 fearing a possible capture of Kathmandu, while Talk I was proceeding ahead.

In many epicenters of the Maoists such as Rolpa, Rukum, Jajarkot, Kalikot, Salyan, Sindhuli and so forth, no one can read some particular newspapers. A newspaper is seized whenever it is found that someone is even holding up a daily or weekly such as Kantipur, Kathmandu Post, Space Time, Jana-Aastha, Budhabar, Janasatta, Janadesh, Mahima, Jana-Ahwan, etc. A staff member working in the office of District Drinking Water, Liwang, Rolpa was caught with a copy of Janadesh and was treated inhumanely and deported from the district within 24 hours. A District Court official, who was reading a left leaning periodical, Mulyankan, faced similar humiliation. Police sources claimed that they were compelled to do so due to the order coming from the concerned authorities at the top (Kathmandu Post:November 27, 2000). The then Home Minister Govindra Raj Joshi accused Kantipur stating that it was encouraging the Maoist insurgency by publishing „exaggerated accounts of the underground party’s influence and activities in the country%” (Mephate:undated:7).

The police in Sindhuli confiscated the publications of daily Ajako Samacharpatra and some weeklies: Janadesh, Mahima, Jana-Ahwan, Yajana, Jana-Astha, Jana-Ekata, and Jana-Bhawana (Budhathoki:1999:4) as they highlight the news of the People’s War. The police warned all the transport companies not to carry the restricted newspapers into countryside. The police also made it known that if they found such newspapers with an individual, he will also have to suffer queries from the police and may even be held into custody if suspected to be a Maoist. On the other hand, confiscated newspapers are burnt down after the police personnel have read them thoroughly. It is the obligation of newspapers and periodicals to publish the news of Maoists. If a paper does not cover the news of Maoists, its sale subsequently decreases. As most of the village people are deprived from receiving newspapers, the Maoists have opened a mobile Frequency Modulation (FM) radio station to air their activities and further plans.

Till the middle of June 2004, the Maoists had set up 6 FM radio stations to mutually exchange information, broadcast news and views, revolutionary songs, strategy and policies of the Maoist party, etc. and to provide recreation to the general masses. These are named as: (i) Seti-Mahakali, (ii) Bheri-Karnali, (iii) Rukum-Rolpa, (iv) Gandak region, (v) Valley, and (vi) Eastern Nepal. These stations generally broadcast at least 2-3 hours each day. But, they are mobile.

In Nepal, it is very difficult to receive impartial news from a newspaper as it is in fact functioning under the umbrella of the government or a political party or an organization loyal to a certain ideology or certain elite class. The government-owned media and newspapers such as Rastiya Samachar Samitti (National News Committee), Radio Nepal, Nepal Television, Gorkhapatra, and Rising Nepal always work in favor of the government policies rather than disseminating free and impartial news. Gorkhapatra and Rising Nepal are entirely financed by the gov-
ernment and they are surviving not due to their quality of news and views but due to their circulation in all government offices and other institutions. People believe that the state media express and deliver the viewpoint of the government through the ministries to about 4,000 VDCs of Nepal. However, the intellectuals and conscious people hesitate to trust them, specially for political analysis. They often hide facts and real figures. The low quality and monotonous news of government media are the major causes of their unpopularity among the common masses. Indeed, the employees working in the state-owned media cannot dare to push their job into fire by publishing people’s strategic and practical needs, interests and/or demand-driven news and articles. Objecting to the policy and performance of the state-owned media, the Maoists exploded a bomb on the second floor of the Gorkhapatra and Rising Nepal on April 18, 1999. The explosion damaged the building lightly, but no one was injured. However, this was a serious challenge in a series and a sign of harassment to the state machineries, as it was exploded in the very heart of the capital itself.

After the restoration of democracy in 1990, except a few, many newspapers and periodicals have increased their growth in quantity instead of quality. However, 27 out of 75 districts are still without any publication of their own. Press Council 1998 states that the total number of registered newspapers is 1,040 which cater to strategic and practical needs and interests of different political ideologies, communities, and ethnic and language societies. Against the norms and principles of press, a few newspapers bargain and exchange crucial news with those who have power, politics and property, depriving the ordinary people from having facts under the right to information.

During the period of SoE and thereafter, all Maoist leaning newspapers were banned. It is surprising that even when the SoE has ended, many of them have no courage to publish factual news fearing possible retaliation by the state mechanism particularly the security forces.

The ICCPR has guaranteed many rights on freedom. The Constitution has guaranteed the fundamental right regarding freedom of thought and expression in Article 12(a). It also ensures in Article 13(1) that „no news item, article or any other related reading material shall be censored.“ „Every citizen shall have the right to demand and receive information on any matter of public importance“ is mentioned in Article 16 of the constitution. As the state authority imposes some sort of censorship or restrictions on these rights, it threatens the sovereignty and integrity of the kingdom. The prohibitions and restrictions against free press and freedom of press disturb the harmonious relations among various castes and communities and promotes sedition, defamation, crime, and finally cause confusion among the common people. Therefore, the fourth organ of the country, the press has to be thoroughly freed from all kinds of state control and restrictions. The media, on their other part, should improve quality and remain unbiased.

Freedom of press is a core concept of democratic society. It is a bridge of communication between the state, political leaders, and the people. Freedom of press includes freedom of thought, conscience, and person.

Nepal is presently facing many major challenges on the rights to life, liberty,
security and personal dignity because the inalienable, non-derogatory, inherent, and indivisible rights have ceased to be there especially after the initiation of the People’s War. As both the armed forces are competing to show their strength, the human rights situation of the country is at crossroads. People are being marginalized as the culture of silence in the Himalayan country of Nepal is getting transformed into a culture of violence. On the other hand, ordinary people are suffering a lot as the so-called national leaders do not have the habit of listening the news and views of opposites side.

Indeed, culture has a prominent influencing role in our Hindu-Buddhist society. However, the right not to be deprived of life or liberty, the right not to be tortured, the right not to be subjected to involuntary disappearances, the right not to be arrested or detained arbitrarily and the right not to have restrictions imposed on both electronic and print media depend upon the cultural norms, values and customs and are guided by dharma and dharmasastras. Culture refers to the privileges, duties and obligations of man to society and religions activities. The present Constitution is enriched due to Nepalese culture which has particularly ensured civil and political rights as the fundamental rights and freedom shadowing economic, social and cultural rights.

Endnotes

1 (Janadesh:August :24, 1999)
2 The agenda was passed by a group of human rights activists and notable figures of civil society such as: Rishikesh Shah, Daman Nath Dhungana, Padma Ratna Tuladhar, Gauri Pradhan, Dr. Bhogendra Sharma, Dr. Gopal Krishna Siwakoti, Gopal Siwakoti „Chintan„% Bhawani Prasad Kharel, Krishna Gautam, and Kul Raj Ghimire, etc.
3 Other members were former chairperson of Constitution Draft Recommendation Committee Rishikesh Shah, former minister and human rights activist Padma Ratna Tuladhar, former attorney general Sarbagya Ratna Tuladhar, Professor Manik Lal Shrestha, senior lawyer Krishna Prasad Bhanuni, former MP and senior lawyer Sindunath Pyakurel, Kalyan Dev Bhattarai, and Dwarka Upadhyay.
4 About 75 percent of the ministries including the PM’s office, offices of other ministers, National Planning Commission, state-owned media such as Radio Nepal and Nepal Television, etc. are located within Singha Durbar.
5 After conducting the search in three districts, viz. Kathmandu, Morang and Banke, the report was made public in January 2004.
6 Advisory Board is to be formulated under the chairmanship of an incumbent Justice of the Supreme Court and two other retired Supreme Court Justices in consultation with the Chief Justice.
Annex-VI.I
Annex-VI.II
Annex-VI.III (Contd.)
Annex-VI.IV (Contd.)
Annex- VI.V (Contd.)
Chapter Seven

Economic, Social and Cultural Rights

“If I had lived in Rolpa, I would also have been a Maoist, as the only response to corruption, poverty, discrimination, and the failure of judicial system to deliver justice to the people.”

- Daman Nath Dhungana¹

Economic, social and cultural rights are direly needed to protect the entire range of human rights to have a full, free, safe, and healthy life. These rights are incorporated in a legally binding treaty but it does not have a complaint mechanism. The International community has fully recognized the International Covenant on Economic, Social and Cultural Rights (ICESCR), but it has been given less priority than that on civil and political rights due to the influence of some of the powerful countries which have denied ratifying it. Regarding the life and living standards of human beings in the world, the Human Development Report 1994 states:

“A fifth of the developing world’s population goes hungry every night, a quarter lacks access to even basic necessity like safe drinking water, and a third lives in a state of abject poverty - at such a margin of human existence that words simply fail to describe it” (1994:2).

The right to live a dignified life cannot be attained unless all basic needs such as food, housing, clothing, safe drinking water, employment, primary health care, and basic education are adequately available to everyone as basic rights. Forwarding the problems of human deprivation, Human Rights Fact Sheet No. 16 affirms:

“Despite significant progress since the establishment of the UN in addressing problems of human deprivation, over one billion people live in circumstances of extreme poverty, homelessness, hunger and malnutrition, unemployment, illiteracy, and chronic ill-health. More than 1.5 billion people lack access to clean drinking water and sanitation. Some 500 million children do not have access to even primary education and more than one billion adults cannot read and write. The massive scale of marginalization, in spite of continued global economic growth and development, raises serious questions, not only for development but also of basic human rights.”

The ICESCR, therefore, ensures significant international legal provisions such as the right to an adequate standard of living and social security; right to work in favorable conditions; right to physical and mental health; right to education and right to enjoyment of the benefits of cultural freedom and scientific progress; and so forth.

7.1 Right to Adequate Food and Freedom from Hunger

Food production has relatively declined as compared to the population growth in the country. Nepal, which was recognized as food grains exporter during 1980s,
has now become an importer over the past few years, especially since 1991, because of the traditional farming method, land fragmentation (division of land to the descendents), the decreasing trend in food grains production, increasing trend in poverty incidence, importing of semi-luxurious goods, over-consumption of food, and intensive population growth. Paddy, maize, and wheat are the main crops which occupy more than 70 percent of the total cropped areas (Nepal Agricultural Perspective Plan:1995:1). The harvests of paddy and wheat in Nepal were relatively higher than those in other SAARC countries until early 1960s, but were considerably lower by the early 1990s (Table No. 7.1.1). Similarly, the production of maize declined from 1,810 Kg to 1,598 Kg per hectare during 1974/75 to 1991/92 (Nepal Agricultural Perspective Plan:1995:1).

Due to the lack of strategy and failure to emphasize sectoral growth and farm income, the production of food grains decreased in particular and there was a dispersed effect on resource mobilization and program selection in general. The microeconomic environment policy and weak implementation strategy were not favorable to growth either. Similarly, the price policy discouraged agricultural exports, but encouraged imports of semi-luxurious consumption goods.

The total population of Nepal is 23.4 million (Central Bureau of Statistics:2001). The population growth rate has slightly increased to 2.37 percent from 2.2 percent (in 1991) with the Gross Domestic Product (GDP) growth rate of 2.1 percent per annum. As one of the least developed countries in the world, Nepal is faced with multi-facial problems. Its per capita income of US $276 shows that it is one of the poorest countries in SAARC as well as in the world. „Of the total income, the poorest 20 percent share only 7.6 percent whereas the richest 20 percent have a share of 44.8 percent‰ (NGO Working Group on ICESCR Nepal:2001:20). This means that except a few landlords, industrialists, businessmen, politicians, bureaucrats, and technocrats, everyone in Nepal is poor. Also, the relatively wealthy persons live in Kathmandu and other urban areas only. Forty-two percent of the population lives below the poverty line (WDI: 2001:65). Of this 24.9 percent is poor and 17.1 percent is estimated to be ultra-poor (see Table 1.2.1). According to the international poverty line, 38 percent of the people earn less than US $1 a day with a poverty gap of 9.7 percent (NGO Working Group on ICESCR Nepal:2001:20). Severe poverty continuously increases hunger and malnutrition, homelessness, diseases, illiteracy, unemployment, etc. which violates
the principle of ICESCR. Poverty is 44 percent in rural areas, which is higher compared to 23 percent in urban centers. Poverty is much higher in the mid and far-western hills and mountains (see Table No. 1.2.1), from where the Maoist People’s War initiated and gradually intensified nationwide. The low rate of income growth, skewed income distribution, and particularly, the deteriorating terms of trade of agricultural sector vis-a-vis other sectors have intensified poverty (NHDR 1998:114).

Half of the population (51 percent) experience that their food consumption is less than adequate due to insufficient food availability or little income to buy the necessities. Similarly, 47 percent of the households just managed to have adequate food and only a small 2 percent have enough consumption of food, i.e. surplus food and surplus income for family expenses (Table No. 7.1.2). But, 3 percent of the people have more than adequate food where feudal system is widely in practice since ancient times. The greatest number, 63 percent, of mountain people suffer from acute poverty due to the lack of access to fertile land, improved seeds, irrigation, and food in time.
Poor, disadvantaged, marginalized, and vulnerable nationalities, and *dalits* (down-trodden or untouchables) are particularly more vulnerable to food scarcity. These people are generally identified as petty service providers such as agriculture laborers, tenants, *ex-kamaiyas*, smiths, shoemakers, tailors, etc. These people are engaged in the People’s War to achieve their national identity and to avail opportunity for access to resources.

In recent years, people have suffered from acute food shortage in Nepal. The total food production has decreased each year compared to the total requirement of food (Fig. 7.1.1). Two-third people of Nepal had food deficit in 1999/2000 (Agricultural Marketing Information Bulletin Special Issue: 2001:118-119). In the five districts, namely Dolpa, Mugu, Humla, Jumla, and Kalikot of Karnali Zone, people suffered a lot more from food deficit than in other zones of Nepal (Table No. 7.1.3). The Karnali Integrated Society has stated that a total of 1,561 people died of hunger in three years from 1998 to 2000 in Karnali zone alone, and the trend still continues. People are starved because of: (i) increase in population growth, (ii) decrease in food production, (iii) internal forced displacement, (iv) persistent migration, (v) youth recruitment into the People’s War, (vi) increasing land fragmentation, (vii) decreasing subsidy for food and food supply, (viii) lack of seeds and fertilizers, (ix) community forest approach\(^2\), (x) isolation from development of infrastructure, and (xi) breakdown of indigenous management methods. In Karnali and other similar food scarcity areas, the Maoists revolutionized the people against the state as a means of identity and resource based struggle.
Table no. 7.1.3 implies that merely 15 percent of the population produce sufficient food to feed themselves for a year in Humla, which is the largest food deficit district in terms of both quantity and quality in Nepal. Approximately half of the population manages for three months per year from their own production. Mugu, Kalikot, Dolpa, and Jumla respectively follow as the food deficit districts. Nepal Food Corporation (NFC), which has its branches all over the country, distributes rice, wheat, and maize to deficit districts, but covers the food demands of only a small section of people. One senior official of NFC informally stated that a very small part, 5-8 percent, of the total demand for food in deficit districts is fulfilled. Dr. Gopi K. Sedhain of Pro-Public stated that the charges for hiring helicopters are reimbursed by the government even when some of the crops are sold in urban centers by some private helicopters (personal communication: March 2002). Despite such food deficit, the government closed 67 depots in the remote areas of the country, a majority of which were in the hardest hit districts of Karnali zone (HRYB: 2001:98). As it has formally ratified the ICESCR, the state should protect the right to life of people from famine and hunger.

Those who are elite (with power, politics, and property) can manage for food even in difficult circumstances, but the poverty-stricken people have neither food nor money to buy food nor can their voice reach the concerned authorities. Thus, the people without resources and access die each year in the remote districts where food is perpetually scarce. Distribution of food coupons through the officers of VDC, DDC, and CDO is often made on adhoc basis. It seems there is no system for equal distribution to all. It is frequently reported that the influential people and bureaucrats who have power, politics, and property with them can easily avail many more coupons than their actual requirement. And they sell the excess coupons to the local businessmen. Even if food is available, people cannot buy it due to the lack of access or income. Due to persistent migration and temporary displacement, the population of food deficit districts has decreased despite high population growth (Table No. 7.1.4). Some of the people have migrated fearing possible assault by either of the conflicting parties. As much as one-fifth of the people have migrated from the district of Humla in search of food and security.

Poverty-stricken people have been deprived to receive the benefits of all round development compared to those who are rich (Table No. 7.1.5). On an average, each poor woman gives birth to 6.2 children. Such people mostly live in rural
areas and have poor access to resources and opportunities. In the absence of awareness on family planning matters, they cannot make use of the few available facilities, not even contraceptives. On the other hand, a woman who has been empowered with knowledge, capabilities, and opportunities, gives birth to 3 children only. There is a significant difference between the living standards of women and children living in rural and urban areas. But, at the epicenter of the People’s War, there is a gradual awakening among the people so as not to produce more children.

The average life expectancy of 58 years significantly differs depending on the place of residence in an urban center or a rural area. People residing in the mountain region, on an average, die 7 years earlier than those in tarai and 10 years earlier than in urban centers (NHDR 1998:1998: 57), as they are deprived from nutritional food, health facilities, and other accesses to resources and opportunities. The food inadequacy compels one to consume low quality and less quantity of nutritional food. The nutritional status at micro-level links to overall food production, distribution, and supply. The access to agricultural land, employment, income, etc. have crucial effect on household nutritional status. Therefore, the people of Nepal, especially children and women, suffer from various kinds of diseases. As much as 70 percent of the household income is spent on food first. Poor people do not have enough access to resources for other things, for instance, medical and schooling facilities, etc. The high mortality rates among infants, children, and women are rightly regarded as the key indicators of poverty (Table No. 7.1.6) and subsequently, poor, disadvantaged, and vulnerable people add some fuel to the People’s War.
The minimum calorie requirement of an adult Nepali is 2,250 Kcal per day on an average. The requirement varies based on the nature of work. Generally, people who live in hills and mountains require 2,340 calories. It is estimated that food consumption of over 60 percent of the population is below the minimum daily requirement in calories (Governance Assessment: 1998:52). However, as the poor people can hardly manage to eat even one meal a day, it affects their life expectancy due to poor health, lack of resource distribution, mild-to-severe malnutrition, and vitamin deficiencies. Iron deficiency among pregnant women is widely prevalent. People who live in hills and mountains face severe iodine deficiency that causes goiters and mental retardation. A significant number of poor tarai people suffer from blindness in the absence of Vitamin A. These are some of the examples showing deterioration of human rights in regard to health. Ratification of ICESCR alone does not make any sense unless the state ensures for enough food both in terms of quality and quantity.

According to the Country Cooperation Framework Report 2002, about 50 percent of all households are having inadequate food consumption. This situation is even more alarming in hill and mountain regions where 63 percent of the people are under-nourished. Nearly half, 48 percent, of Nepali children under 5 are estimated to be malnourished (WDI: 2001:111). Malnutrition is the result of insufficient access to resource of adequate food. The nutritional status is determined by the availability of food items, their processing, timing of intake, and intra-household food distribution (NHDR 1998:64). Based on the World Health Organization (WHO) indicators of children’s vulnerability to diseases and their chances of survival, three indices of physical growth such as height-for-age (stunted), weight-for-height (wasted) and weight-for-age (stunted/wasted) are used to describe the nutritional status (Table No. 7.1.7) which are measured in terms of standard deviation expressed in standardized z-score units of medium value between -2 SD and -3 SD of the reference population. -2 SD is considered below normal and -3 SD is severely undernourished. Similarly, 65 percent of pregnant women are affected by anemia (WDI 2001:111). Poverty, illiteracy, disease, inadequate agricultural production, unequal resource distribution, and indigenous food management are the main reasons for malnutrition and under-nutrition.
On the one hand, people are deprived from adequate quality and quantity of food. On the other, the elite class people such as political leaders, parliamentarians, bureaucrats and some founders of NGOs have gone from rags to riches during the decade-old democracy due to high prevalence of corruption, commission, donation, and so forth. Thus, Nepalese democracy is deeply rooted in the fertile ground of all kinds of financial irregularities which has subsequently given birth to a new class of people: democrat barons or neo-feudals. Despite the norms, values, and principles of democracy, Nepalese democracy has widened the gap between the great majority of poor people and the few elite. As most of the political leaders have lost their credibility with their voters, none of them can muster courage to freely move in the rural areas and their homeland or constituencies.

Since the CPN (Maoist) supplies some food grains and helps famine affected people, the People’s War accelerated in the rural areas which helped in rapid build-up of the United People’s Governments (UPGs) at both district and local levels. The Maoists supply food through grants, donations, and extortions from local landlords or feudals in their territories. Sometimes, they confiscate food grains by breaking open the godowns of local landlords, businessmen, political leaders, or usurers, etc. and distribute them to the poor and local people.

The right to food means access to adequate food. The food must be adequate both in terms of quality and quantity. Access to adequate food has been defined in terms of intake of nutrients, calories, and proteins. Hunger and malnutrition are the consequences of the lack of access to adequate food (Kunnemann:1999:109). The Constitution did not ensure the right to food for all, but the Ninth Plan had adopted poverty alleviation as its main objective. The restoration of democracy guaranteed political freedom and stressed upon socioeconomic transformation only secondarily. For a poor country like Nepal, socioeconomic transformation should primarily ensure the „food first% goal for the great majority of toiling peasants and workers.

The right to food is the right to have regular and permanent access to sufficient quality and quantity of food as per the cultural tradition. It ensures the highest attainable physical and mental health for an individual and collective fulfillment of dignified life, free of fear. It enhances the living standard of human lives. The right to an adequate standard of living is the right to adequate food, freedom from
hunger, and freedom from continuous deterioration of living conditions. The concept of right to food is mainly used through some major components, namely the notions of adequacy, sufficiency, accessibility, and sustainability for nutrient food. Therefore, the right to food means access to sufficient quality and quantity of nutritious food and safe drinking water for an active healthy life. It is required by every man, woman, and child. It should not be interpreted narrowly. It should address with minimum package of calories, proteins, and other required nutrients. It helps to combat hunger, malnutrition, and disease and is directly linked with an ongoing conflict as the People’s War.

Hunger is an atrocious form of human rights violation. The principal obligation of state is to feed its citizens in conformity with their right to an adequate food. The state should function as protector of rights relating to food, rather than merely supplying food during emergencies. Letting anyone die of hunger is equivalent to an act of murder. The chronic and serious undernourishment also violates the fundamental right to life.

In recent days, it has saddened many that Nepal’s economic resources are being diverted towards buying arms and ammunition and modern helicopters, and the security forces are mobilized to kill Nepali brothers instead of ensuring ‘food first’ to the hungry. In a talk program on Human Rights Day on December 10, 2000, Prime Minister Sher Bahadur Deuba said, ‘‘What we must realize is that as organized violence increases, all our budget, including development budget, will be directed to combat the problem, to buy arms to counter the insurgency.’’ In spite of the revival of democracy, poverty-stricken and hungry people find that freedom is just another word. Unless the people get enough food, the ongoing crisis will never be solved. If the People’s War is solved through peace process without taking care of the hungry belly, we would only be inviting another armed struggle.

Many international human rights instruments such as ICESCR, CRC, Laws of War, etc. have ensured the right to adequate food or freedom from hunger. Nepal is also a signatory to them. Article 11.1 of ICESCR states that the State Parties must ‘‘recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The State Parties must take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.’’ The right to freedom from hunger has also been illustrated in paragraph 2 of the same article.

Similarly, the Convention on the Right to Child (CRC) has legally ensured the children with the ‘‘right to access to health-care and freedom from malnutrition’’ in Article 24.1. CRC Article 27.1 states, ‘‘State Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.’’ Under Article 27.3, it is further emphasized that ‘‘in accordance with national conditions and within their means... (and) to implement this right...‘‘(the State Parties) need provide material assistance and support programs, particularly with regard to nutrition, clothing and housing.’’ The addi-
tional protocol to the Geneva Convention of August 12, 1949 and relating to the Protection of Victims of Non-International Armed Conflict (Protocol II) prohibits attacking, destroying, and removing foodstuffs from the agricultural areas meant for the production of food grains. Similarly, the ILO conventions have also ensured human rights to adequate and sufficient food.

General Comment No. 12 on the right to food adopted by the Committee on Economic, Social and Cultural Rights on May 12, 1999 clarifies that the right to food means to be free from hunger and malnutrition. It recommends steps for its progressive implementation by the state and the international community and explains the authoritative legal interpretation and respective state obligations:

The right to adequate food is realized when every man, woman and child, alone or in community with others, [has] physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense, which equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger ṭ even in times of natural or other disasters.%o (HRI/GEN/1/Rev.4, p. 58, para. 6).

The 19th session of the Committee on Economic, Social and Cultural Rights adopted the ICESCR General Comment No. 9 that includes the substantive issues arising in the implementation of the international covenant. The sub-number 4 of the General Comment No. 9 states:

In general, legally binding international human rights standards should operate directly and immediately within the domestic legal system of each state party, thereby enabling individuals to seek enforcement of their rights before national courts and tribunals....

Before the ratification of ICESCR, regional food security arrangements such as SAARC Food Security Reserve 1987 were formed. Article 11 (4) of the Constitution of the Kingdom of Nepal 1990 explicitly states that no person may be discriminated or be deprived of the use of public utilities on the basis of caste. However, Nepal has neither domesticated the application of ICESCR nor has properly implemented the existing legal provisions. There is a gap of justice in compliance of state party obligation. The non-compliance of the state party obligation is a main cause of hunger and malnutrition in Nepal, which, in turn, is a violation of human rights.

In hills and mountain regions, people eat less than adequate food, which adds fuel to intensify the People’s War in Nepal. These people expect to get enough food to eat in a republican state of Nepal. Indeed, the identity, resource, and politico-ideology based People’s War has generally captured the sentiments of the poor, disadvantaged, and vulnerable people and these people are greatly involved in it considering as a means of identity and resource-based struggle.
7.2 Right of Everyone to Work

“In the International Conference on Child Labor at Oslo, a young 13-year-old girl of Senegal stood on the dais and demanded, ‘Children should be given the right to work.’ Speaking in favor of child labor she said, ‘Decision makers have no right to talk of education and elimination of child labor since poverty of the parents dragged children to work. What rights do you have to criticize my right to work when you have failed to provide me education and put an end to my poverty?’”

- The Statesman: October 29, 1997

A basic feature of the right to work consists of the obligations of the state to respect, protect, promote, and fulfill every person’s access to work of one's choice to earn one’s living. In regard to state's obligation on the right of everyone to work, Circle of Economic, Social, and Cultural Rights Activism: A Training Source states:

„State must not destroy a person’s opportunity to earn his or her living (obligation to respect). State must prevent this opportunity from being destroyed by third parties (obligation to protect). State must provide the opportunity to earn one’s living to each person who currently does not have this opportunity (obligation to fulfill)%o (2000:184).

The right of everyone to work protects a person who sells labor whether in formal or informal market or to an institution. It includes: (i) right to dignified working conditions; (ii) right to work that is freely chosen or accepted; (iii) right to adequate remuneration; (iv) right to a limited workday and remunerated period of rest; (v) right to equal pay for work of equal value; (vi) right to equal treatment; and (vii) right to safe and hygienic working conditions. Thus, the right to work prohibits against slavery, servitude, and forced labor.

According to the Census of 1991, 92 percent of the work force in the mountains, 84 percent in the hills, and 74 percent in the tarai are engaged in agriculture. And a large proportion of labor force is self-employed, including unpaid family workers (NHDR:1998:107). The size of total labor force is estimated at 11.7 million. The Ninth Plan states:

„Of the total economically active labor force, 4.9 percent remains fully unemployed. Of the total employed labor force, 81 percent is engaged in agriculture, 5 percent in industry, mines, power, and construction and 14 percent is engaged in trade, hotel business, transport, communication, finance, real estate, and social service sector. Of the total labor force in employment, a large segment, ie 47 percent, is in a state of underemployment and is mostly engaged in agriculture%o (1998:211).

However, it is estimated that very small number of people are fully employed in different offices or sectors who depend solely upon their jobs for livelihood. About half of the population (47 percent) is estimated to be underemployed or self-employed. However, the usual data and information presented by the government is often unreliable, as it is made to attract both common people and donor agencies, twisting facts and real figures. The political instability is a major cause of the problem of self-employment, which is even more pervasive than full time unemployment as they are engaged for only three months in the agriculture sector, remain without work for the rest of the year and pass their days just loitering around.

Very few people are lucky to work as full time employed in both formal and
informal services in Nepal. Among the fully employed service holders in civil society, the absolute majority is constituted of those from the upper castes, bahun and chhetri, and the trend has even accelerated after the restoration of democracy (Fig. 7.2.1). Both bahun and chhetri together constitute only 29 percent of the total population of Nepal. Socially, the people are partitioned along caste, sub-caste, ethnic, and sub-ethnic groups. Table no. 7.2.1 shows that 12.9 percent bahun hold a great majority in bureaucracy from gazetted third class to first class officers. The uneven representation in all levels of bureaucracy and in political parties often creates tensions on many issues such as language, religion, and formation of laws. When bahun or chhetri construct any kind of acts or rights regarding ethnic people or janajatis (which is now translated into nationalities) or indigenous people/issues, the problems and feelings of ethnic people cannot be truly reflected. Still, bahun and chhetri handle all kinds of legal as well as administrative jobs.
Rather than ensuring equal rights and opportunities to all castes, ethnicities, languages, and dialects, the government in fact prioritizes the culture of *aphno manchhe* (nepotism, favoritism, sycophancy, etc.) in all fields. The poverty-stricken people hope to earn some money to rear and care for the family. On the other hand, they must pay back the loans they had taken during difficult circumstances for marriage, *bratbandha* (sacred thread wearing ceremony), study, etc. from their landlords, usurers, and moneylenders. If a teen or youngster is recruited in labor market or institution and starts to earn, s/he is welcomed by everyone. Getting no opportunity for work results in suffering humiliation from the society.

Due to the lack of working opportunities in the mountains and hills during the slag agriculture season in winter, low wages, and high levels of deprivations, a large number of laborers annually migrate to *tarai* and other urban centers of Nepal and foreign land like India looking for employment opportunity.
Such migratory trend has been intensively noted in the mid-western and far-western mountains and hills (NHDR:1998:104). It is estimated that more than half the households are involved in such migratory movement in search of jobs. In recent years, the migratory trends to Gulf countries have significantly increased both voluntarily and involuntarily (fearing possible victimization by both the state and the Maoists). According to the Department of Labor and Manpower Promotion Center (DLMPC), a total of 205,386 young male members have officially migrated to 47 different countries, especially in the Gulf, in the 10-year period from 1991/1992 to March 15, 2002 (Table No. 7.2.2). Out of that, 94 percent have gone to Saudi Arabia, Malaysia, Qatar, and U.A.E. (Fig.7.2.2). Among these four, Saudi Arabia alone attracted 39 percent.

However, the registered number of foreign migrants does not reflect the true figures. One official of DLMPC stated that the number represents only 25 percent of the actual number of foreign migration. The trend of foreign migration has intensified after the promulgation of SoE. Youths fear both the state and the Maoists and try to escape from Nepal and go abroad. Even some Maoists have gone to foreign countries on repeated requests of their family members, relatives, and friends, ignoring the People’s War. As the migrants desperately want to free themselves from the Maoists, they are not worried about the risks involved or the kind of job they will get. Because of the influx of foreign migrants, the number of casualties or incidents have greatly increased. Fifty-three in Saudi Arabia, 39 in Qatar, and 4 in Malaysia have died until March 2002. In spite of the constitutional right to equality, female members are discriminated against as the government prohibits them to go to Gulf countries to work. Recently, however, the government has formulated an ordinance to permit women to go to foreign land for work, which should be welcomed by all quarters, although its compliance is still doubtful.

To avoid both the conflicting parties and to promote the livelihood of the family, unemployed youths want to go abroad at any cost. As a result, large numbers of them have been suffering in foreign land. Some have also been imprisoned as they did not have proper visas. The condition in which people have been working in foreign countries can be understood from the following case study which has been taken from Kathmandu Post of September 7, 2004.
Case 7.2.1: Human Trafficking

Krishna Bahadur Khadka of Dolakha says he has survived the most difficult battle of his life. He had left for Kuwait on August 16, with the hope of earning for a better future for his wife and three-year old daughter. But unfortunately he was disenchanted with prospects all too soon.

“My Indian agents would have killed me if they had found me the night after I refused to work in Iraq,” Khadka told the Post soon after his arrival in Kathmandu on September 6. Himshrinkhala Manpower, an unauthorized agency, had sent him to Kuwait through RN Manpower of Kathmandu, with a promise for a job in Kuwait, not Iraq. But the First Kuwaiti Trading and Contracting Company, his recruiting agent, kept him and 121 other workers in the Iraq-Kuwait border for 10 days. Moreover, the company threatened to send all of them back to Nepal if they refused to work in Iraq.

“I was not happy as the contractors did not provide me the job of heavy vehicle driver as pledged. But they had offered Rs. 175,000 (US $2,365), and one would not be able earn half that amount in Kuwait. So, I signed the papers,” said Khadka who had already paid Rs. 120,000 (US $1,622) as advance to the agent in Nepal. “But after hearing the news of the killing of 12 Nepali hostages, I got scared,” he added.

He recalls the threats of his contractors against his life when 47 Nepalis living there also decided not to work in Iraq. “I saved myself hiding in garbage dumps, when my Indian contractor tried to attack me with stove and soda bottles.”

According to Khadka, a Nepali from Simara who was supervisor in the Company, did not help them return to Nepal. “We fled from where we were staying and sent a fax to the Nepali Embassy in Saudi Arabia asking for help,” he said. On September 4 Mitra Singh, a Nepali settled in Kuwait, came to our rescue.

He recalls a dispute between Singh and his Indian contractor when Singh had tried to rescue them and send them back to Nepal. “But I am the only one who was sent back although 47 others were trying to return with me,” he said. “They had already sent some of the 121 workers to Iraq.

The children of below-14 age groups are also economically active. In 1991, the number of economically active population in the age group of 10-14 years was half a million, and the number increased to 1 million in 1996 which constitutes around 10 percent of the total work force (NHDR:1998:109). Many children are working in difficult circumstances. Moreover, it is frequently reported that child labors are severely tortured in their workplaces by their masters and are provided food of poor nutrition.

Without ensuring for alternative economic resources and opportunities for livelihood, the government has banned child labor because of the pressure from donors driven human rights organizations. There is no exclusive child rehabilitation center either. A few NGOs are involved in rehabilitation, but their effort, capacity, non-discrimination, and sustainability are questionable. Almost all of them are working with the foreign support only, without any permanent resources. A very limited number of children are lucky to receive such rehabilitation facilities. Absence of any alternative means of economic resources and opportunities for livelihood and the restrictions on child labor deprive the children from the right to earn their living and the right to have a dignified life. That is why the number of street children has suddenly increased. Therefore, the concerned authorities must think how to ensure food first to the poverty-stricken children and only then
toward the requirements of liberty and other facilities.

In the absence of the right of everyone to work and to enjoy just and favorable conditions of work, the unemployed and underemployed people add fuel to the People’s War. Leader of the main opposition political party Madhav Kumar Nepal says: „Poverty and increasing unemployment amongst the youth are the root causes of the Maoist insurgency‰ (People’s Review: June 11, 1998).

If we look at the number of killings in the past five years, we find that hundreds of political activists and professionals were extrajudicially killed by the state (Table No. 7.2.3) and they are still targeted. Out of 1403 killings, 40 percent were political activists. Of the 40 percent, the state security force alone killed 84 percent. The second largest number of killings is that of innocent farmers. Of the total number of extrajudicial killings, 65 percent was done by the state within a half decade of the Maoist People’s War against 35 percent killed by the Maoists in the name of retaliation.

In the first year of armed struggle, only a few political activists were targeted by either side. It is neither easy for the state security force to find out the whereabouts of the Maoists nor the state can properly investigate before the killings. In fact, the Maoists were very weak at the beginning of the People’s War. As a result, farmers were primarily targeted. Farmers who were ploughing in the field, or merely walking on the road, or sleeping in the house or cow-shed or grassing the animals had also been killed by the state and it was broadcasted that such and such numbers of Maoists were killed in armed encounters. Out of 81 victims killed in 1996, 74 percent were farmers. Next to the farmers, students were targeted by the state. Similarly, the Maoists also killed deliberately more than a dozen farmers accusing them as surakis, reactionaries, feudals, moneylenders, and usurers.
In comparison to 1996 and 1997, many more civilians were killed especially by the state in the name of intensified security force mobilization, i.e. Sierra Kilo Two operation. Of the total 409 people killed, the police alone extrajudicially had killed 82 percent of them which included some Maoists. In retaliation, the Maoists also killed a total of 25 policemen and 21 farmers. Despite massive operation of armed forces, the People’s War intensified to neighboring districts. Many marginal people, who were neither supporting nor refuting either side, started to migrate to urban centers in search of social security. Some political activists, farmers, teachers, and students who had been opposing the guerrilla warfare earlier were compelled to join with the Maoists due to the fear of security forces. The CPN (UML) primarily lost their activists to the CPN (Maoist), as UML leaders internally started power-based politics instead of people-based politics. Extrajudicial and arbitrary killings of political activists particularly increased after 1999. In 1999 and 2000, the Maoists appeared quite stronger than before.

If a youth goes unemployed immediately after the teenage, s/he becomes ill-behaved whether in the family or in the society. Adequate employment opportunity is necessary to solve the “hand to mouth” problem. Moreover, these frustrated, alienated and disadvantaged teens, who neither get support from family nor society and the state, finally become inclined to join the Maoist People’s War. As a result, thousands of unemployed or underemployed youths were recruited into the People’s Liberation Army after Prachanda’s first ever public announcement, “Let’s recruit the people’s army from door to door,” and since then, the recruitment process is continuously on the rise. Unless the government ensures for access and opportunity toward the right to work to everyone, especially to teens and youths and to enjoy favorable conditions of work, the flow toward the war will never end.

After the restoration of democracy, the government had expressed commitment to solve the problems of unemployment and underemployment. Hundreds of investigative reports were prepared. The objective of the Ninth Plan (1997-2002) also focused upon: (i) poverty alleviation, (ii) sustainable economic growth, and (iii) national development and regional balance. But none of these fundamentally specified measures for the right to work were ever implemented. Thus, a decade-old democracy has instilled total disillusionment among the poor, disadvantaged, and vulnerable youths.

While employment opportunity is becoming increasingly bleak in Nepal, hundreds of fake Maoists seek political asylum in various European countries every year in the hope of a better life and a future for their family members by paying hefty sums up to Rs.1,000,000 (US $13,333) to the migration smugglers or traffickers. While bogus political refugees have risen tremendously in recent days, the European countries such as Germany and United Kingdom have tightened their policies. Most of the aspirant migrant workers enter with a fake letter having forged signature of a top Maoist leader certifying that they are being harassed by the state authority. The traffickers in Nepal prepare all such fake documents including the letter from a Maoist leader and an evidence of police harassment. It is ironic that most of such political refugees are members of NC, UML, RPP and ML.
On the other hand, thousands of migrant Nepali workers particularly in India are involved with the CPN (Maoist) and are helping the People's War by procuring arms, ammunition and explosives. These migrated people also provide shelter to the Maoist leaders in India.

It is believed that 50 percent of the Maoist cadres are from among the economically most productive hands aged between 18 to 25 and they are playing with the weapons. Similarly, 15 percent of the children, the ‘future stars of Nepal’ aged between 14 to 17, are working voluntarily, and sometimes involuntarily as watch-dogs, informers, messengers, and kitchen masters in the villages and guerrilla camps.

The right to work concerns with the right to earn one's own living and the right to freely choose or accept work (ICESCR Art.6). Similarly, enjoyment of living and favorable condition of work are ensured by the right to decent remuneration (ICESCR Art.7a); the right to freedom from slavery (ICESCR Art.8); the right to form and join trade unions (ICESCR Art. 8.1a and ICCPR Art.22.1); and the right to strike (ICESCR Art.8.1d).

The right to work to earn one's own living in Article 6 of ICESCR ensures:

(1) The State Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.(2) The steps to be taken by a State Party to the present Covenant to achieve full realization of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

The right to decent remuneration in Article 7 of ICESCR states:

The State Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work, which ensure: (i) fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; and (ii) a decent living for themselves and their families in accordance with the provisions of the present Covenant.

The enjoyment of living and favorable conditions of work also include safe and healthy working conditions, equal opportunity for everyone to work, limitation of working hours and periodic holidays. The significance of the right to freedom from slavery, the right to form and join trade unions, and the right to strike is illustrated in Article 8 of ICESCR:

(1) The State Parties to the present Covenant undertake to ensure: (a) the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others; (b) the right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations; (c) the right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary
in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others; (d) the right to strike, provided that it is exercised in conformity with the laws of the particular country.

Nepal is a state party of various ILO conventions. The ILO Convention No. 1, 14, 30, 121, 97, 98, 100, 131, 143, and 182 ensure working rights of the laborers in labor markets or workplaces and other institutions.

The Constitution of the Kingdom of Nepal 1990 in Part 4, „The Directive Principles and Policies of the State, in Article 26 (6) has ensured the right of the labor force: „The State shall pursue a policy of increasing the participation of the labor force, the chief socioeconomic force of the country, in the management of enterprises by gradually securing employment opportunities to it, ensuring the right to work, and thus protecting its rights and interests. Nepalese constitution in Article 20 prohibits the trafficking of human beings, slavery, serfdom or forced labor in any form, and bans minors from working in all kinds of jobs. But there is no strategy for implementation of such crucial issues.

Equal access to distribution of resources and opportunities remain essential rights of human beings. The primary source of income should allow for survival and to lead a dignified life, whether people are employed in the formal or informal sector. The right to work is the fundamental of subsistence and livelihood rights and everyone has the right to live and to earn one’s living that safeguards and promotes the living standard of the person. The employment opportunity must have respect for the observance of human rights and fundamental freedom. Illiteracy, poverty, lack of adequate awareness, and dearth of resources are the main hindrances toward the right to work that finally adds to intensify the People’s War. The state authority, political parties, and international communities have designed no specific strategies and action plans to expand employment opportunities in practice and reduce unemployment. On the other hand, there is a serious lack of effective implementation of the policies and strategies on employment adopted so far.

7.3 Right to Education

Education must be universal. It must reach all the people free and compulsory.
- Report on Education in Nepal:1956

Education is the wealth for a nation. It plays significant role to produce patriotic, progressive, disciplined, productive and skilled manpower. Multi-dimensional development such as economic, social, and political progress purely depends upon consciousness or awareness, and awareness is generally perceived through good quality of education. The literacy rate of Nepal is less than any of the South Asian countries. Out of these, the adult female literacy rate is also the lowest (Table No. 7.3.1).
In eastern Nepal, a greater number of people are literate than in other development regions (Table No. 7.3.2). Least number of people are literate in the midwestern zone where the Maoist People’s War had initiated. Regarding the ecological zones, the least number (33.2 percent) of people are literate in mountains, followed by *tarai* (36.5 percent), and hills (43.9 percent) (Manandhar:1995:383).

The number of trained teachers for quality education has not increased to cope with the growth of public and private schools. The percentage of qualified teachers at primary school level has increased from 55 percent in 1976 to 82 percent in 1990, but the percentage of overall trained teachers has downsized from 39 percent to 35 percent over the same period (Manandhar:1995:383). Concerning the training, a number of shortcomings have been identified: (i) lack of coordination in primary teachers’ training, (ii) short duration of policy and lack of focus on training, (iii) conflicting objectives for short duration in-house training, and (iv) supply of low level professionals and inexperienced trainers. Besides, the participation of female teachers is very limited, which also affects the quality of education.

Fewer number of women are literate in the patriarchal society of Nepal as compared to men (Table No. 7.3.2). Due to the lack of knowledge and empowerment, women suffer a lot in varying degrees and magnitudes. The common forms of human rights violations to women are rape, polygamy, polyandry, child marriage, pornography, sexual harassment, wife beating, overloaded work, trafficking, witch hunting, etc. Likewise, women also suffer from malnutrition, morbidity, illiteracy, and so forth. They have less access than men to such rights as income, wealth, employment, education, and health facilities. In fact, very few rights of property and family matters have been ensured to women in law. The traditional conservative society gives little importance and freedom to women for marriage, decision-making, and so on. Only one woman, for example, has been appointed in National Planning Commission so far. No woman was nominated in the Constitution Recommendation Committee in 1990 or, for that matter, in the peace talks process between the government and the Maoists in 2001 and 2003 except Anuradha Koirala. In fact, illiteracy is the main cause of the deep-rooted conservatism and feudalism that are attached as social stigmas in the Hindu-Buddhist traditional society of Nepal. Illiterate rural women suffer more than the illit-
erate women of urban centers. The case study of Saraswati given below shows how the lack of literacy and awareness affects women even in Kathmandu.

**Case 7.3.1: How did a shaman kill Saraswati?**

Saraswati Adhikari and her husband Ganga Bahadur Adhikari were residing in a rented house in Maitidevi, Kathmandu metropolitan city with their two children. When she became sick, someone told her husband that she might be under the influence of *tuna* (witchcraft). A *dhami* (wizard, shaman, or sorcerer) residing in the city was called for treatment. The night of May 10, 1997 proved fateful, when the shaman and her husband together started to beat her mercilessly on the pretext of “driving away the witch.” Hearing her screams, entire neighborhood people gathered there. She became unconscious and died within a few minutes. The children were weeping at a corner, watching helplessly the cruel and inhumane torture meted out to their mother. The neighborhood people were severely threatened by the shaman not to intervene in the situation.

Such shocking Middle Age atrocities continue to occur even in the capital. One may imagine what would be happening to the rural women where most of the people are illiterate, poor, and vulnerable. As a matter of fact, she was not the first woman to behave in the manner and obviously is not going to be the last one either. Although there are numerous cases of inhumane, cruel, and degrading treatment against women, most such cases go unreported due to the lack of education, media persons or informers. It is frequently reported that such women accused for witchcraft were fed human excreta and expelled from the village. However, after the initiation of the People’s War such superstition or even its semblance is gradually being removed in Maoists’ affected areas, as they try to make people aware through both formal and informal education. In fact, such incidents happen due to the lack of knowledge and awareness which can be acquired through education.

In recent years, the state authority has prioritized education for all citizens. The number of 321 public schools in 1951 (Stokke:1993:293) increased to 19,498 in 1992 (Manandhar: 1995:357) and they are scattered across the country. Similarly, the number of children enrolled in schools...
increased from 8,505 in 1951 to about 2.6 million in 1992 (Stokke:1993:292). But even today, 30 percent of the children are not getting admitted into schools (Fig.7.3.1). More than half drop out before reaching the fifth grade, a great majority of them being girls. Only 10 percent of children become eligible to appear in the SLC Examinations, including a few girls, especially from the rural areas. Moreover, only 20 percent of them pass the SLC examination. And very few of them are from the remote/rural areas. A great majority of students who have failed in studies are pushed towards the Maoist People’s War.

The local people have whole heartedly participated to build up schools, furniture, and so on in the past and they have highly prioritized education. Even though some schools are poorly conducted without roofs, furniture, and so forth due to the lack of resources, especially in the Maoist affected areas. Since very few students in rural areas pass the SLC Examination, parents or guardians get disappointed with the poor state of education, although tuition and textbooks have been freely available for the lower classes of public schools. Free education which was available since the restoration of democracy has now been stopped except in primary levels. In the name of free education in the past, schools had drawn a huge sum of money through admission fees, registration fees, library fees, and examination fees, which together was a lot more than the earlier tuition fees and so it was protested by all corners.

However, the school administration claims that the money is spent on salary and allowance to the teachers who have locally been appointed, office equipment, and so forth. The parents, students, and teachers were shocked when the Maoists restricted them to pay school fees in recent years, as they were demanding free education to all. On the other hand, the school management frequently state that they could not operate classes, as the students had boycotted to pay fees. The government does not provide all the expenses of the schools either. Similarly, hundreds of proposed public schools in the epicenters of the Maoist controlled areas could not be approved by the government as a policy of retaliation and they did not get the budgeted amount for the salary and allowances of teachers by the government. Some of them have now already closed down and some are likely do so soon. Consequently, hundreds of thousands of poor children have been deprived of the right to education. The Education Act and the Concerned Regulations 1992 specify that the government shall be responsible to meet salary and other allowances of the approved teachers in all the public schools. Marx had stated: „Universal and equal elementary education should be provided by the state”.% (www.marxists.org/archive/marx/wrks/1870/gotha/ch04.htm).

The mushroom growth of private schools in the recent years has improved the quality of education in the urban centers as compared to the public schools. But they are very much expensive. Before the initiation of the People’s War, the United People’s Front forwarded the 40-point demands of which the demand number 35 states, „Free and scientific health services and education should be managed for all. Commercialization of education should be stopped.” But, the degree and magnitude of commercialization continue to go up each year.

Due to the lack of proper policy, implementation, and surveillance, the tuition
fees and facilities in private schools vary from one to another (Table No. 7.3.3). Private schools have been providing quality education, although they have indirectly but distinctly divided the students into two classes: (i) rich and (ii) poor. The children from the elite families study in private schools. Those who are from poor families go to study in public schools with very poor facilities and untrained teachers and sometimes without the subject teachers. As a matter of fact, very few students from public schools are lucky enough to pass the SLC Examination, as the same set of questions in each subject is provided to both private and public school students.

Students, teachers, and unemployed youths are primary tools for the Maoists and have been functioning as catalysts for them. A 11-year-old student, Dil Bahadur Ramtel of Grade 4 of Brahmcharini Lower Secondary School, Gorkha, was shot down by the police at Pandrung VDC-3 on February 26, 1996, when the students were protesting against the arrest of local school headmaster Bir Bahadur Gurung. However, the state aired that he was killed in an armed encounter. Later, the Maoists claimed him as the „First Martyr” in the great process of the People’s War. Until December 2000, a total of 61 students were killed by both sides, 87 percent of whom by the state. Likewise, both sides have marginalized the teachers. A total of 23 teachers were killed during the same period, 13 by the state and 10 by the Maoists.

Hundreds of students have been arbitrarily taken into custody charging them as Maoists and many of them have since been disappeared, including General Secretary of ANNISU Purna Poudel. Dozens of students and teachers have been taken into custody while on their respective assignment inside the schools. Some of them have been shot dead in front of the school building in broad daylight. The students who were writing examination of the SLC Board have also been arrested
without prior permission of the superintendent of the examination. Many girl students have been raped while in custody or when being brought to the police post or when being transferred from one place to another or while confessing to the allegations. Even during the examination time, thousands of students at the epicenters of the Maoist affected areas are deprived from studying at night as they are compelled to sleep rather too early on the orders of state security force. If they did study until late at night, they would suffer police enquiries. Sometimes the police would even visit them at night suspecting for any Maoist in hiding among them. On the pretext of insecurity, some of the SLC examination centers were shifted to district headquarters in 2002. The rural students could not get rental rooms to stay in. Many of them were compelled to give up the examinations. Some of them gave up the examinations fearing a possible arrest. Similarly, the Maoists are also responsible for the killings of teachers and students while at work in their schools or in their homes. Many who were disillusioned with the People’s War were inhumanely tortured.

It is well known that the Maoists are against private schools and division of students into two classes, rich and poor, since the inception of the People’s War. Protestng against the abnormalities and perversions in the schools and their failure in fulfilling the demands submitted by the ANNISU (Revolutionary), about 40,000 (both private and public) schools were shut down for a week-long closure from December 8 to 14, 2000. The 15 point-demands put forward by the ANNISU (Revolutionary) were narrowed down into two: (i) free education up to Grade 10 (in all public schools) and (ii) reduction of fees by 50 percent in all private schools. Similarly, this student front again shut down all the private schools for a week during May 14-20, 2001, with a slogan calling for: „50 percent reduction in fees in all the private schools and increase in government fund for public schools.” This demand was forwarded when the government was actually allocating more money for the security forces, weapons and bullets instead of increasing the government funds to public schools. Finally, the government agreed to fulfill the demands, but the implementation was not carried out.

The same revolutionary student front again closed down all private schools on July 20, 2001 as a token strike. Moreover, the Maoists decided to shut down all private schools in the villages. Thousands of students of the private schools had to join the public schools with poor resources or had to migrate towards urban centers in search of other private schools. Parents and guardians became worried for the future of their children. They got concerned whether such schools would ever reopen in future. Rich and influential people can send their children to urban cities and even outside Nepal. But, what about the fate of the children of ordinary people who occupy more than 85 percent in the total population of Nepal? Similarly, hundreds of private schools’ teachers had become jobless.

Within a decade of democracy, the Valley has gone through 17 bandhas (strikes) and the whole country has suffered as many as 47. On an average, a single day of strike is said to have cost about US $1.3 million. On February 30, 2001, US Ambassador Ralph Frank had this to say: „While I have not seen a comprehensive study, I would guess that the economic costs of the bandhas each year are larger
than my government’s bilateral aid budget. And the economic cost of anti-government insurgency is far greater.

When 82 private schools were completely closed down and 15,000 more students turned towards the public schools in Tanahu district in the Central Region, the headmasters of 70 public schools pressed upon the government for allocation of salary, allowance, and necessary furniture in their schools. They were unable to run all the classes even in two shifts (morning and day) due to the lack of space, furniture, teachers, and other facilities. Each school required an extra fund, ranging from Rs. 37,500 (US $500) to Rs. 112,500 (US $ 1,500) to pay for the extra teachers (local appointees). These schools were already facing acute financial crisis when the Maoists did not allow them to collect fees from the students. The government, on the other hand, neither approved for more teachers nor other facilities as such. So, 37 principals tendered their resignations collectively at the District Education Office, Sindhupalchowk in the first week of September 2001 when the government could not provide necessary funds and facilities to their schools. Likewise, 67 headmasters in Chitwan district tendered their resignations collectively in August 2001. By the end of June 2001, one-fifth of the private schools of Nepal had been forcefully closed down. If such problems cannot be solved at once, the students would be deprived of the right to education. It also ultimately affects the psychology of the children adversely. Consequently, a larger section of disgruntled students and teachers will add fuel to the People’s War.

Only 28.5 percent students out of 213,807 passed in SLC Examination in 2001. Most of the rural public schools got nil success. What would a teenage student do when s/he has neither a job nor an opportunity for higher study? The frustrated and alienated youths fuel the insurgency. Many temporary public schools in the Maoist affected districts are compelled to close down and many are likely to do so as they have failed to receive the government recognition as a permanent school. Usually, the government allocates all the required physical infrastructure and enough teachers to a permanent school only.

Ignoring the fundamental constitutional rights, including the right to freedom of thought and expression, the right to freedom to assemble peacefully and without arms, and the right to freedom to form unions and associations as stipulated in Articles 12(2)(a), (b), and (c) respectively, the government banned mass meetings in the capital city for a minimum of one month beginning from September 16, 2001, when the pro-Maoist ANNISU (Revolutionary) was scheduled to hold its 15th Convention in Kathmandu from September 18 to 21, 2001. The same student front was also planning to organize a peaceful mass meeting on the last day of the convention on September 21. But, in a special search campaign the government arrested dozens of students and confiscated many documents, posters, pamphlets, banners etc. intervening into the central office of the revolutionary student body. Moreover, both the army and the police forcibly entered into the hostels of University Campus, Amrit Science Campus, Institute of Engineering Campus, Mahendra Ranta Campus and the office of Free Students’ Union of Patan Multiple Campus at 3 AM on September 17, 2001, and arrested many students while they were sleeping and confiscated a lot of documents and other materials related to
the 15th convention. The same afternoon, the president of ANNISU issued a press statement and demanded to immediately release the students, return all the documents confiscated from them, and compensate for the equipment and documents destroyed by the police. The students warned, „If the government fails to fulfill the demands by Tuesday September 18, we will be forced to shut down all the educational institutions in the Kathmandu valley for five days starting from September 19 again.‰ Finally, they did close down the educational institutions as had been announced4. But, they withdrew the closure on September 21 when the government promised to fulfill their demands. However, an already sharp rift between the government and the students widened further when the government did not show any interest to implement the demands presented earlier and had been forwarded for the third time by ANNISU. Because of the ongoing conflict and gross negligence of the state, the education sector is facing a lot of challenges, which are summarized as follows:

- Both sides have extrajudicially killed dozens of teachers - the state accusing them as Maoists and the Maoists accusing them as the surakis. It is reported that the teachers have played a significant role to rapidly intensify the People’s War throughout the country ideologically, politically, socially, and economically.
- The marginal teachers of the rural areas, who neither support the Maoists nor the state, quit their jobs due to threats from both sides - the state and the Maoists. Some of them are indeed involved in the People’s War voluntarily and some have left their places involuntarily. Similarly, a few teachers in general and some pro-Nepali Congress and RPP teachers in particular got their jobs transferred to Kathmandu or other secured urban areas. Therefore, there is a shortage of teachers in many public schools in the rural areas.
- Hundreds of government schools and tens of thousands of students were affected when the government slashed upon the regular grant to the Village Development Committees (VDCs) by 50 percent to meet the growing security expenses. The National Association of VDCs in Nepal (NAVIN) estimated that some 500,000 students and 5,000 government schools were affected by the end of 2001 which caused job lay off for 35,000 teachers.
- Many children are deprived from education as hundreds of private boarding schools in a number of districts, for example Gorkha, Tanahu, Lamjung, Surkhet, Rolpa, Rukum, Jajarkot, etc., have been forcefully closed down. Similarly, hundreds of schools have been destroyed either by setting them fire or through bomb explosion or both.
- The frequent announcements for shut down of schools to fulfill the demands of the pro-student wing of Maoists have caused a negative psychological impact upon the children. The continuation, increasing frequency and intensity of the attacks have lured many adolescents and youths toward the People’s War. It is assumed that thousands of students who fail in SLC examination are significantly attracted towards it. Many adolescent students are recruited as cooks, messengers, sentries, etc. and even as armed guerrillas.

The State Parties to the ICESCR recognize the right of everyone to education as given in Articles 13 and 14 which state that education is a fundamental human right and that it strengthens the basic democratic principles. This is why the international community had proclaimed the UN Decade for Human Rights Edu-
cation from 1995 to 2004. The articles guarantee the right to free and compulsory primary education to all children. Similarly, Articles 28 and 29 of the Convention on the Rights of Child recognize the right of children to education as well. Equal rights with men and women in the field of education is mentioned in Article 10 of the Convention on Elimination of All Forms of Discrimination against Women. The UNESCO Convention against Discrimination in Education has ensured many protective rights on education with equal treatment to all without any discrimination based on race, color, sex, language, religion, political or other opinion, social origin, economic condition or birth. Article 26 (1) of the Nepalese Constitution guides the state to adopt the policy for raising the standard of living of people by developing the basic structures such as public education, health, housing, and employment. Similarly, in the Constitution, Part 3 of Fundamental Rights, Article 18 (ii) has guaranteed, „Each community shall have the right to establish schools for providing education to children up to primary level in their mother tongue.”  But no such courses have been developed yet, although the Maoists have been raising their voices in support of it.

Since the initiation of the People’s War, thousands of children are deprived of education. Thus, children, the future of Nepal, are being exploited in terms of education and even literacy. Literacy opens the window for higher education. An educated person can properly lead the country in right path. Education ensures intrinsic empowerment of people which uplifts their personal, social, and progressive roles in society. The government, therefore, should give priority to free education to all as early as possible instead of buying and importing arms, ammunition, and fighters. Free education can be enjoyed when the conditions are fixed by law.

7.4 Right to Health

Social development is central to the needs and aspirations of people throughout the world .... In both economic and social terms, the most productive policies and investments are those that empower people to maximize their capabilities, resources, and opportunities. - Declaration on World Summit for Social Development, Copenhagen 1995.

The average life expectancy is 57.3 in Nepal (Fig.7.4.1), the lowest in the SAARC region. Women in Nepal, on the average, have a life span which is shorter by about two years compared to that of men. The available data indicate that the mortality rate is very high. The infant mortality rate is 72:1,000 and under-five mortality rate is 100:1,000, one of the highest in the world. Moreover, infant mortality rate in rural areas is much higher (102:1,000) compared to 62:1,000 in urban areas. Female mortality rate remains 875:100,000 for women aged 15-49 years; it is one of the highest in the world (NHDR:1998:57-60).

Child marriage is highly practiced in Hindu-Buddhist society of Nepal. Ignoring the minimum legal age of 16 years, 40 percent of all females are married before the age of 16 (Children and Women of Nepal 1992:57). It is estimated that 40 percent of all adolescent and adult females had their first baby between the ages of 15 to 19 years (Children and Women of Nepal 1992:80). It is reported that 18 percent of pregnant women die in their homes or on way to hospital. A large number of people die from very common diseases, as they do not usually visit the
doctor due to: (i) poverty, (ii) absence of knowledge, (iii) superstition and trust on traditional healers, (iv) unavailability of hospitals, (v) absence of doctors, and (vi) absence of capabilities, resources and opportunities.

It is true that insufficient food, early marriage, child bearing at an early age, lack of safe drinking water, poor housing, bad sanitation, overloaded work, insufficient medical services, and misuse of medicines are the major contributing factors to death, illness, and malnutrition in Nepal. According to the World Health Report 2000, Nepal ranks 150th, having one of the worst health status in the world.

A total of 2,800 doctors had registered their names at the National Medical Council by the end of 2000. The number of practicing doctors was estimated between 863 and 1,033 in 1991 (Ministry of Health). Despite rapid growth and expansion of public hospitals and health centers, there is no significant change in the number of practicing doctors 1,259 in 2001, even in a decade (Statistical Year Book of 2001:220). The figure of 1,259 means a national average of 1 doctor for 18,338 people in the total population of 23.4 million. It is estimated that 2,000 additional doctors are needed in public hospitals. Out of 1,259, about 70 percent doctors are working in the capital. The population of Kathmandu, Lalitpur, and Bhaktapur is 1,750,680, which gives 1 doctor for 1,987 people. Moreover, the mushrooming private nursing homes in Kathmandu have lowered down the number of people by 50 percent. If we calculate outside Kathmandu, there is 1 doctor for 56,744 people. Besides that, the number of deputed doctors in remote districts or rural areas is very low. Out of that, only a few doctors are sincere to their duty, profession, and social responsibility. According to the Ministry of Health, 48 districts were out of medical doctors in July 2000. Why most of the doctors do not like to go to remote mountains and hills districts? The reasons are: (i) greed for money, (ii) elitist-based thinking in society, (iii) employment access and other
opportunities in urban centers, (iv) running their own clinics and nursing homes; (v) lack of facility and opportunity in remote areas; (vi) absence of conviction for social service; and (vii) inadequate implementation of Health Act and other regulations.

Medical education is very expensive. Parents or guardians have to invest a lot of money on it. Therefore, the freshly graduated doctors want to earn back soon the entire sum of money that was invested during their period of study. From the past, it has been observed that except for a few it is mostly the sons and daughters of elite families who get an opportunity to undertake such expensive education. They are neither familiar with remote districts nor understand the realities of poor, disadvantaged, and vulnerable communities of the rural areas. Similarly, many doctors who stay in urban cities have also opened their own clinics and/or nursing homes. There is no incentive for them by the government side to visit remote areas. Generally, if someone does get transferred to a remote district, either s/he leaves the government job or s/he gets the transfer cancelled and succeeds in evading the government rules and regulations through powerful connections (power, politics and property).

In the mid-western Nepal, people die from common diseases. There is not even a district hospital in such districts of the region as Dolpa, Kalikot, Mugu, and Rolpa. The construction of a 15-bed hospital is still undergoing for over a dozen years now in Rolpa. The only district hospital in Musikot, Rukum was without doctors, nurses and medicines until 2001. Due to the lack of manpower, almost all the modern equipments are useless. A 15-bed district hospital at Ridikot, Achham district, is also under construction for the last 20 years. The poverty-stricken Achhami people had received the hospital project when four of the villagers had died and six had sustained serious bullet injuries in an uprising in 1980s in connection with the hospital proposal. Similarly, hundreds of people had died due to the viral influenza and other epidemics in mountainous Karnali Zone in 2000. The World Bank funded Population and Family Health Project (PFHP) has already finished building up 225 health centers. But only two health centers have been built in the whole of Karnali Zone (Kathmandu Post: January 2, 2001). One official of the Department of the Health Services states, „The project has not respected the sentiment of the government plan of sustainable and overall development throughout the country. The project has overlooked many hill districts where people die due to the lack of medical facilities when epidemics break out. Deaths are reported everyday in the remote mountain and hill district hospitals. Pregnant women, who visit hospitals or health centers after walking 2-3 days, die in the absence of doctors and nurses. Many suspected dead bodies are cremated without even post mortem.

After the initiation of the People’s War, many foreign donors for health projects such as DFID, Save the Children US, USAID, Save the Children UK, SNV, Plan International, United Mission to Nepal, Care International, etc. have reduced their funds, some of them have already terminated their project work in the Maoist affected areas and many are likely to close due to insecurity. Besides that, many European countries are also thinking to withdraw their programs. The Mission
Hospital which had been working in Gorkha, western Nepal for the last 32 years, suddenly closed down on August 24, 2001, leaving away 50 patients there. The United Mission to Nepal conducted it in Anppipal, Gorkha. It is reported that it was closed because the doctors did not like to stay there any more. Similarly, many clinics of Family Planning Association and other missionary hospitals have already closed and the remaining few are likely to do so.

As the number of casualties subsequently increased after the initiation of the People’s War, so were the number of patients with physical and mental problems. The number of general cases of depression have increased by 20 percent (Nepali Times: August 9, 2002) as violence, deterioration, and instability have further mounted. Such mental depression (trauma) causes helplessness, fear, anxiety, and worries. Children and women are severely influenced with such problems. Children are even more vulnerable than women, and 25 percent of them have mental trauma in the Maoist affected areas. It can be illustrated by the following case study published in *Nepali Times* on August 9, 2002.

**Case 7.4.1: A story of mentally depressed child**

A 13-year-old boy from Chitwan began fainting frequently after he saw a gruesome television footage of an incident in Rolpa. His doctor referred him to a mental health specialist. In fact, the child had witnessed a violent act when he was five years old and the Rolpa footage only reminded him of the gory incident. Some people had come to his house and dragged his father outside, chopped off his both hands, crushed the bones... and then shot him in the head. The boy had a mental trauma then which subsided through treatment. The Rolpa footage reminded his father’s death and the symptoms of depression began to surface. His studies were affected by the anxiety, which often resulted in nightmares and sleeplessness.

Nepal has a state obligation to comply with many national and international human rights instruments, including ICESCR. Article 12 of the ICESCR states about the right to the highest attainable physical and mental health and emphasizes on equal access to health care for all citizens. For the enjoyment of a full and decent life for children, both mentally and physically, CRC guarantees many rights through Articles 23 and 24. Similarly, CEDAW states in Article 12 (2) about the obligation to adopt adequate legal measures to guarantee women the access to health and medical care without discrimination.

Article 26 of the Constitution of Nepal has adopted the standard living policy, pursuing the development of health, housing, education, and employment opportunities. Similarly, the government has revealed a comprehensive National Health Policy in 1991 and adopted the policies of preventive, promotional, and curative care for all health institutions. In the Eighth Plan, it was envisaged to appoint female community health volunteers (FCHVs) in all VDCs and establish health posts at *ilaka* (area) levels, and primary health centers in each electoral constituency with an integrated approach for primary health service. But, effective measures could not be taken. Despite the right to enjoyment of the highest attainable standard of physical and mental health, hundreds of prisoners of conscience are deprived from receiving medical treatment even in Kathmandu. The police were
supervising in the hospitals where the injured Maoist members were being treated. Many guerrillas die without medicine, as the state authority obstructs them to have an access to medicare in all private and public hospitals or nursing homes within Nepal or in the bordering towns of India. From the past it is clear that Indian government is also working against the Nepalese Maoists. Even injured Maoists were handed over to Nepal by the Indian government authorities while they were undergoing medical treatment in Indian nursing homes and clinics against the humanitarian law and Geneva Convention 1949. In some of the offensive cases conducted by the Maoists, people even feared to take the victims to hospitals.

Similarly, it is frequently reported that health professionals are marginalized as both sides target them. For instance, the Maoists asked some health professionals to treat their injured comrades. As soon as the police found a doctor or health worker involved with the treatment of Maoists, they start interrogating the health professional, sometimes even taking him/her into custody. As a result, some of the health professionals left their stations to safety from both sides. The following case study (7.4.1) published in the Kathmandu Post on January 20, 2004 can assist to understand the situation of health professionals in Nepal.

Case 7.4.2: Canadian doctor deported for Maoist links

A Canadian Dr. Jone Lineen was stationed in Jumla, a mid-western hill district. He was associated with the Medecins Sans Frontieres (MSF), also known as Doctors Without Borders. On the raid in his residence, security forces found highly objectionable documents relating to the Maoist insurgency. Security force found a letter of appreciation awarded by the Maoists for his commendable cooperation and help of communication to each other. Then Dr. Lineen was detained and handed over to the Department of Immigration by the District Administration Office. He was finally deported on January 9, 2004 as per the Immigration Regulation Act 2051. Earlier, the Ministry of Defense had written a letter to Ministry of Health expressing deep concern over the suspicious programs and activities of the MSF.

This was the first ever incident of deportation of a foreign doctor, allegedly considered as a supporter of the Maoists. The MSF is an internationally reputed organization. It was delivering emergency aid to the victims of the insurgency, epidemics, natural and man-made disasters, and others. The MSF has also been providing the services of primary health care, surgery and it trains local medical professionals, runs nutrition and sanitation programs, and provides psychiatric treatment also.

In some incidents, the Maoists are reported to have taken some medicines from the district hospitals, sometimes even by force. During the SoE, the government had even restricted to transport medicines in the Maoist affected areas which is against the human rights principles, humanitarian law, and Geneva Convention 1949.

Access to health services is one of the basic rights of human beings. The government as well as other concerned professionals and powerful people should think seriously about the right to health on the grounds of humanitarian law, hu-
manity, and benevolence instead of their own benefits, interests, and revengeful policies and activities.

7.5 Women's Rights

Sapana Shrestha, 19, felt alienated from her familiar surroundings as her husband died only a few days after her marriage. Since his death, her husband's family members blamed her as being jinxed and responsible for the death of her husband. She was eventually thrown out of her house and forced to live at her brother's house. When her sister-in-law also forced her to live alone in a rented room, the young woman was constantly harassed sexually by the house owner and neighbors. ...

- Kathmandu Post: September 5, 2002

In the patriarchal society of Nepal, women have less access to income and wealth, education, and health facilities than men. The life expectancy, malnutrition, and morbidity rates of women are higher than those of men. Similarly, women have fewer legal and economic rights over parental property and social rights such as decision-making in society or in family matters. While women are compelled to do all the household as well as outside work, they suffer from overload of work in poorer physical and social conditions. A very small number of women are employed in formal jobs. There have been very few women holding a position of secretary in the government secretariat or as a member in the National Planning Commission. The Nepali Congress government boasted about giving high priority to women in all sectors, but not a single woman was appointed as a cabinet minister except Shailaja Acharya. In fact, women keep suffering and exploited in all political, social, and economic fields of national life. A Hindu mythological text states: „Women are born only to suffer.‰ It is still true in modern Nepal.

On August 14, 2001 a high voltage drama was seen in central tarai at Simardahi VDC in Mahottari district. Four people, including the chairman of the same VDC Nawal Kishor Sahani and his brother, declared a humble woman a witch. The community health worker Marani Devi Shah was charged of practicing witchcraft and beaten up mercilessly by an angry mob. She was seriously injured during the ritual conducted to identify the witch. The case study taken from the Kathmandu Post of August 15, 2001 illustrates:

Case 7.5.1: Women witchcraft: A heinous practice in Nepal

Thousands of people had gathered in the village early Tuesday on August 14, 2001 to witness a special ritual which was held by a dhami (wizard or sorcerer) identified as Ram Kripal Pandit from Bihar in India. The dhami, together with VDC Chairman Sahani, had invited all the villagers, mainly women, from each household to witness the witch identifying ritual. Beating drums and passing through the village alleys, they had also warned villagers the previous night that if they did not send their womenfolk to take part in the gathering, they would be fined Rs 50,000 (US $666.67) each. The villagers were also told that the one practicing witchcraft would start dancing soon after taking the special ritual food prepared by the shaman.

The crowd was 10,000-strong at the village courtyard, which lies on the backyard of a temple of Hindu god Narayan and the VDC Office. Village women had arrived at the site after covering a distance of one to six kilometers on foot braving the early morning heat. The shaman made an announcement at about 2 PM that there were 13 witches in all in the village. Soon after his announce-
ment, VDC Chairman Sahani stepped into the scene and told the shaman to declare the local woman Marani Devi Shah as the sole woman practicing witchcraft in the village.

Thereafter, Marani Devi’s near and dear ones started to vent their ire on the VDC Chairman and the shaman and chased them away. Having escaped from the scene, the two men then entered into the VDC office, which was later vandalized by the infuriated villagers. The two were chased and attacked by the villagers until the police arrived at around 2:35 PM. Around the same time, another group of enraged villagers went toward Marani’s house and vandalized it. Supporters of Sahani started beating Marani Devi until she became severely injured. Some villagers said that some neighbors of a 16-year-old Sanjay Shah, an epilepsy patient who died in the third week of June, 2001, had blamed Marani Devi of spelling a black magic upon late Shah.

Chairman of VDC Ward No. 1, Nanda Kishor Mandal, said that the Bihari shaman was hired by the locals, namely Binod Mahato, Bindeshwor Mandal, Kesi Sahani, Yogendra Shah (father of Sanjay Shah) on payment of Rs 20,000 (US $266.67). The injured Marani Shah was taken to the hospital by the police, who are investigating into the entire episode. The Deputy Superintendent of Police (DSP), Manohar Rimal, had led the police team to the village that morning. VDC Chairman Sahani told the police that the gathering was just an interaction program.

This is just one example. Neither it was the first of this kind, nor is going to be the last. Such incidents occur each day in Nepal, especially in tarai, where a lot of Indian origin people have been living in.

Due to extensive illiteracy and traditional nature of society, the gender discrimination is widely practiced in Nepal. A report states, „Women are denied opportunities for land tenancy and access to new settlement allotments, and female household heads are the poorest of the poor among the landless and marginal land households” (Children and Women in Nepal 1992:1992:99). The practice of dowry is highly persistent in the son-prefering society, especially among the tarai dwellers. The parents’ interest in marrying off their daughters at an early age is a strategy for lowering the dowry amount payable to the groom’s family. How the practice of dowry affects the impoverished family can be understood by the following case study.

Case 7.5.2: Dowry: Another heinous practice in Nepal

“In August 1997, 16-year-old Salman Khatun of Jokaha Gyura VDC-9, Rautahat district killed an infant immediately after she gave it birth. She had a love affair with Safi Ullah of the same village, but she was unable to marry him due to the lack of money for donga, a Muslim practice that is performed after the marriage of a daughter and it is as costly as the marriage itself” (HRYB1997:82).

The physical violence such as beating of a woman by her husband or other members of the household, sale or trafficking of women into brothels in India, exploitation, sexual harassment, etc. are very common in Nepal. In Hindu-Buddhist society of Nepal, when a woman gives birth to a daughter, she is usually humiliated by her own family members and sometimes even by her husband. This is more so in rural areas. Generally, she is deprived from getting enough nutritional food and is compelled to sleep in a dark place on an old and torn mat. For instance, „27-year-old Subhadra Panthi of Manmane VDC-5, Gulmi district killed her twin
daughters, aged 4 months, by throwing them into a pond on July 9, 1997 because her husband always used to humiliate and manhandle her as she could not bear him a son (HRYB1997:82).

Polygamy and polyandry are legally restricted in Nepal, but their implementation and monitoring need to be worked out in real practice. Up to a dozen wives can be found for a single male in the rural areas, living together in one family with dozens of children. Surya Dahal, headmaster of a secondary school in Lingkhim VDC Taplejung district raped a 19-year-old Dikura of the same school on September 30, 1997. He had three wives earlier. As the villagers compelled him to maintain her, he now has four wives and all of them have been living together (HRYB 1997:77).

In some mountain areas of Nepal, polyandry is rooted as a traditional custom despite the protests of women. For example, Pangila Lama, 45, of Simikot VDC Ward No. 5, Humla district has five husbands. Similarly, Kamala Lama of Bargaon VDC Ward No. 3 from the same district also has seven husbands (Desantar:September 9, 2001). How do women get so many husbands at a time? When the elder brother marries a female, all younger brothers use her as their own wife turn-by-turn. Sometimes women are forced to take sexual relationship with a youngster accepting him as husband who is even younger than her son. However, almost all the females are against such bahupati (polyandry) system. But, they are compelled to practice the age-old custom, which is however canopied in some snow mountain districts who are poor in terms of knowledge, capabilities, resources, and opportunities. Some females, even after such marriage, have been residing in their own parents' home, as they were unable to accept the bahupati custom physically, because of the poor condition of health. The conscious and literate females try to oppose the system, but neither the government nor the male members of the family want to listen to their voices. The women victims, therefore, are raising voices of „one woman for one man” and are affiliating towards the Maoist People’s War in the hope of liberation from such kind of cruel, inhumane, and degrading custom for ever.

After the initiation of the People’s War, women are being empowered as equal as men, as the CPN (Maoist) announced to emancipate women from all kinds of discrimination, exploitation, and injustice. Thousands of women have now become literate through informal classes. Many women have already been recruited into the PLA and are shaking hands with the male members. Women are coming out from the conventional household work in the epicenters of Maoists. Also, dozens of children are deprived of love and care as the mother leaves the infant back home to participate in the People’s War.

How women are being empowered after the initiation of the People’s War can be understood from the following memorandum of Tara Kumal, published in Janadesh on May 17, 1999.

Case 7.5.3: Escaping with shackles from the enemy’s head office

I have now come into the open air, escaping from the enemy’s camp. Due to torture and inhumane behavior of the enemy, I derived strength which gave me courage to come to the people after
breaking the “strong frontier” of the enemy. I negatively wish to thank the SP, DSP and other policemen who tried to push me into the mouth of death. I remember the sequence of incidents that took place, one after another, from the time of my arrest to the moment when I could escape away from their control. It would be reasonable to mention them briefly.

We had gone to the villages with the program to boycott the forthcoming parliamentary election on behalf of All Nepal Women’s Association (Revolutionary). When we reached the people and explained the reasons for the boycott, people were very happy with us and they said, “The present ruling system should be replaced by the people’s government as soon as possible.” People have themselves taught us many lessons that we could not learn ourselves. At 10 o’clock, while we were walking through the forest of Chitwan, writing slogans on cliffs and trees about boycotting the forthcoming election 1999, two male friends gave us their bags and asked us to keep on walking ahead. They were behind us, painting the slogans. While I was with my comrade Ambika Mudvari walking downwards with bags, suddenly we encountered policemen. They searched our bags. They found a pistol and *khukuri* in the bags and tied our hands together with a single shackle. They took us to the top and tied us to a tree. Threatening to kill us they asked, “Who are you? How many friends do you have? Where are they? How many weapons do you have? Who is the leader? And so on.”

There were altogether 11 policemen, seven of them had rifles and four had pistols. They started to beat us with their boots and sticks. We told them the truth, “We are the activists of women’s association and we are campaigning among village people not to vote in the forthcoming election. Two unidentified brothers have given us these bags.” Thereafter, suspicious with us, they encircled us and the sub-inspector (SI) used his walkie-talkie to inform the CDO and DSP. The conversation began with the CDO:

**CDO:** Which place is it?
**SI:** A jungle, sir
**CDO:** Has anybody seen?
**SI:** A grass-cutter saw it, but he can do no harm, sir.
**CDO:** Is there wildfire in the jungle or not?
**SI:** Yes, there is, sir.
**CDO:** If so, interrogate them, keeping them in the jungle.

After that, SI put his revolver in my mouth and said, “Did you hear the order of CDO?” He started to beat us on neck, chest, and other parts of the body, asking about the Maoists. We told the same thing that we had said before. Again, the SI started to beat us, threatened to rape, kill, and throw us away. When he got tired of the beatings, he again talked on the walkie-talkie. “They never say anything more even after several beatings, sir. If you give orders, we will kill them.” All of a sudden, I remembered the martyrs of the People’s War. I became strongly angry and spoke all of a sudden, “You consider yourself brave with such a large security force and weapons. But remember! You are also insecure. At least, behave like a human being.” Meanwhile, we figured that some villagers had come to the next hill, saw us, and went back. The policemen also noticed them. Afterwards, fearing a possible attack, they informed the DSP with terror that the Maoists had encircled them from the nearby surroundings. They decided to use force from three sides and bring a van from Bhandara. They fastened us with our *shawl* and led us along with them. After three hours of walking, we were brought to Bhandara at 3 o’clock. Thereafter, we were directly taken to Daduwa police post and kept inside the van.

In the evening, the DSP interrogated us for 20 minutes each and wrote in his notebook. He told us to sign on the writing. We wanted to sign only after reading it. But we were tortured to sign it. When the SSP came, he said, “Close the eyes of these women by their *shawl* and you 12 policemen take them to the jungle and shoot them, throw them away, and come back soon.” When they put bandages on our
eyes, we thought it was time for us to be killed. Then, we were again kept in the van and went through. However, we were brought to the district police post Bharatpur at 3 o’clock the following day and given the thunuwa purji (warrant) of arrest. First of all, Ambika was called for enquiry and my turn came later. As I repeated the same statement given before, they started to beat me with boots and sticks for one and half hours. Because of the heavy beatings, my nose, eyes, and ears were bleeding. My head struck the table. Afterwards, they took my photos and transferred me to another room. Instead of being mentally depressed by such cruel and inhumane torture, I felt fire lighting up in my eyes.

In the evening, we were again taken to the DSP room and made to stand leaning against the wall. A policewoman started to interrogate us, but we gave the same statements as before. Then a policewoman named Sita employed extreme torture by inserting pins in the fingers and other parts of the body from 9 PM to midnight. Next day, my mother came to visit me at 12 o’clock. I told her not to feel sad. I told her I would return home soon. It has come to be known that some friends also came that evening to visit me, but they were not allowed to see me.

The following evening, the SP, DSP and other police officials sat together with us with their notebooks. While they received the same answers as before, they made a glassful of chilli solution to pour it into our nose. But before using it, they went for patrolling. Due to the painful torture, I started to think of escaping away from the custody anyhow.

When the policemen went for patrolling the next morning at 3 o’clock, I made a plan to escape. I revised my plan three to four times. At 3.45 AM, I came out to go to toilet. A lady guard Sita, who had come to join the police force to destroy the Maoists as her father Bal Bahadur Gauli was killed during the police-Maoist battle in Kalikatar, came with me. Suddenly, I punched her and another policeman near her and escaped with shackles and weapon. It was 4 o’clock. After my action there was terror in the enemy camp but I reached in a safe place among the people and rejoined the party later.

Most of the women whose family members (especially husbands) were indiscriminately killed by the security forces in the alleged encounters have joined hands with the CPN (Maoist). Also, teenage girls and married women raped indiscriminately by the “protecting security forces” have joined the Maoists. Similarly, a lot of women who were cruelly and inhumanely manhandled even while in custody and were made to confess the alleged charges have joined the Maoists. A few females, including teenage girls, who were mentally and physically exploited by the security forces, have given birth to babies without the name and address of their fathers. Consequently, it has polluted the social and cultural harmony. In Hindu society, if anyone gives birth to a child without its father recognized, she is neither accepted by the family nor by the society. Such children are deprived from having citizenship. To get the citizenship, the name and address of father is essential. In one case, the police raped two women (mother and daughter) while in custody for two months continuously; now the mother has psychological problems and daughter has joined the Maoists (www.preventconflict.org/conference/nepal_comments3.html). The degree of female participation in guerrilla ranks is very high compared to that in other political parties and many have been killed in the process of “operations” of the security forces. Likewise, some female members were also reportedly raped by their own Maoist comrades.

Even civilian women have been raped by the armed security forces while being brought to the police post, being transferred from one office to another, being interrogated in custody or while sleeping inside their own house. Likewise,
the following case itself illustrates how protectors of the civilians, the policemen, raped a young woman.

**Case 7.5.4: A woman was raped in front of her father in police custody**

A 72-year-old Bardan Rokka of Mirul VDC-8, Rolpa was arrested from his bed at midnight on November 17, 1996. As he was just wearing a vest and shorts, 23-year-old daughter Kumari Buddha went to the police station carrying her father's clothes. The police also arrested her. They not only tortured her, but also brutally and repeatedly gang-raped her in custody in front of her father. When she became unconscious, the police shot her dead at Reughali Khola along with her father, Bal Bahadur Rokka, Singha Bahadur Budha, and Dil Man Rokka the same night. As five persons were killed in one place, the Reughali Khola is now named as **Panchaghali** (*pancha* means five). Her marriage was to be solemnized a few days later (Gautam and Baskota:1998:11).

Similarly, some women have left their homes and become internal refugees after brutal gang rapes by policemen. A 46-year-old woman and her 21-year-old daughter in Jelwang VDC-2, Rolpa were gang-raped by policemen in their own home at night on March 15, 1996 (INSEC). As policemen frequently visited them, both mother and daughter were compelled to leave the village. Policemen had gone there to arrest both the father and the son on suspicion that they were Maoists.

In another incident on February 17, 1998, some commando policemen arbitrarily arrested some people from the village of Harjung, Rolpa and detained them in a local school. A 12-year-old Jasa Pun and several other girls, namely Uma B.K., Buddhimala B.K., and Kharali B.K., were raped in front of the villagers. Similarly, 14-year-old Srijana Pun and her elder sister Sita Pun, 18, were arrested from Muru village, Rolpa by the police while they were going to participate in a marriage ceremony around the end of January 2000. They were gang-raped by the personnel of Simrutu police station including Inspector Shambhu Subedi and Assistant Sub-Inspector Ganesh Khatri and they were continuously raped for two to three months while keeping them in police custody (HRYB Section:INSEC). The neighbors around the police post heard their screams for several nights up to 1 AM. Before leaving the police station, the policemen killed both of them and buried them in the office premise (see UN/E/CN.4/2001/9/Add.1).

These are some of the heinous examples of police atrocities and barbarism. Dozens of rape victims have given birth to children without the identity of their father. The victims could neither opt for an abortion as it was illegal nor the poverty-stricken people can visit far away urban centers in search of doctors and contraceptives. Indeed, both contraceptives and doctors are available only in urban areas. In Hindu-Buddhist society, giving birth to a child without marriage is considered as a great crime and the mother is boycotted by the society. As a matter of fact, dozens of females have been exploited physically and mentally in this manner since the initiation of the People's War.

Besides the state security forces, some Maoists also have sexually exploited girls and women inside and outside their ranks. Some women, after their surrender before the local government, have stated that their own comrades had sexu-
ally harassed them everyday. The following case study of Jira illustrates how the females are victimized in the guerrilla units. This story was published in the *Kantipur* on September 25, 1998.

**Case 7.5.5: The pain of Jira Kumari**

A 14-year-old Jira Kumari Chaudhary of Katari VDC-1, Udayapur district left her home in July 1998 along with her comrades – Lale B.K. and Badri B.K. of Rajbiraj, Saptari district, Ram Dev Chaudhary of Sidhauli and Sabina Majhi and Sita Majhi of Marin. Before she left her home, she was very much lured to get enough food and enjoyment. She was quite happy for some time, as she was learning dancing and singing with them. One day, a senior male member Lale B.K. proposed her for sex, but she refused. Eventually, she was brutally raped by Lale and others. To refuse having sex with them means to accept physical torture from the male comrades. One day when she felt seriously sick, they left her in the house of Bhakta Bahadur Karki of Sidauli VDC, Udayapur district. She was later arrested by the police.

In the rural areas, women usually contribute 17 hours (4 AM to 9 PM) to work, twice than what men do. Besides the household work such as cooking, washing dishes and clothes, they fetch water from a place up to five miles away and collect fire wood, fodder, etc. Still they hardly get enough food, especially in a conservative family in rural areas. Despite such strenuous work, some women suffer physically, mentally, and economically from their husbands who remain invariably indulged in drinking, gambling or some other vices.

Generally, some sort of gender balance is found in the Maoists affected areas, as the party has adopted the policy for having at least 25 percent female members in each political and military wing. As a result, more female participants in public life are found in CPN (Maoist) than in other political parties such as NC, UML, RPP, and so forth. One-third of the Maoists are women. At the grass-root levels, greater number of females are involved in both political and military activities, but their number tapers down at the apex of the party, e.g. the URPC, central committee, standing committee, politburo, etc. Indeed, all forms of violence and abuses have dropped in the Maoist affected areas and females are empowered through both formal and informal classes and this trend is on the rise. Consequently, many females have been attracted towards the People’s War and their number is increasing each day.

For equal rights between men and women, Article 3 of the ICESCR guarantees that the State Parties shall ensure equal rights to men and women for the enjoyment of all economic, social, and cultural rights. Similarly, Nepal has ratified UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1991 and Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT) 1991 which advocate for equal rights to men and women in all quarters of human life.

The Constitution and other legislations have given considerable attention that the right to work, participation in public life and other rights to women be equal vis-à-vis men. Article 11 of the Constitution incorporates for equal rights and non-discrimination to women in all economic, social, and cultural spheres. Part IV of
7.6 Minority rights

"All individuals and groups have the right to be different, to consider themselves as different and to be regarded as such."
- Declaration on Race and Racial Prejudice (UNSECO, 1978)

"...The promotion and protection of the rights of person belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live."
- (Preamble of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities)

"Unequal distribution of opportunities in education and government jobs has created wide differences between the status of the higher caste and the backward people."
- Dr. Harka Gurung

The dissident politico-ideological domination of 20th century now turns to resource-based and identity-based cultural or ethnic conflict as the Western versus non-Western blocs in 21st century. China’s alliance with Buddhist and Islamic societies appears as a strong threshold to the Western bloc, especially the USA, in 21st century. SP Huntington states that clashes of civilizations are the greatest threat to the world peace:

The most violent fault lines are between Islam and its orthodox, Hindu, African, and Western Christian neighbors. At the micro level, the dominant division is between Muslim and Asian societies on the one hand, and West on the other. The dangerous clashes of the future are likely to arise from the interaction of Western arrogance, Islamic intolerance, and Sinic assertiveness (1996:183).

The dissident ideological issues, communal violence, and conflagration among the ethnic communities are common in South-Asian countries. Nepali people have not aligned themselves with any bloc in the 20th century, nor is it likely in the future, even though over a decade old democratic system and the conventional society have to face major crises in identity-based, resource-based, politico-ideology-based, and armed front dimensions.

Nepal is a multi-ethnic, multi-lingual, multi-cultural, and multi-religious country. People of Nepal are socially partitioned along the lines of caste such as bahun, chhetri, baisya, and sudra8 and janajati. According to the deep cultural pluralism, the people are divided into at least 61 castes (NHDR:1998:8) and sub-castes, ethnic and sub-ethnic groups. The social composition is categorized as in Table no. 7.6.1.
Politics of People’s War and Human Rights in Nepal
7.6 Minority rights
Since the restoration of democracy, dozens of different ethnic groups, languages, and religious practices have come into public limelight as the Constitution has guaranteed equality to all. The constitution has envisaged uplifting the living standards of all disadvantaged ethnic groups and vulnerable communities belonging to any ethnicity, color, and belief disallowing all kinds of economic, social, political, and cultural discrimination and inequalities. His Majesty’s Government has also constituted a National Foundation for the Development of Indigenous Nationalities (NFDIN) to formulate the necessary policies and programs for socioeconomic uplift of the *adibashi janajatis* or indigenous nationalities, widely taken as “minorities” which denotes ethnic groups. As the census 1991 had failed to identify the smaller number of ethnic and sub-ethnic groups, the National Committee for Development of Nationalities (NCDN) undertook to identify ethnic groups or communities and has grouped them under the term indigenous nationalities. Indigenous nationality is defined as having a distinct collective identity that has its own distinct mother tongue, tradition, religion, and culture. Besides, it does not fall under the conventional four-fold Hindu *varna* system. According to NFDIN, the indigenous nationalities have the following characteristics:

- a distinct collective identity;
- own language, religion, tradition, culture, and civilization;
- own traditional egalitarian social structure;
- traditional homeland or geographical areas;
- written or oral history;
- having ‘we-feeling’;
- have had no decisive role in politics and government in modern Nepal; and
- who declare themselves as a *janajati*.

The nationalities are categorized into mountain, hill, inner *tarai*, and *tarai* dwellers based on ecological region.

Though the 2001 census listed 103 caste/ethnic groups, but officially only 100
groups are identified. The three unidentified groups are: (i) Adibasi/Janajati, (ii) Dalit/Unidentified Dalit, and (iii) Unidentified caste/ethnicity (Population Monograph of Nepal:2003:vol./93). In May 2002, National Committee of Nationalities of Nepal (NCNN) identified 58 cultural groups divided into three ecological regions (Table No. 7.6.2). These 58 cultural groups include 18 groups from the mountains, 23 from the hills, 7 from the inner tarai, and 10 groups from the tarai. Against the 61 ethnic groups listed in 1991 census, only 58 groups are listed in 2001 census which comprise 37.2 percent of the total population of Nepal. Three ethnic groups such as Dolpo, Thudam and Topkegola from the mountains appearing in 1991 census are excluded in 2001 census. The 2001 census identified a few ethnic/caste groups for the first time in the history of Nepal. As for the identification of ethnic/caste groups, Professor Dilli Ram Dahal states, „As there is some confusion in identifying the cultural groups within janajati (for example, the group Munda has appeared in 2001 census but not included in the list of Nationalities of Nepal) and Tarai origin Hindu group (such as Dhanuk), the total population in each of the broad cultural category could increase/decrease by 0.01 percent% (Population Monograph of Nepal:2003:vol./92). Similarly, National Dalit Commission in 2002 noted 28 cultural groups within dalits (Table No. 7.6.3) which comprise 13.6 percent in the population of Nepal.

According to the social composition, the ethnic and dalit groups constitute more than half (51 percent) in the total population of Nepal in 2001 census, but bahun and chhetri who together constitute only 29 percent of the total population have a monopolistic hold in all the institutions whether government, semi-government or non-government.

All top level posts in bureaucracy such as secretary and additional secretary are occupied by bahun, chhetri, and Newar (Pathak:September 9, 1998). In 1994 general election, 42 percent of the elected members in the House of Representatives were bahun alone. Instead of having proportional representation to all castes, sub-castes, ethnic, and sub-ethnic groups, the enormously lopsided representation has generally taken roots in the modern Nepalese society (Table No. 7.6.4).

Casteism has been abolished legally, though the conservative Hindu society
has not accepted it fully in practice. Therefore, caste discrimination is found everywhere, but practically more among the conventional communities in remote areas. Because of the inequalities and injustices in the political as well as socio-economic dimensions, dissident characters rise among the people of Nepal. Politically, only a few among the jana"\textit{jati} and dalit communities are lucky to participate in the parties and become elected representatives. Economically, minimal annual budget is allocated to preserve, protect, promote, and respect their collective identity for their language, religion, culture, and so forth. On economic and development benefits, the brochure of NCDN states:

Forty years have already passed since Nepal initiated planned development of the country. During these years, nominal welfare and development programs were implemented... During the period of Eighth Five Year Plan, some efforts to uplift and develop the socioeconomic status of such nationalities were made, but due to certain weaknesses (such as the lack of development of necessary institutional structure, the failure of centrally formulated development programs to draw the attention of the beneficiary communities, the widespread feeling of indigenous community that the centrally designed programs for their uplift was only a gesture of compassion, the lack of adequate attention toward human resource development, and the lack of appropriate evaluation of conventional knowledge, skills and life-style of the indigenous people, etc.), the outcome of these efforts could neither meet the expectations of the planners and policy makers nor of the indigenous peoples/nationalities. Consequently, nobody could ever feel that the nation was moving toward respecting the sentiments of the indigenous peoples/nationalities.

Socially, two types of people are found in all sectors ever since the formation of Hindu-Buddhist society: (i) oppressed and (ii) oppressors. And they constantly stand in opposition to one another. Oppressed and oppressors invite conflict everywhere. Oppressed seek to get free from all kinds of injustices, repression,
deprivation, restrictions, and intollerance, but the oppressors such as elites want to put them down forever. Karl Marx has said that free man and slave, patrician and plebeian, lord and serf, guild master and journey man, in a word, oppressor and oppressed, stand in constant opposition to one another.

Many oppressed communities such as Magar, Gurung, Tamang, Newar, Tharu,
Rai, Limbu, and *dalits* (untouchables) are affiliated with the guerrillas and are fueling the People’s War with a new zest and zeal in the hope of liberation. Greater number of *dalits* are associating themselves with People’s War. Subsequently, their number among the causalities has turbulently increased (Table No. 7.6.5).

Dozens of cases of caste discrimination and exploitation by the high caste people are reported each day and it is escalating each year even after the restoration of democracy (Fig. 7.6.1). The proliferation of media brought the issues of *dalits* and their victims in public. Among *dalits*, Kami or Bishwakarma (B.K.), who have been traditionally following their ironsmith occupation have played a crucial role in intensifying the People’s War to such a height by making indigenous weapons for the militants.

The social hierarchy and caste discrimination is practiced even more prominently in the rural areas. In Dadeldhura district, far western Nepal, a 22-year-old untouchable Man Singh Sarki had an inter-caste marriage with a 20-year-old Shanti Bhatta from *bahun* family on May 27, 1999. Her father filed a case against them in the police office and also they were socially boycotted (HRYB 2000:236). Similarly, on March 19, 1997, three *bahun* teachers, namely Shambhu Prasad Koirala, Shankar Nath Neupane, and Rishi Ram Acharya, prevented 21 untouchable students of Sipa Tinghare Secondary School in Bandegaon-3, Sindhpunalchwok, a neighboring district of Kathmandu, for drinking water from a public tap (HRYB 1997:84). Moreover, they were prevented many times from entering the school office and the teachers were trying not to allow the admission of *dalits* in the school. In another incident, both police and public physically and mentally assaulted two *dalits*, Bel Bahadur Sunar and Ishwar Sunar of Bhotenagla VDC-6, Sindhupalchowk district, as they refused to clean dishes after having their meals on May 29, 1999. They were fined Rs. 20,000 (US $267) each. Besides that, the *dalits* are even deprived from entering into the temples and other public places with few exceptions.

Indeed, the *dalits* are fighting against the feudal character and the so-called superiors to emancipate themselves from all kinds of social injustices in an orthodox Hindu society. Their females are discriminated twice as much: they are women and they are *dalits* too. Against such exploitation, Maoists are trying to develop a non-discriminatory society in Nepal to provide social justice, equality, and human dignity to those who have been victimized. The following case study published in
the *Kathmandu Post* on February 10, 2001 can help understand how they do justice to the victims in their temporary base areas.

**Case 7.6.1: How Gaumati goes to bahun family as a bride**

A 24-year-old Gaumati of Bhurti VDC-6, Dailekh district gave birth to a son in October 2000 after having an illicit sexual relationship with a 34-year-old Bhupendra Regmi of the same place. However, the superior caste bahun refused to accept the Sarki woman as she was from a downtrodden caste of the untouchable shoemakers. Initially, the ward chairman of the VDC tried to settle down the issue locally by arranging to pay some amount to the victim about five months earlier. But, Bhupendra filed a case with the Maoists against the ward chairman alleging that Gaumati had bribed the ward chairman to force him to accept her as his wife. After the investigation, three armed underground CPN (Maoist) guerrillas called the concerned people from both sides at the Red Cross Lower Secondary School to discuss the problem on February 6, 2001. Consequently, they made Regmi to take Gaumati home as his second wife and her baby as his son. They also made him sign a document pledging to provide for her and her son and give his son his rightful share of property in future. They made him take the baby on his lap and kiss Gaumati in front of all the people saying, “She is my wife.” He has one son and five daughters from his first wife. Gaumati had filed a case with the people’s court against Bhupendra two months earlier urging the court to make Bhupendra accept her as his wife. She is overjoyed to get the verdict so soon and in her favor.

As greater number of ethnic groups and dalits are associating with the People’s War, Khumbuan Liberation Front has announced for an ethnic war to give credence to the People’s War. To eliminate the state system ruled by the bahun and chhetri, the Front has put forward the slogan, „Make the People’s War a Grand Success“ (Punarjagaran:October 13, 1998). All Ethnic Associations had organized a national convention in Kathmandu during January 9-11, 1999 with the slogan, „Let all the ethnic groups unite and fight against ethnic oppression“ More than three dozen ethnic groups and organizations have already got affiliated in nine years of the People’s War and are working as pro-Maoist organizations or institutions.

The Maoists are able to capitalize the poor, disadvantaged, marginalized, and vulnerable unemployed youths against the elite centered democracy which is in general called pseudo-democracy, semi-feudalism, semi-imperialism, bureaucratic capitalism, as they put forward the party’s policy on (i) Federal structure government, (ii) Ethnic autonomy, (iii) National-regional autonomy, (iv) Secular state Nepal, (v) Proportional representation, (vi) Linguistic and cultural autonomy, and (vii) Right to self-determination.

The right to self-determination is the most controversial issue. All the political forces in Nepal are against it fearing possible secession. However, the CPN (Maoist) has a straightforward policy for ethnic self-governance and autonomy. Sanjaya Sherchan writes: „Under the people’s government to be established through the People’s War, there is a declared program to provide under the policy of ethnic self-determination and ethnic self-rule to ethnic groups“ (2001:108).

In view of the involvement of a great number of ethnic groups, the Fourth Extended Meeting of the CPN (Maoist) in 1998 decided to form a URPC of patriotic, leftist and progressive forces. The party initiated talks with various ethnic, regional and political forces (who were dissatisfied with the State for generations)
to form a union and a working alliance for collective action against the State. As the CPN (Maoist) raised the slogan of ethnic emancipation from all kinds of grievances, distresses, pains, inequalities and injustices and expressed its commitment to respect the ethnic desire for regional autonomy, proportional representation, secular state, and a federal state government, more than a dozen ethnic groups decided to strategically align with and give their consent to the forthcoming plans, policies and programs of the Maoists.

By the end of September 2001, the Maoists announced autonomous district level provisional governments, called District United People’s Government by electing the chairperson of District People’s Committee in many districts, viz. Rukum, Rolpa, Jajarkot, Salyan, Kalikot, Jumla, Dailekh, Pyuthan, Lamjung, Gulmi, Palpa, Parwat, Rasuwa, Nuwakot, Ramechhap, Sindhupalchowk, Dhading, Gorkha, Chitwan, Dolakha, Sindhuli, Samkhuwasabha, Terhathum and Panchthar (Table No.7.6.6). Since then, the representation and function of the present government in the headquarters of these districts is seen only as ambassador of Singha Durbar, Kathmandu. Nepal has now two governments, two laws, two types of security forces: one rules in the urban areas including district headquarters and the other under de facto control of the CPN (Maoist) which has influence over a great majority of rural population and greater geographical area of Nepal. The rural population is often engaged in life and death struggle – the People’s War.

Table No. 7.6.6: District United People’s Government working under ethnic and regional autonomy

*Note = Special District People’s Government
Source: Various issues of Janadesh weekly and Pari Thapa
Various ethnic regional organizations associated with the CPN (Maoist) are:
(i) Magarant National Liberation Front, (ii) Tamang National Liberation Front,
(iii) Tamuwan National Liberation Front, (iv) Tharuwan National Liberation Front,
(v) Karnali National Liberation Front, (vi) Madheshi National Liberation Front,
(vii) Majhi National Liberation Front, (viii) Dalit National Liberation Front,
(ix) Thami National Liberation Front, (x) Kirant National Liberation Front and
(xi) Newar National Liberation Front.

In the process of institutionalizing “New Democracy” under the CPN (Maoist),
the URPC proposed nine autonomous regions, five of which · Kirant, Tamuwan,
Tamang, Tharuwan, Magarat are based on ethnicity, one of Newar is linguistic,
and three are based on region, viz. · Seti-Mahakali, Bheri-Karnali and Madhesh.
The CPN (Maoist) has given autonomy to these ethnicities and regions until the
formation of the People’s Republic of Nepal.

Among the ethnic, national, and regional liberation fronts, the eastern Kirant
National Front (KiNF) frequently comes to the forefront in the media because of
continuing tussle between the CPN (Maoist) and the Khambuwan National Front
(KNF). Keeping in view of their martial spirit and military and fighting skills for
generations, the CPN (Maoist) has given special attention to both Limbuwan and
Khambuwan National Liberation Fronts in order to expand and strengthen their
political and military activities in eastern Nepal. The first alliance between CPN
(Maoist) and the KNF was formed in April 1998 and the second in October 2001,
but it did not last long due to the inconsistency of the latter. In both instances, the
KNF unilaterally started violent activities contravening the spirit of mutual trust,
toleration, and understanding. In comparison to other ethnic fronts, the Khambuwan
has displayed ethnic anarchism. As a result, the KNF wants to have an independ-
ent state as against the Maoist ethnic policy for a federal state. The level of
ambition is also high among KNF cadres. Still, the Maoists and KNF are able to
make an alliance in principle, but not based on spiritual unity. An agreement was
reached for the third time between Prachanda and Gopal Khambu on July 14,
2003 when he was also promoted as a full-fledged central committee member
of CPN (Maoist). Still, there are doubts whether this will continue to function
in future.

The All Nepal Conference for Ethnic People (ANCEP), conducted in Kathmandu
in April 2001, demanded for autonomy · the right to decide locally upon the
overall development of the local ethnic people. The Conference also demanded
self-determination and local autonomy to ethnic groups wherever they are in ma-
ajority in the country. General Secretary of ANCEP Phurnamgel Moktan said, „Brush-
ing aside our demand of local autonomy will only invite communal violence in the
long run” (Kathmandu Post: May 2, 2001). The growing ethnic assertiveness is bolstering within the CPN (Maoist) due to ethnic policy and program of all Ethnic
Liberation Movements (ELM) and Salvation Fronts (SF).

It is very hard to summarize the ethnic policies and programs of all ELMs and
SFs in one place. In many respects, they have put forward almost similar de-
mands, such as for non-discrimination, autonomy, secularism and right of ethnic
people. The basic policies and programs of ELMs and SFs are:
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i. There must be full and complete realization of people’s democracy and rights of political freedom. In other words, ethnic groups must have a system of self-governance with the right to self-determination.

ii. The Ethnic Self-Governance System (ESGS) has to be established on the basis of ethnic language, region and culture. All economic, political and cultural activities and their management must be carried out through self-governance, except for matters related to the people’s army, foreign relations, currency, weights and measurements, communication, international trade, large industries and large hydel projects.

iii. The other minority castes, tribes and groups living in certain areas must also have the right to self-governance. Such ethnic groups must have their own system of self-governance in the areas where they are living in large numbers.

iv. In addition to various other kinds of struggles, intense and long-term resistance movements must be conducted to attain the rights of self-determination and self-governance. Our movement is aimed against the hegemony of the upper castes - *bahun*, *chhetri* - and also against feudalism, imperialism and Indian expansionism. We express our solidarity for the entire New People’s Democratic Movement (NPDM) and various ethnic liberation movements conducted by the ordinary, oppressed, patriotic, democratic, progressive, and leftist people. As such, our policy is to maintain friendly relationship with all such struggling organizations and liberation fronts.

v. We must oppose and expose the wrong notions and tendencies of casteism, communalism and regionalism. Besides, we must remain alert towards the reactionary policy of Divide and Rule and must oppose it.

vi. Our movement is inextricably linked with the class movement of the proletariat, independence of the entire nation, and the new democratic movement of the common people. We must befriend the people of all ethnic groups, castes including *khasa pahadia* (*khasa* hill people) exploited by the bourgeois of the country. We must extend active support to all the ethnic, caste, and class struggles being carried out in any part of the world.

vii. All means of communication should give equal opportunity to all the languages. The State must not single out any particular language for special favor. The compulsory education in Sanskrit up to Class Eight should be abolished.

viii. A simplified system should be set up for giving away citizenship certificates. Old and complex acts and rules for getting citizenship must be abolished. Dual citizenship, discrimination, carelessness and corruption must be ended.

ix. Migration must be controlled.

x. All ethnic groups should get equal opportunity in all the services, including civil service, police and the army.

xi. The revenue earned from ethnic groups should be utilized for their own development.

xii. Ethnic Cultural Institutes should be set up for the conservation, research and development of all the languages, literatures, arts and cultures. Infiltration by perverted and polluting foreign culture should be controlled.

xiii. Official media should propagate the culture of all ethnic groups and castes.

xiv. Laws should be enacted to counter the insults and oppressions committed by the *pahadias* (hill people).

xv. All sorts of social discrimination and religious oppression must be ended.

xvi. The present upper house of parliament should comprise of various nationalities and ethnic groups of the country elected through the method of proportional representation.

xvii. All sorts of discrimination and oppression against *Dalits* must end. Also they
should be given reservation in various sectors, e.g. education, civil service and so on.

xviii. The discrimination against Muslims must be ended. They must have social security
and religious freedom.

xix. Daughters must have equal rights to parental property. The customs of salutation
(tilak) and dowry (dahej) must be discouraged.

xx. Special arrangements should be made to take care of elderly and handicapped
people and children.

xxi. The existing system of appointing Indians as laborers in the industries on contract
basis must be abolished.

xxii. The monopoly of Indian capitalists in the commercial sector must be ended.

xxiii. Agricultural land should belong to the actual tiller.

xxiv. Unequal treaties like that of 1950 should be annulled. American imperialist interfer-
ence in the country's affair must be ended.

The above points have been formulated under the guiding principles of the 75-
point common policy and program of URPC, Nepal.

It is obvious that various ethnic and regional salvation fronts are working
together with the CPN (Maoist) which has given special attention to both Limbuwan
National Liberation Front (LNLF) and Khambuwan National Front (KNF) to ex-
and strengthen their political and military activities in eastern Nepal. Since
the Second National Convention in 2003, the Maoists have given these liberation
fronts the right to form their own liberation army at the local level parallel to PLA
forces. This was the first time ever the CPN (Maoist) has decided to give such
rights exclusively to them, unlike other ethnic liberation and regional fronts.

One must focus upon LNLF and KNF and their cause as the Kirant National
Liberation Front (KNLF) has appeared as a catalyst for revolutionary practice due
to their military and fighting skills. The Kirant already have a working alliance with
the CPN (Maoist) for collective action to attain secularism, autonomy and federal
government. But, they have supported the CPN (Maoist) only in principle; their
bond is not a very strong one.

With the main policy and aim to create an Independent Khambuwan State, the
KNF was established in Bhojpur in 1992 (2049 BS) under the leadership of
Gopal Khambu before the initiation of the People's War. Khambuwan generally
denotes the Rai nationality which can be found as a major ethnic group in eastern
hills and mountains of Nepal in Udayapur, Khotang, Okhaldhunga, Dhankuta,
Solukhumbu, Sankhuwasabha and Bhojpur districts. The KNF initiated its radical
action by blasting a bomb at Sadananda Sanskrit High School of Dingla, Bhojpur
in July 1997 (Himal:February 13, 2002:27). This was a symbolic revolt against
Bahunism (bahun and chhetri) and its language. Since then, it has been involved in
many such violent activities in its areas of influence. It had once threatened armed
revolution against the State if the formation of Khambuwan State was not allowed
by December 9, 2000. The non-communist KNF leader Gopal Khambu is now a
full-fledged central committee member of the CPN (Maoist) and also a central
member of the URPC.

The LNLF was established relatively late in 2000 under the leadership of Bhakta
Raj Kandangwa of Terhathum. He was a CPN (UML) activist but had left the
party following its split. Later, he established the Limbuwan Autonomy Study

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Forum (LASF). The Forum changed into the LNLF after the convention of November 2000. He became its president and is now the Chairman of District People’s Government Terhathum. He is also a central member of the URPC. Unlike the KNF, the LNLF has put forward the policy of Limbuwan Autonomous State. Some literatures quote that LNLF was established by Bir Nemwang (The Land:2060BS:4), which now seems inactive. Sharma writes: “LNLF headed by Bir Nemwang is the oldest ethnic organization of Limbu community%” (2002:21).

In general, the Limbus are scattered in 11 districts, namely Taplejung, Panchthar, Ilam, Jhapa, Terhathum, Sunsari, Morang, Dhankuta, Sankhuwasabha, Lalitpur and Kathmandu. They are, however, numerically predominant in the districts of Taplejung (40.9%), Panchthar (39.5%) and Terhathum (34.7%).

Kirant Autonomous Region (KAR) includes three zones of eastern Nepal: Mechi, Koshi and Sagarmatha. Immediately after the party’s decision to establish working relations with all ethnic national regional forces, the CPN (Maoist), especially one of its central leaders Suresh Ale Magar, proposed a working alliance with KNF in 1998 so as to expand its influence in eastern Nepal. Later, Dr. Baburam Bhattarai, president of the then UPF, was involved in talks for alliance between the UPF and the KNF. This was made public on April 23, 1998 (Sharma:2002:21) on the basis of the understanding to go ahead jointly for (i) the establishment of United People’s Democratic Nepal and Khambuwan Autonomous State, (ii) the formation of more united fronts and (iii) the formation of liberation fronts of various ethnic groups (Janadesh:April 28, 1998).

The alliance did not last long due to the lack of mutual trust between each other. It had lasted for only seven months. The 10th Central Committee meeting of KNF held in July 2001 stated that the CPN (Maoist) had violated the agreement reached between them. The concerned document says in this regard: “The CPN (Maoist) launched its programme and activities alone in Kirant region without informing us.”

Giving an interview to Nepal Channel in July 2003 immediately following his release from Maoist custody, Gopal Khambu said: “We have a zigzag relationship with the Maoists, but our understanding is gradually improving.” In the same interview he expressed doubt whether a people’s constitution could be promulgated through a constituent assembly. Apart from these issues, the main cause of contradiction between the two is that the KNF wanted to build its own army squads in its areas like the PLA, something that is against the ethnic autonomous policy of the CPN (Maoist). In a period of two years, there were several informal talks between the Maoists and KNF. Gopal Khambu met twice with Prachanda. After the Royal Palace massacre in June 2001, Gopal Khambu had agreed to form an alliance between the Maoists and KNF and had accepted all the ethnic policies and the party line of the CPN (Maoist).

To extend influence in eastern Nepal, a new KiNF was formed in October 2001 by unifying the two, i.e. the LNLF and KNF. Bhakta Raj Kandangwa from the Limbu and Gopal Khambu from the Rai nationalities were chosen as its first Chairman and General Secretary respectively. Influential Maoist leader Mohan Baidhya, the eastern bureau in-charge, inaugurated the convention. However, some time after the unification, confrontation started between the two as they both had
varying lines of thought. The CPN (Maoist) wanted to minimize the role of Gopal Khambu fearing possible revolt within KiNF whereas he wanted to maximize his presence in what he regarded as his areas. Thus, to give equal recognition to both KNF and LNLF, both Kandangwa and Khambu were included as members in the central committee of URPC.

Feeling stronger as a result of this, the KNF adopted offensive tactics against their opponents in their areas. And, anarchism prevailed violating the agreement and understanding reached between the CPN (Maoist) and KNF. On January 17, 2002, the KNF extrajudicially killed Harka Raj Rai, the headmaster at Chisapani, Khotang (Himal: February 13-27, 2002: 27) on the charge of being an informer without the prior consent of the Maoists (Nepali Times: November 6, 2002). As the CPN (Maoist) was pressured from all quarters, for instance by human rights organizations and the civil society, Bikram, the military head of sub-area committee no. 4 publicly had to state: „There is no involvement of Maoists in this incident.‰ In another incident, KNF activists publicly killed two Nepali Congress (NC) cadres Dhansher Rai and Bhuwan Rai in Pame VDC, Solukhumbu District on November 1, 2001 along with injuring 14 others (Himal: February 13-27, 2002: 27).

Parsu Ram Adhikari of Rampur, Thokshila VDC, Udayapur was also killed by KNF on November 26, 2001 when he refused to donate Rs. 100,000 (US $1,351) (Himal:February 13-27, 2002:27). In another incident, the KNF kidnapped Dambar Prasad Banjara, a sub-inspector and released him only after receiving Rs.60,000 (US $810) (Himal:February 13-27, 2002:27). The statue of BP Koirala erected at Chisapani Bazaar was also destroyed by the KNF in opposition to Bahunism.

These are just a few examples, but they are not all nor the last ones. After these incidents, serious contradictions arose between the cadres of KNF and CPN (Maoist). The breach of understanding and agreement means that the KNF is neither committed to the policy and programs of the CPN (Maoist), nor do they want to tone down their former demand of secession or for creation of a separate Khambuwan state with autonomy. These tussles can be taken as tools for power bargaining. On the other hand, the LNLF seemed quite patient and did not involve itself in any kind of retaliations. During the offensive activities of KNF, the State security forces extrajudicially killed many people, including Rajan Rai, and launched a search campaign that severely affected the activities of Maoists too.

Due to the contradictions that cropped up between them, Gopal Khambu was taken into custody by the CPN (Maoist). In order to exert pressure, the KNF issued an ultimatum to the CPN (Maoist) to release him. They also demanded decision-making positions for Kirantis within the Maoist party structure (Nepal Times: December 13-19, 2002). The agitating cadres also formed an independent Progressive Kirant Intellectual Forum (PKIF) to pressure the party leadership and subsequently, Khambu was released.

To minimize the differences, a high level meeting was held on July 14, 2003 (Ashadh 30, 2060 BS) between the communist revolutionaries of CPN (Maoist) and the Kirant Workers Party (KWP). After a long discussion, both the CPN (Maoist) supremo Prachanda and the General Secretary of KWP Gopal Khambu agreed to sign a joint press communiqué. An unofficial translation of it reads as follows:
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i. The communist revolutionaries of KWP shall abide by the guidelines of CPN (Maoist) with regard to the doctrines of Marxism, Leninism, Maoism and *Prachandpath*. The *Prachandpath* shall also incorporate the positive and scientific aspects of the Mundhum Doctrine as propounded by the KWP.

ii. In line with the convention and the supreme universal doctrine that revolutionary communist parties must be integrated and centralized, the communist revolutionaries of KWP shall unite with the CPN (Maoist) and the KWP will be dissolved.

iii. It has been agreed to pursue the policy of adjustment between the Proletarian Movement and the Ethnic Liberation Movement by accepting the importance of Class Liberation Movement (CLM) and the indispensability of the special significance of the Ethnic Liberation Movement. With the profound belief that in today’s world, the right to self-determination and success in Ethnic Liberation Movement can only be attained under the leadership of proletariat, the relevant ideological struggle against the local caste-based hegemony will be continued by giving priority to the struggle against upper caste hegemony.

iv. A review and self-criticism have been undertaken with regard to the lapses of both sides, given that the unity achieved in the past could not be strengthened further. It has been agreed to form local teams under direct central supervision to check and review all the present and future lapses.

v. In accordance with the spirit of unity, Comrade Gopal Khambu is now a full-fledged member of the central committee of CPN (Maoist). The other comrades have also been given appropriate organizational responsibilities. In addition, it has also been decided that various fronts will also be integrated (unified) within the party organization.

vi. We are confident that this unification will play a very important role by instilling further energy in the liberation movement of Nepali people in general and the unity and liberation of the Kiranti people in particular.

Following this bilateral agreement, the Second National Convention of the KiNF was held on July 16-18, 2003 in the area of their influence at Panchthar of eastern Nepal, 700 km from Kathmandu. Giving special importance to the event, Prachanda himself inaugurated the convention, which was also attended by Mohan Baidhya alias Kiran, eastern regional bureau in-charge, and Dr. Baburam Bhattarai, chief of the Maoist negotiating team for peace talks with the government. After the Madhesi National Liberation Front, Prachanda has given such an importance only to the KiNF. The convention also changed the name of the Kirant National Front into Kirant National Liberation Front (KNLF). Inaugurating the convention, Prachanda said: „Kirant should themselves fight for their regional autonomy.‰ He added: „Until and unless we fight for Proletarian Class Liberation Movement (PCLF), none of the ethnic groups will be able to achieve their liberation. Ethnic liberation can only be attained with the involvement of the class liberation movement at the same time‰ (Janadesh:July 22, 2003).

A 29-member KNLF was consequently formed and Bhakta Raj Kandanwa was unanimously elected as the Chairman for the second time while former non-communist General Secretary Gopal Khambu was promoted to central committee member of the CPN (Maoist). It is not known how long the merger between the Maoists and KNLF will last. The past has been a witness that Gopal Khambu has sharply criticized the CPN (Maoist) publicly even over minor tactical differences. Immediately after the Convention, a tri-partite *ek-arkama anakraman samjhauta*
(non-aggression agreement against each other) was reached under the leadership of Gopal Khambu among the CPN (Maoist), KNLF and Kirant Religion and Literature Promotion Association (KRALPA) and its security force Kamrang (Jan-Asth: September 10, 2003). The KRALPA is established under the patronage of Kirant Dharma Guru (holy-priest). With this agreement, the people of the area are convinced that the communal violence of erstwhile KNF has now stopped.

Even after the dissolution of both LNLF and KNF into KiNF, a few people are still working independently under the two former fronts. There has been a constant contradiction between the Maoist and non-Maoist Kirantis since the inception of People’s War. Fearing a possible attack, some Kirantis have migrated to safer places including their holy place Mangsebung, Ward No. 8 and 9 of Banjho VDC, Ilam district. Assistant Chief District Officer (CDO) Keshav Raj Tripathi of Ilam said: „60 percent of migrant people of Mangsebung are there to save themselves from the Maoist attacks pronav (Nepal: September 2-16, 2003:18). Keharsingh Yonghang, chairperson of Kirant Cholung Service Center (KCSC), Mangsebung said: „The trend of migration suddenly increased when the Maoists attacked them (Nepal: September 2-16, 2003:18). To counter the Maoists, young Kirantis including both men and women have formed in Mansebung their own security force, called Kamrang, which is famous as the Kirant Army. Besides, another organization Nalifunga is also active. The main duty and responsibility of both the organizations is to protect the Kirant religion and religious places from the attacks of Maoists (Nepal: September 2-16, 2003:18). In the course of protecting their religious place, the Kirant Army arrested some Maoists, including Katak Bahadur Sangpang, District Chairperson of All Nepal National Independent Students Union (ANNISU) (Revolutionary) and handed him over to the local administration. Keharsingh Yonghang said that the Maoists had killed four Kirantis and Kamrang had killed two Maoists in retaliation (Nepal: September 2-16, 2003:19).

Less than two months after the unification between CPN (Maoist) and LNLF, contradictions resurfaced when an underground Limbuwan activist issued a press statement in Dhankuta on September 6, 2003. Mabuhang, In-charge of Limbuwan Division Committee of the KWP announced that they were no longer associated with the Maoists as the latter had violated the understanding reached between them to work. The press communiqué read: „The Limbuwan activists are unitedly ready to continue their duties and responsibilities of the party if the Maoists permit them to read their concerned literature and to carry out public debate on issues as per the agreement reached between them (Nepal Samacharpatra: September 7, 2003). This was the first time the LNLF had expressed its dissatisfaction against the leadership of CPN (Maoist).

Despite some ideological and tactical differences, the CPN (Maoist) has been able to unite both KNF and LNLF under the single umbrella of the KiNF. This is a good initiation for the sake of the people and the entire nation. As a result, possible ethnic conflict is averted. However, even some minor issues and tactical differences over the agreement can sever the fragile bond between the Maoists and the KNLF. The Maoists should be aware of this and the State should come up with some concrete agenda to avert possible ethnic conflict tendencies and/or secessions.
Supporting the demands of ethnic autonomy, the pro-Maoist ethnic group Newa Khala called a Valley banda (strike) on March 5, 1999 forwarding its 14-point demands for self-determination and autonomy. The following demands of Newa Khala are taken from Domestic Conflict and Crisis of Governability in Nepal.

A. Demands related to ethnic groups in general and Newar community in particular
1. All languages of Nepal must be declared national languages and the government must recognize them as such;
2. The valley should be declared as Newa autonomous region and other regions with major ethnic groups be declared as such;
3. Nepal should be declared a secular state;
4. All Newars of the Valley be guaranteed to have employment;
5. The garbage collection in the Valley should be properly managed;
6. Compulsory Sanskrit education should be discarded. Mother tongue education should be widely implemented;
7. Marketing should be managed for all vegetable farmers of the Valley;
8. To make the rivers free from pollution, there should be alternate drainage system;
9. Corruption in land revenue and tax offices must be put to an end;
10. Manage for clean drinking water; and
11. Get rid of skyrocketing costs, corruption, and unemployment;

B Demands related to the Maoist War
12. The state violence and the public killings must be stopped immediately. Action should be taken against the government officials and police involved;

C Demands related to India which are the basic issues of the Maoists
13. The Mahakali Treaty including other treaties that are anti-national and unequal be cancelled; and
14. Boycott all economic activities dominated by foreign brokers.

Except demand number 2, „The valley should be declared as Newa autonomous region and other regions with major ethnic groups be declared as such,‰ all demands are genuine and worthy for deliberations. In regard to the ethnic autonomy and right to self-determination for the ethnic people, Sociologist Dr. Krishna Bahadur Bhattachan has said that even though the government has already ratified ethnic autonomy and right to self-determination unconditionally, it has not been able to satisfy the people of different ethnic backgrounds. Criticizing the state for being highly centralized regarding ethnic issues, Bhattachan states, „There should be proper decentralization process, if the government is to uplift the deprived ethnic people‰ (Kathmandu Post:May 2, 2001). Genuine decentralization would indeed be a crucial step for removing all sorts of disparities prevailing in political, economical, and social sectors among the minorities. Also, there should be proper state policy for upliftment of the living standards of the deprived ethnic groups, instead of having ethnic autonomy in a pluralistic society like Nepal. Refusing the demand for ethnic autonomy, Executive Director of the National Committee for Development of Nationalities Dr. Chaitanya Subba said, „We respect the interests and sentiments of ethnic people, but our office does not function to set up a criterion for ethnic autonomy‰.

On the other hand, Nepal had narrowly escaped from ethnic insurgency when
the two rival groups, the indigenous Nepali people commonly called pahadias (hill-dwellers) and Indian origin people called as madhise (flat land-dwellers), protested against the alleged derogatory comments made by Indian film actor Hrithik Roshan near the end of December 2000. Altogether 7 people were killed in two different incidents including two minors: a 12-year-old girl and a 10-year-old boy and dozens of protestors were injured. Converging with the latent issue of Roshan¹², anti-India feelings and hate-India campaigns were specially created, as India exploits Nepalese economy by exporting millions of tons of rice, and so forth, into a chiefly agricultural country in close cooperation with the ruling party and India-based industrialists and businessmen who have captured the entire economy. It is reported that most of them have dual citizenship, Nepali and Indian. Besides that, the Indo-Nepal Treaty 1950, Koshi Project, Gandak Project, Mahakali Treaty, Kalapani Issue, IC 814, and Nepal Game-Plan were also responsible for the hate India sentiments that percolated during the four days of anti-Indian mobbing from December 26 to 28, 2000 in Kathmandu. It was clearly visible that the mobs aimed to victimize the madhises due to the frustration from India's socioeconomic and political dominance over Nepal.

In another incident, three people were killed when an estimated 10,000 people of anti-Maoist mob of Bhirurwaguthi VDC in Prasa district, central tarai attacked the hill dwellers suspecting them as Maoists. The anti-Maoist mass of tarai-dwellers attacked the hill-dwellers (believed to be the Maoists) shouting slogans, Madhise Ekata Jindabad, Pahadiako Chure Katao (Long live Madhise unity; Let's evict hill-dwellers across Chure) and reportedly killed two hill-dwellers and seriously injured several others in an armed conflict on September 8, 2001. Hundreds of hill-dwellers fled away from their houses. The tarai-dwellers again attacked the following day, when the police shot an anti-Maoist campaigner. Dozens of houses were set ablaze. The seeds of the violence were sown when some Maoists forcefully entered into the local Deepnarayan Adarsha Secondary School of Prasouni VDC, Parsa district and tried to implement their janabadi education (people's education) (Kathmandu Post: September 9, 2001). That scuffle happened immediately after UML leader Madhav Kumar Nepal had publicly urged his activists to fight against the Maoists on ideological, political, and armed fronts.

The rights of minority people were frequently brought up in discussion during the time of the constitution drafting process. Many suggestions related to such matters as linguistic, religious, ethnic, and regional issues of minorities and dalits were even forwarded to the Constitution Recommendation Committee. However, the Committee included very little of those suggestions relevant to the rights of ethnic groups fearing jeopardy to national unity and integrity. If the present government cannot ensure the rights of the minorities and dalits even now, the multi-ethnic, multi-lingual, democratic, independent, indivisible, sovereign, Hindu and constitutional monarchial kingdom of Nepal will face a communal violence. Similarly, if the People's War cannot overcome the present political scenario and if the movement is crushed by any means, the people who are integrated with it ideologically, politically, socially, and culturally will fragment into different groups of their own. That subsequently will give birth to a spiral of ethnic violence. It will
be the greatest tragedy both in physical and material terms to have been witnessed ever in the history of Nepal. Advocating for the minority rights Bhattachan states, “At present, the Maoist People’s War has prevented the possibility of ethnic insurgency. In future, if the People’s War should fail but the unitary predatory Hindu state should continue as usual, then ethnic insurgency is inevitable” (2000:159).

To preserve the identity, indigenous resource management, characteristics, and traditions of minorities, several international human rights instruments have been unconditionally ratified which include: International Covenant on Civil and Political Rights (Article 27); International Covenant on Economic, Social, and Cultural Rights (Article 13); Convention on the Rights of Child (Article 30); International Convention on the Elimination of All Forms of Racial Discrimination (Articles 2 and 4); and the Convention on Prevention and Punishment of the Crimes of Genocide, etc. Similarly, many rights of minorities have also been enshrined in the Indigenous and Tribal People’s Convention (ILO, 1989); Declaration of the Rights of Persons Belonging to National or Ethnic, Linguistic and Religious Minority (UN, 1992); Helsinki Decision on CSCE High Commissioner on National Minorities (CSCE, 1992); and European Charter for Regional or Minority Languages (Council of Europe, 1992). The constitution of Nepal also ensures many fundamental rights for the citizens. The following provisions of the constitution ensure for non-discrimination against any citizen in the application of general laws on the grounds of caste, race, tribe, sex, religion, and ideology or any of them:

1. Article 4.1: Nepal is a multi-ethnic, multi-lingual, democratic, independent, indivisible, sovereign, Hindu and constitutional monarchial kingdom.
2. Article 11.2: No discrimination shall be made against any citizen in the application of general laws on the grounds of religion, race, sex, caste, tribe, and ideology, or any of them.
3. Article 11.3: The state shall not discriminate a citizen on the grounds of religion, race, sex, caste, and ideology, or any of them. Special provisions may be made by law to protect or promote the interests of women, children, aged people, and persons who are physically and mentally incapacitated and people who belong to a class which is economically, socially, and educationally backward.
4. Article 11.4: No person shall, on the basis of caste, be discriminated as untouchable or be denied access to any public place or be deprived of the use of public utilities. Any act in violation of this provision shall be punished by law.
5. Article 18.1: Every community residing within the kingdom of Nepal shall have the right to protect and develop its language, script, and culture.
6. Article 26.2: The State shall, while maintaining the cultural divergence of the country, adopt a policy of strengthening national unity by promoting healthy and cordial social relations amongst the various religious groups, castes, communities, and linguistic groups of society to promote the language, literature, script, art, and culture of all.

The constitution of Nepal is clear on ethnic, religious, linguistic, and cultural identity of the people and their rights and it outlaws discrimination against any caste or ethnic group. But, the implementation is very weak.

In general, a huge number of nationalities and dalits have been continuously oppressed for a long time in Nepal since the formation of Hindu-Buddhist society. The Maoists primarily tried to awaken them by forming their ethnic associations.
When the CPN (Maoist) dissolved All National Nationalities Association (ANNA) and formed Ethnic and Regional Front Coordinating Committee (ERFCC) under the convenorship of Suresh Ale Magar and established a separate Ethnic Department at the central level under the command of Dev Gurung, most of the nationalities have since then been allied with the People's War. By the end of 2003, one dozen ethnic and regional fronts had been established. Until the formation of People's Republic of Nepal, all the regional and ethnic fronts have been given authority to work in these areas. As a result, the zeal and zest of ethnic assertiveness is growing and bolstering throughout the country. The demand for regional and ethnic autonomy and the right to self-determination create conflicts between ethnic and non-ethnic groups with possibility of secession. Such demands invite communal (ethnic) violence in the long run. On the other hand, if the Maoist People's War deviates from its main politico-ideological, identity-based and resource-based tracks and if Hindu-Buddhist society also fails to ensure social justice to the people, ethnic insurgency is inevitable.

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Endnotes

1 People's Review: April 2, 1998

2 Animal farming was the main source of income in Dolpa, Mugu, and Humla, etc. Toward the end of the Panchayat system, the government introduced the western model of community forest approach all over Nepal. Animal farming ended, and the farmers' income also ended, as HMG and local people jointly started to protect the neighboring jungle by forming community user groups.

3 Height-for-age measures skeletal growth (degree of stunting) which does not vary quickly in response to short-term health and economic changes. It measures the consequences of long-standing problems of food intake and health. This is an indicator of long-term deprivation due to serious social and economic problems. Weight-for-height (degree of wasting) measures the body size according to the height attained. The volume of tissue mass can change quickly depending on the quantity and quality of food intake in the recent past and general health condition. Deficits in weight for a given height can develop and disappear very quickly; as such it is a useful indicator to assess short-term changes in nutritional status. Weight-for-age shows the extent and distribution of under-weight persons of a certain age in the population. It signifies a general deprivation of food and nutrition. It is often used as a summary indicator of both height-for-age and weight-for-height (Nepal Human Development Report 1998:68).

4 It closed down 1,800 schools, 186 higher secondary schools, and 136 campuses.

5 Article 12 (1) The State Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Article 12 (2) The steps to be taken by the State Parties to the present Covenant to achieve full realization of this right shall include those necessary for: (a) the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) the improvement of all aspects of environmental and industrial hygiene; (c) the prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) the creation of conditions which would assure all for being imparted medical service and medical attention in the event of sickness. Adopted by the General Assembly on December 18, 1992 (Resolution 47/135).

6 (Literacy, Language, and Social Inclusion: September 5, 2002)

7 In Hindu society, caste is divided into bahun, chhetri, baisya and sudra. According to the Rig
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Veda, bahun came from the mouth, chhetri from the arms, baisya from the thighs, and sudra from the feet of Lord Brahma - the creator of universe. The fourfold division of caste is called chaturvarna. In the society, bahun is called priest, chhetri is a warrior, baisya is a businessman and sudra is untouchable. Professionals, such as shoemakers, tailors, goldsmiths and ironsmiths, etc. belong to the class of untouchables. Also see the seminar paper presented by Fernando, WJ Basil (May 8, 2000) titled, Discrimination and Toleration: An Examination of Caste Discrimination in India.

9 The brochure of National Committee for Development of Nationalities.


11 In the Nepali calender BS means Bikram Sambat, which is 56 years 8 months and 16 days ahead of the Gregorian calender.

12 The violence took place in Kathmandu, when police killed five people in a riot of anti-India mob. Objecting to the extrajudicial killings, the mob blocked the road to and from Valley for two days, and subsequently, student organizations announced the Valley Banda (strike) on December 28, 2000. The Left Front comprising nine communist parties also announced Nepal banda (general strike) on January 1 and 2, 2001. At the same time, when Sadbhawana Party was trying to observe the banda in the district headquarters, Rajbiraj, protesting against the arrogance over madhises by the pahadias, the police opened fire and killed two madhises. Meanwhile, the Ministry of Information and Communications instructed all cinema halls throughout the country not to censor the Indian feature film acted in by Roshan. On the one hand, India accused Pakistani ISI activities for the entire disaster, whereas on the other hand, the government indirectly pointed the blame toward the Maoists.
Chapter Eight

Talks I – Emergency – Talks II

“Defeating terrorism through prosperity is a fine concept. But who will foot the bill?”
- Professor Jeffrey Sachs

“Men make history but not under conditions of their choosing.”
- Karl Marx

“Unlike my brother, I cannot sit back and remain spellbound for the suffering and pain of the people.”
- King Gyanendra Bir Bikram Shah Dev

“Leaders of the Maoist terrorists will now be arrested or killed wherever they are in Nepal and India. Their own security force will kill them. Anyone who hands over their heads will be rewarded.”
- State Minister for Home Debendra Raj Kandel

8.1 Talks I

The People’s War has brought to standstill the construction of almost all the development infrastructure. It has severely affected the stability of government, and has pushed the country toward political turmoil and insecurity. The rights to life, liberty, security, and dignity of the poverty-stricken people have been seriously affected. To ensure peace and security, maintain political stability and sustainable development and to promote respect toward fundamental human rights and freedom, the deepening political crisis and the derailed peace process should be meaningfully settled through talks as soon as possible.

The civil society and its various organizations in Nepal were in favor of talks between the government and the CPN (Maoist) immediately after the initiation of the People’s War. But in general, the mainstream political parties in the parliament were not in favor and wanted to crush the Maoists through security forces. They had no seriousness toward the root-causes of the People’s War nor did they put forward any proposal for socio-cultural, economic and political transformation and reforms. After the announcement of „Move Ahead to Establish Base Areas” in their Fourth Plan of 1998, the CPN (Maoist) in informal meetings and writings as well expressed willingness to begin talks if the government created a conducive environment for the peace process. But, it is remarkable that their acceptance of peace process was just a strategic move rather than the realization of talks.

The formal peace process started when Krishna Prasad Bhattarai came into power as the prime minister on May 27, 1999 and constituted a High Level Maoist Problem Resolution Recommendation Committee (HLMPPRC) headed by the former PM Sher Bahadur Deuba in December 1999 primarily to explore the causes, reasons and possible solution of the Maoist crisis. Later in February 2000, the same team was authorized to hold negotiations with the CPN (Maoist). The government was compelled to form a talks team when the British Foreign Minister Robin Cook, the Head of the European Union and others stressed upon the gov-
ernment to hasten the peace process. The Deuba Report, which was submitted to the government a year later, had pin-pointed the causes of the People’s War and had recommended to proceed for peace process at the earliest.

After a long wrangling and pressures from all corners of the land as well as from abroad, an unofficial talk was held in October 2000 between representative of the Maoists Rabindra Shrestha and the then Deputy Prime Minister Ram Chandra Poudel with the facilitation offered by former law maker and human rights activist Padma Ratna Tuladhar. Both sides showed their willingness to continue the talks further, but due to the lack of sincerity, honesty, commitment, and sufficient facilitation, the informal talks broke down. After that the CPN (Maoist) started to attack the security forces furiously.

In one incident, the armed force of CPN (Maoist) abducted 71 armed policemen during a raid on Holeri Police Post situated in Nuwagaon of Nuwa VDC in Rolpa district on July 13, 2001. In the two-hour exchange of fire starting at 4 AM, a constable was killed and another policeman was seriously injured. Immediately after receiving the information of abduction, some 500 policemen from the headquarters of Rolpa, Dang and Pyuthan districts were dispatched on foot to rescue them. Besides, for the first time after the initiation of the People’s War, Prime Minister Girija Prasad Koirala gave an order to the Royal Nepal Army (RNA) to free the abducted policemen unharmed and recover the looted weapons. The RNA went for action the same day and surrounded Nuwagaon by ferrying troops through helicopter. By the evening, a police source claimed that 50-60 rebels were killed, but the army denied. Instead, the RNA informed that the Maoists had fired at MI-17 Russian helicopter which got slightly damaged. Three soldiers, including the co-pilot, were injured and it force landed at an army barrack in Pyuthan. To mentally pressurize the rebels to give themselves up with their arms and to free the policemen unhurt, the following day the RNA sources claimed that they had encircled hundreds of rebels in their hideouts and the abducted policemen were about to be released.

The government print and electronic media launched information warfare technique against the Maoists to quell them. Denying what the government had claimed, Prachanda stated that the RNA troops had actually been surrounded for the past two days and were under the protection of the people and the militants. At the end, after long interaction and discussion, they released some policemen in a cordial atmosphere when they pledged never to raise arms against the people. On the contrary, the defense sources said that the villagers had been cooperating with the army and had even provided food and shelter to the fighting troops. Rejecting the Maoist claim, Home Secretary Srikanta Regmi said, „It is a pure propaganda and cheap publicity stunt to boost the morale of their cadres‰” (Kathmandu Post: July 16, 2001). But the soldiers had already returned to their barracks the day following the mobilization soon after the talks and without even confronting the Maoists. On July 19, 2001, the seven-member human rights observation team after coming back from Nuwagaon stated, „We did neither see the RNA nor the abducted policemen at Nuwagaon.‰ As per the assurances provided to the human rights team, the CPN (Maoist) freed 22 policemen in the first lot as a goodwill gesture.
When the information became public that the RNA had already left the place, members of opposition parties and the dissidents within NC protested against the right to information and demanded that PM Girija Prasad Koirala must resign. Indeed, Girija had failed to deliver on earlier promises to (i) improve law and order, (ii) minimize corruption and (iii) provide good governance.

NC president Girija Prasad Koirala resigned from the post of prime-ministership on July 19, 2001. As NC was the largest party in parliament, Sher Bahadur Deuba was elected leader of the parliamentary party and became Prime Minister of Nepal on July 22, 2001. Declaring truce on behalf of the government, the newly appointed Prime Minister gave top priority to solve the Maoist problem, appealed the Maoists to stop the armed struggle and invited them to a peace process on July 23, 2001.

In response to the government, the Chairman of CPN (Maoist) and chief of the PLA Puspa Kamal Dahal requested militants to postpone all the pre-planned offensive activities and to stay on active defense. Deuba had adopted a soft corner toward the Maoists since he had been appointed the head of HLMPRRC in 1999. In the same statement, Prachanda put forward the demand to declare whereabouts of the missing Maoists, exchange prisoners of war and to annul the anti-People's War laws as pre-conditions for initiating the talks. In response, the government released some prisoners, published a list of detainees and withdrew the Armed Police Ordinance 2001. Likewise, the Maoists also released all the policemen and civilians whom they had captured (www.insof.org/w7/news_national.html). The announcement for truce was welcomed from all walks of life.

Immediately after the announcement of truce, both sides formed their teams for talks. On behalf of the government side, a five-member negotiation team was formed under the leadership of Chiranjibi Wagle, Minister for Physical Planning and Works. Other members of the team were Mahesh Acharya, Vijaya Kumar Gachhedar, Chakra Prasad Banstola, and Narahari Acharya. The three-member Maoist negotiation team was led by Krishna Bahadur Mahara and Top Bahadur Rayamajhi and Agni Prasad Sapkota were appointed as members. Krishna Dhoj Khadka on behalf of Maoists had informally exercised to create conducive environment of talks with the Deuba government. Daman Nath Dhungana and Padma Ratna Tuladhar were appointed to facilitate the peace process.

In the meantime, PM Deuba put forward a package of socioeconomic reforms. Some of the programs of historical and forward-looking socioeconomic reforms package were: (i) land reforms, (ii) abolition of caste discrimination and permission to dalits into temples, monasteries and other religious sites (iii) non-discrimination against women and their property rights, (iv) anti-corruption bill, (v) reform of the electoral system and so forth.

The announcement suspended all transactions related to buying, selling and transfer of ownership of land with effect from August 16, 2001 until a new law was to be made. The new land reforms policy reduced the ceiling of land ownership. In regard to social non-discrimination, PM Deuba said that any act of social discrimination and practice of untouchability would be considered a punishable
offense. The announcement for abolition of caste-based discrimination brought a sort of mini revolution among the *dalit* communities and conflicts erupted in some places among *dalits* and non-*dalits*. The National Dalit Commission was set up to implement the rights of *dalit* community as guaranteed by international and national human rights instruments. In order to respect, promote, and protect the rights of women, the bill of women’s property right was passed by the parliament and National Women’s Commission was established.

In order to influence the forthcoming talks with CPN (Maoist), Deuba had put forward revolutionary socioeconomic reforms, but the land ceiling program was severely criticized by all the parliamentary forces except the main opposition political party - the CPN (UML). PM Deuba announced a 25-year-long special action plan to establish socioeconomic and political rights to women, *dalits*, and ethnic and indigenous people, but no master plan has been framed to implement the reform policy yet.

A political dialogue was formally opened for the first time between the government and the Maoists at the Godavari Resort in central Nepal on August 30, 2001. This was a courtesy call meeting to list the issues that were likely to be raised. In the first phase of introductory meeting, both the negotiating teams agreed to continue the talks and to hold the second round of talks within two weeks.

Even in this first meeting, the Maoist negotiation team had put forward a three-point political agenda: (i) formation of interim government; (ii) drawing a new constitution and (iii) institutionalization for a republican state. In response, the government team agreed to submit its proposal after due consultation with the party and the government. After the meeting, the coordinator of the government Chiranjibi Wagle had said: „They would get back to the proposal put forward by the Maoists after further consultation with the party and the government.“

Attending the first mass rally in Nepalgunj in western Nepal for the first time in six years of underground state, the chief Maoist negotiator Mahara warned that if the proposed demands were not fulfilled through talks, they would again be using force. He further stated that the Maoists had agreed to hold peace-talks not due to their party’s wishes, but due to the aspirations of the people and interests of the nation (Kathmandu Post: August 31, 2001). Both facilitators Daman Nath Dhungana and Padma Ratna Tuladhar were also attending the first round of talks as witnesses.

The second round of talks was held at the Tiger Tops Resort, Thakurdwar, Royal Bardia National Park in western Nepal on September 13 and 14, 2001. The Maoist negotiation team formally presented its main political agenda, immediate actions to be taken to make easier the peace process and other pressing issues of public interest. The 31-point agenda was as follows:

**a. Main political agenda**

1. Dissolve the present Constitution 1990 to draw a new constitution;
2. Dissolve the present government and parliament to initiate the process of interim government; and
3. Since the traditional monarchy has virtually been swept away, institutionalize the process for a republican state.
b. **Immediate actions to ease the peace process**

4. Make public the whereabouts of the people including Dandapani Neupane at the earliest;
5. Release all imprisoned Maoist leaders and activists including Matrika Yadav at the earliest;
6. Annul anti-People War laws, for instance, Public Security Regulations, Armed Police Force (APF) and Regional Administrators Ordinance/Act;
7. Withdraw the Integrated Security and Development Programs (ISDP) as it has covered up the conspiracy against the People’s War; and
8. Withdraw the deployed army units which had been mobilized in order to launch various development programs.

c. **Public interest issues**

10. Regulate open border between Nepal and India;
11. Guarantee the rights of self-determination, autonomy, people’s proportional representation and abolish regional discrimination;
12. Initiate revolutionary agriculture and redistribute the land seized from feudals to landless;
13. Initiate immediate industrialization by restricting imperialism and India’s monopoly;
14. Encourage Nepali traders against the Indian industrialists;
15. Contain public expenditure and apply progressive tax system;
16. Provide scientific education and abolish commercialization of education;
17. Uplift people’s progressive culture;
18. Declare politically killed victims as martyrs;
19. Establish the right to treatment as a fundamental right;
20. Protect the rights of disabled, impaired and handicapped children;
21. Abolish gender discrimination and exploitation and provide property rights to daughters;
22. Abolish discrimination against *dalits*;
23. Introduce 40-hour work per week to the laborers;
24. Ensure right to expression and sensitize media in favor of talks;
25. Develop concrete policy for the youth;
26. Guarantee academic freedom and occupational protection;
27. Stop imperialist encroachment through NGOs and INGOs;
28. Protect the Nepali people residing abroad;
29. Form people’s commission to investigate the Narayanhiti massacre;
30. Allocate 70 percent of national budget for physical infrastructure in the rural areas; and
31. Fulfill all the demands put forward by the people.

The government negotiators assured the Maoists that they would make public the whereabouts of the people disappeared and release the imprisoned Maoist detainees soon. In regard to abolition of the APF, they tried to assure that it would not be used against the Maoists and ISDP would become inactive as soon as the situation returns to normal. But they flatly rejected the political issues. Moreover, the government emphatically demanded to call off the conference of the ANNISU (Revolutionary) and the proposed mass meeting which was scheduled to be held in Kathmandu on September 17 and 21, 2001.

The much awaited third round of talks was again held at Godavari on Novem-
ber 13. As a lot of criticisms were mounted on institutionalization for a republic state from all corners, the Maoists suddenly dropped the demand and put forward an alternative to hold an election for the constituent assembly as their bottomline. Ever since the establishment of the Communist Party of Nepal, the communists have been demanding for a constituent assembly. In retrospect, on February 18, 1951, King Tribhuvan had declared for holding an election of constituent assembly for the people’s regime. Even NC was in favor of constituent assembly in 1951, 1957 and again in 1960. For setting up constituent assembly, “a case was filed by BP Koirala in connection with it, which was dismissed by the court on August 2, 1957” (HRYB:2002:11). The United National People’s Movement (UNPM) had also raised slogans for constituent assembly in the Jana Andolan 1990. One faction of the UNPM had continued the call for constituent assembly and later established the CPN (Maoist).

In the third round of talks, both negotiating teams accused each other for various events of human rights violations and abuses. The talks became inconclusive when the government rejected outright the main political demand for constituent assembly. Commenting upon the third round of peace process, Mahara had stated that they had insisted on dissolving the constitution and to form an interim government, but the government negotiators did not agree. On the other hand, Chiranjibi said that since the Maoists had withdrawn the demand for a republican state, other demands could be fulfilled by the present constitution, and therefore, they denied to go for the constituent assembly. The NC, main opposition party in the parliament CPN (UML) and other national parties RPP, CPN (ML), etc. strongly denounced to hold an election for the constituent assembly fearing their possible defeat. Thus, the talks failed.

The CPN (Maoist) used the talks as a window opportunity to organize and mobilize general people in support of the People’s War. The Maoists consolidated their position by openly holding mass rallies, collecting donations, and declaring people’s government in several districts. It was a good opportunity to mobilize various oppressed and discriminated groups such as women, dalits, nationalities, and regionally oppressed and discriminated people against the present system and government. The most notable of the rallies were held at Birtamode, Biratnagar, Janakpur, Chitwan, Hetauda, Kathmandu Valley, Pokhara, Butwal, Dang, Nepalgunj and Dhangadi, etc. People and newspapers reported that such mass rallies had never taken place in the entire history of Nepal. The chief attraction in the rallies and mass meetings was the presence of Maoist negotiators and the newly released Maoist activists. During the period, Maoists also organized several meetings with various leftist, nationalist and patriotic forces and urged them to make broad alliances against the present political system. They utilized the negotiating process as an opportunity for organizational consolidation and were able to get 68 Maoists released from jails. Some anti-People’s War’s laws were also annulled. Using the truce as an opportunity, they constructed the People’s Liberation Army and United Revolutionary People’s Council through conventions. They also imported large quantities of arms and ammunition to combat against the State. Besides, they were able to penetrate their informants into the security forces. The greatest achieve-
ment of the talks was to get them recognized as a political force against the state tag of terrorists.

During the talks, the country was relatively in peace, but there were frequent reports of extortion, murder, loot, rape and abduction. Such activities were severely condemned from all corners. Maoists were pressured not to involve in immoral activities against the norms of truce and peace process. Even the government warned them that if they continued such activities, the ongoing peace process would be derailed. During these days, seven active supporters of peace process were extrajudicially killed (HRYB:2002:10). Issuing a press statement, the CPN (Maoist) stated that they had no plan to attack anyone including the activists of CPN (UML) (Kantipur:November11, 2001). When the Maoist activist Kaile Giri raped a 12-year old girl in Nuwakot in the middle of September 2001, the incident became a burning topic and the opposition political parties and human rights activists heavily poured over the Maoists. Indeed, such inhumane and degrading treatment should be condemned by all and the perpetrator must get severe punishment and appropriate relief should be given to the victim. The issue was normalized when the people’s government of Maoists publicly assured that they would take strong action against the perpetrator and necessary relief would be given to the victim.

While the talks was going ahead smoothly, the controversial Armed Police Force Bill was passed by the parliament. Fearing the gathering of huge mass in Kathmandu, the government announced a ban on all public meetings for a minimum of one month beginning from September 15, six days before the proposed Maoist mass meeting, in violation of the constitutional fundamental rights. Moreover, the government launched offensive activities against ANNISU (Revolutionary), the student wing of Maoists, and the same night both police and army raided four hostels, arrested many students and confiscated a huge number of documents and banners. In retaliation, ANNISU (Revolutionary) decided to close down all private and public schools for five days starting from September 18, if the government did not release their fellow students and returned the seized materials. The following day, Prachanda issued a press release, “If the government does not fulfill the demands and does not stop arbitrary arrests, our party requests the people’s army and general people to start retaliation.” However, Prachanda postponed the proposed mass meeting for an indefinite time.

Human rights organizations and civil society were very much active to facilitate the peace process and had pressured both sides. A huge peace rally was held in the capital with banners and placards of ‘Stop killings,’ ‘Stop getting killed,’ and ‘Live and let alive.’ In the procession, tens of thousands of people marched along the main streets of the capital on September 14, 2001 advocating for peace. This rally was jointly organized by all the Human Rights Organizations, all the organizations affiliated with Nepal Teachers’ Association, PABSON, Vishwa Hindu Mahasangh, Jamia Masjid, Hotel Association of Nepal, Federation of Chamber of Commerce and Industries and Nepal Chamber of Commerce. This was the first such rally in the entire history of Nepal organized to restore peace and security against summary executions, arbitrary arrests and detentions, involuntary disapp-
appearances, abductions, tortures and other cruel, inhumane, and degrading treatment. To facilitate the process of talks, a meeting of human rights defenders was held in Kathmandu on September 19, 2001 to put forward the proposed code of conduct to both the government and the CPN (Maoist). It was formulated to stop grave human rights violations and abuses, violation of humanitarian laws and to stop the loss of life, property and development infrastructure. It was divided into three sections for (i) HMG, (ii) CPN (Maoist) and (iii) both the government and the Maoists (Informal:2002:vol.11/no.1:57). These agendas were:

**Code of conduct for HMG**

The government should:

- not arrest anyone for being a Maoist or on any such pretences, and on grounds of conscience and faith;
- withhold public security laws immediately;
- not violate the right to peaceful assembly and other fundamental rights enshrined in the constitution;
- publicize the fact about those arrested (and disappeared) on grounds of conscience and release all prisoners of conscience;
- dismiss all bogus and forgery cases filed against prisoners of conscience;
- not make public any views which stand counter to the spirit of dialogue through its spokesperson, its representatives in the dialogue and the members of the party in power;
- not enact and implement any laws that run counter to civil, political, social, cultural and economic rights;
- not use army on any pretences;
- not use force during the period of dialogue;
- make sure that the code of conduct is respected fully at all levels by the law enforcing agencies; and
- respect in action the spirit of human rights and humanitarian laws.

**Code of conduct for CPN (Maoist)**

The Maoists should:

- not collect donations forcefully from industrial institutions, NGOs, shops, citizens and so on;
- not force elected representatives to resign;
- not abduct anyone in the name of public action and no one should be terrorized;
- not close institutions of public concerns such as education institutions, VDC offices and all actions towards this end should stop;
- stop all actions that terrorize teachers, students and guardians;
- honor and observe the spirit of human rights and humanitarian laws;
- take necessary measures to ensure that the code of conduct is honored at all levels and penalty should be publicly announced for those who do not accept the code; and
- not organize political campaigns and conferences in such a manner that terrorizes people and stop armed campaigns.

**Code of conduct for both the government and the Maoists**

Both parties should:

- not use force between each other and in public dealing, should take the people into confidence and should not terrorize them or incite them;
- obey the code of conduct during the period of dialogue;
• stick to the agreements reached in the dialogue;
• not indulge in any activities which may unduly influence the dialogue and its environment; and
• not manipulate media in a way that spoils the environment of dialogue.

After several pressures from the civil society, both the government and the CPN (Maoist) verbally agreed to accept the proposed code of conduct, but could not dare to sign an agreement. If they had accepted the agenda, human rights violations and abuses would have stopped which would have ultimately helped to make the process of negotiation easier.

Instead of creating favorable environment for the Maoists, all the opposition parties and the government pressured to bring them under the present constitution. Utilizing both the print and electronic media, even prominent state leaders tried to underestimate them: „There is no meaning to hold an election for constituent assembly as the CPN (Maoist) has already given up the demand for a republican state.“ The government negotiator Mahesh Acharya once went on to say that it was a compulsion for the Maoists to come under the present constitution, as they were seeking safe-landing for the People’s War. Others said that the Maoists are losing control over their cadres, so they cannot go back to jungle again. In the anti-Maoist information warfare, some of the media tried to humiliate them by writing: „The Maoists are very eager to be ministers“. Similarly, the USA and its affiliated media were very much against the People’s War and its leaders.

When the Maoists assassinated Rabindra Shrestha, the Program Assistant with USAID on May 31, 1998, American Ambassador Ralf Frank first ever lashed out and branded them as terrorists and killers (People’s Review: June 18, 1998). The US government was not happy with the Maoists as they had earned people’s power by awaking the masses over dismal performance of the US funded Rapti Rural Area Development Project which was eventually terminated. From the study it was found that the project had provided benefits to wealthy and elite people who were already endowed with power, politics and property instead of uplifting the great majority of poor masses in accordance with the project’s objectives, aims, vision, and mission. It is believed that the project was designed to crush the communist ideology in the areas which had emerged as a great threshold for communist movement. The Maoists, therefore, seem more resentful against the foreign aided INGOs in general and US funded INGOs in particular.

Dozens of INGOs have removed their offices from the hill and mountain districts and have also shifted their activities to the urban centers and tarai. Many are likely to close due to insecurity. Some of the donor countries have reduced their aid for Nepal. Some INGOs have transferred their ongoing projects to local NGOs and many programs have been postponed. The bad image of a few NGOs has come to light as most of them are severely influenced by ill-famous political leaders and the government officers than by their goals, policies, programs, duties, and responsibilities. Except in a few cases, powerful and wealthy people are largely benefited by the NGOs as their services primarily reach them. On the other hand, donor countries themselves take back huge sums of aid through their experts and supply of very expensive vehicles, accessories, and official equipment. It is esti-
mated that only 30-35 percent of money is utilized in Nepal from such development projects, but a comprehensive study is needed. The inconsistencies and elite monopoly of the NGOs have awakened ordinary people that has finally fuelled more militancy against the projects with wrong tendencies.

After the USA, the NC party branded the Maoists as terrorists in their policy paper. On December 5, 1998, the NC president Girija Prasad Koirala said: „Youths who are in a position to change the world should not run away from a few terrorists” (Kathmandu Post: December 6, 1998). CPN (Maoist) General Secretary Madhav Kumar Nepal also stated that Maoists are terrorists. Therefore, the concept of terrorist is not a new phenomenon in the case of People’s War in Nepal.

On November 19, pointing out the violence carried out in the name of Maoists, Prime Minister Sher Bahadur Deuba diplomatically warned: „The Maoists cannot succeed at a time when the whole world is coming together to fight against terrorism” (Kathmandu Post: November 20, 2001).

After the inhumane attack on September 11, 2001 on the World Trade Center in USA and declaration of total war against such terrorist acts, the leadership of People’s War got hemmed in domestically, regionally, and internationally. Condemning the terrorist attack in USA and conveying condolences to the American government and people, mainstream political leaders and its aligned journalists, scholars, and others pressured the government to hit the Maoists denouncing them as terrorists. The political leaders and the representatives of the government were immensely encouraged when the US Secretary of State Colin Powell labeled all groups using violence against the legitimate governments as terrorists. Similarly, the Indian Foreign Minister Jaswant Singh denounced Nepal’s Maoists as terrorists. Calculating international, regional and domestic situation, the Maoists put forward the demand for constituent assembly, dropping their earlier demands for a republican state and people’s constitution.

Both Prachanda and Dr. Baburam Bhattarai jointly wrote a letter to the international community, such as UN, India, China, USA and the European Union, asking them not to interfere in the internal affairs of Nepal and let the Nepalese people determine their own fate and political future (www.insof.org).

To prove that Deuba had failed, the Girija group was continuously pressuring the government to conclude the talks at the earliest and declare the Maoists as terrorists. The NC was in favor of mobilization of army against them since their attack on Holeri Police Post. It never recognized the Maoist problem as a political issue and considered them as an entity of terrorist organization (Kantipur: November 8, 2000). Besides, some foreign countries that want to keep Nepal into their fold were also in opposition against the talks (HRYB:2002:12). On the other hand, Prachanda and Dr. Baburam Bhattarai were internally fighting those in the party opposing the peace process. In the strongholds of Maoists, some slogans were written on the walls in favor of military strategist Ram Bahadur Thapa alias Badal instead of Prachanda (Kantipur: November 8, 2001). Badal was in favor of a protracted war against the slow development in peace process and long run of the truce.

Finally, Prachanda dropped a bombshell unilaterally and broke the four-month-
long ceasefire on November 22, 2001 saying that, “the justification of the talks has come to end”. He further added: “We make it clear that our bid to establish peace has been rendered unsuccessful by reactionary and fascist forces”. However, he publicly expressed his commitment for peace talks under a new process. The following day, the CPN (Maoist) announced the setting up of central people’s government United Revolutionary People’s Council Committee (URPCC) under the leadership of Dr. Baburam Bhattarai and the People’s Liberation Army (PLA) on November 24, 2001. The PLA subsequently attacked army camps, police stations and administrative buildings and destroyed a lot of public and private property in the district headquarters of Dang, Syangja, Solukhumbu, Surkhet, Tanahun, etc. The Maoists reportedly killed 18 soldiers, 51 policemen, a chief district officer and four civilians. They had also seized large quantities of arms and ammunition.

Despite three rounds of talks, the government negotiators failed to put forward any concrete proposal. Neither they had any vision, mission and goal nor did they submit any alternative to the Maoist proposal. They simply denied the proposal verbally. On the other hand, most of the government negotiators were severely condemned by commoners due to their involvement in corruption and commission.

At the beginning of the peace process, the negotiators of the government side appeared as having a defeated mind, but regained their weight after September 11 when the USA heavily pushed war against terrorism. Still the government was confused, indecisive and reluctant. The Maoist Information Bulletin No. 1 states: “The old regime’s Deuba government did not make a single political proposal to solve the problems of the country nor did it reflect on any of the moderate and practical proposals put forward by us” (www.insof.org).

During the process of negotiation, the Maoists got an opportunity for consolidation of the party, mobilization of masses, advancement of military forces, and release of many detainees from the custody of government. It also exposed the government among the common masses and educated them against its illusion.

The merits of the peace process were: solidarity for peace in civil society, ceasefire for a few months, the Maoist problem recognized as a political issue, withdrawal of the demand for republic state and building up of common consensus among the political parties for the process of constitutional amendment. And the demerits were: unilateral breakdown of truce and talks, accelerated violence, suspension of constitutional fundamental rights, the Maoists declared as terrorists, insecurity, internal migration and low morale of peace-seekers and peace-makers. People want peace, nothing but peace; security first and then development. Peace is necessary to all irrespective of age, gender, caste, religion, language, culture, economic development, and political opinion.

Nepal’s policy makers and planners failed to find a way out to stop the conflict and provide sanctuary to the Maoist guerrillas. On the other hand, the CPN (Maoist) showed their utmost sincerity and honesty to win hearts and minds of the common people in the rural areas.

The government had allocated US $ 2.6 million for the overall development in
Maoist affected districts in the name of basket fund in 2000/2001, whereas US $4.72 million was allocated to purchase modern arms. Moreover, the allocated basket fund could not reach at the bottom, to the needy people. This fund was severely misutilized by the so-called elite in the district headquarters, where most of the opponents of Maoists had been taking shelter in. At the end of February 2001, while attending the 50th Anniversary of the establishment of US AID and in front of the King and the Prime Minister of Nepal, US Ambassador Ralph Frank said, ....My concern is the current atmosphere of distrust and negativism that seems to be resulting in an increasing climate of violence in expressing political dissent. My appeal is for political leaders and government officials to renew their commitment for good governance, and for all Nepali citizens to commit themselves to peaceful participation in the democratic process%.

8.2 State of Emergency

His Majesty King Gyanendra Bir Bikram Shah Dev, on the recommendation of the Council of Ministers, promulgated a nationwide State of Emergency (SoE) effective from Monday evening, November 26, 2001. The SoE suspended a number of constitutional fundamental rights, viz. right to freedom, right to press and publication, right against preventive detention, right to information, right to property, right to privacy and right to constitutional remedy (see Annex-VIII.I). The government formally deployed the Royal Nepal Army (RNA) the same evening against the fellow Nepalis - the Maoists, for the first time in the history of Nepal. The security forces launched Cordon, Search and Destroy operation against the insurgents. Such operations objectively aimed at encircling the areas, searching for the Maoists, and destroying or killing them silently after interrogation or even without interrogation announcing the incidents as encounters or foiled escape attempts while throwing grenades at the security forces. The King promulgated the Terrorist and Disruptive (Prevention and Control) Ordinance or TADO 2001. The TADO became TADA when the ordinance was passed as an act by the Parliament declaring the Maoists as terrorists for the first time ever.

Terrorist and disruptive acts include: 1(a) any act of damaging or destroying public and private properties in the country, or formulation of plans to do so, or eliminating human life or ensuring human beings at such places, by using any kind of weapons, bombs, explosives or any other means or any act of causing physical or mental harm or any act of terrorizing common people with the objective of affecting or hurting the sovereignty or integrity of the Kingdom of Nepal; (b) any act of using force or terrorizing anyone in any place or on a vehicle with or without the vehicle itself being harmful; (c) acts of producing, distributing, accumulating, transporting, importing, exporting, selling, carrying or installing any kind of weapons, bombs, explosives or poisonous substances, or helping intentionally in any of such acts, with the objectives mentioned in clauses (a) and (b); (d) acts such as gathering people and providing them training with the objectives mentioned in clauses (a) and (b); and (e) acts of extorting cash or goods or looting property with the objectives mentioned in this sub-section. (2) A case when anyone attempts or conspires to commit a terrorist and destructive act, or
compels others to do so, or assembles more than one person to gang up to commit such acts or participates in such acts, or publicizes such acts or obstructs the governmental communication system.

Anyone indulging in crime in Nepal while residing abroad will also be subject to punishment. The government can declare a specified area as terrorist affected or certain individuals as terrorists. Individuals arresting or helping in the arrest of any terrorist would be suitably awarded. Despite the SoE, expression of views, running of presses and publications, migration and operation of communication systems can however take place as usual without infringing the Terrorist and Destructive Crimes Control and Punishment Act (see Annex-VII.I) and the Constitution of the Kingdom of Nepal.

Immediately after the proclamation of the SoE and subsequent imposition of TADO, Amnesty International (AI) appreciated the declaration of SoE because a grave threat had been created for law and order situation of the country when CPN (Maoist) had called off the truce unilaterally. But, AI also raised some concerns over its implementation as per the international human rights laws. Expressing their doubt that the issue may not be addressed properly, in its letter to Prime Minister Sher Bahadur Deuba on November 30, it said: ‘‘Any legislation enacted or action taken by the government must be in full conformity with the international human rights standards and human rights must be protected with extra vigilance.’’

AI in its letter stated that Nepal may suspend certain rights in the times of emergency but only to the extent strictly required by the exigencies of the situation as Nepal is a state party to many international human rights instruments, including ICCPR. Article 4 of the ICCPR states that any state party may suspend some fundamental rights at the time of conflict but it shall not be confronted with nation’s other international obligations. The UN Secretary General was to be immediately informed officially about the declaration of SoE stating what rights had been suspended and why. AI said: ‘‘The suspension of Article 23 of the Constitution which denies people’s access to judicial remedy (apart from habeas corpus) is of particularly grave concern. It prevents judicial scrutiny of the measures taken by the government, including the SoE and TADO.’’

The definition of terrorist is vaguely given in TADO. According to the definition, ‘‘any individual who is in contact with or involved with a person actually involved in terrorist and disruptive activities’’ and ‘‘any person who directly or indirectly supports financially and by any other means a person or group involved in terrorist and disruptive activities is also a terrorist’’. AI stated: ‘‘We are concerned that several of the terms may indicate activities which do not involve any encouragement to commit violent or criminal acts, but the wording could lead to violation of the right to freedom of expression established in Article 19 of the ICCPR. Under the detention orders, anyone can be held in detention for up to 90 days and the period can further be extended for another 90 days with the endorsement of Home Ministry. AI wrote: ‘‘It is unclear which procedural safeguards, if any, apply to this process in order to prevent such detention from becoming arbitrary or facilitating ill-treatment.’’ AI also raised concern for the implementation of Article 3 common to the Geneva Convention of 1949 on the process of
horse de combat in the situation of internal armed conflict, e.g. the People’s War. Besides, AI raised several questions with regard to the Army Act of 1959 (the Army has the authority under section 14.6 of the Act to arrest and hold a person for up to 48 hours, against the constitutional requirement of 24 hours, to produce the arrested detainee before a judicial authority). The Army must also reveal the place of detention as soon as anyone is arrested by it. Adequate safety measures for the detainees should be taken and there must be a process of accountability for any possible human rights violation by the army.

Considering seriously the prevailing complex situation (as the SoE severely victimized innocent civilians and activists of the mainstream political parties), the mainstream political parties in the parliament and others put forward different packages of programs as an alternative to the SoE, and against the Deuba government. Similarly, considering the necessity of understanding and unity among democratic forces and also opposing diplomatically their own NC government, the NC president and former PM Girija Prasad Koirala proposed a Broader Democratic Alliance (BDA). He also stated that the use of weapons alone can never solve the problems. Inviting the Maoists again for a dialogue, General Secretary of the CPN (UML) and the main opposition leader in the parliament, Madhav Kumar Nepal said that the government had promulgated the SoE on a whim, but then it had also lost its meaning. The chairman of Rastriya Prajatantra Party (RPP) and former PM Surya Bahadur Thapa put forward the concept of Broader National Consensus (BNC) among the political parties and also with the King.

Protesting against the SoE and TADO 2001, the group of 13 opposition political parties handed over a memorandum to PM Deuba on December 11, 2001 saying: „The state of emergency weakens the people and democracy%. Similarly, former PMs Lokendra Bahadur Chand and Kritinidhi Bista urged to reopen talks with the Maoists. Accepting the demand of election for constituent assembly, politburo member of CPN (UML) Jhalanath Khanal said that the government should be ready for it, if the Maoists give up arms. Stressing upon talks and condemning the Maoist attack, US embassy backed Deuba government and stated that the government of United States of America had condemned the recent Maoist attack and had called upon CPN (Maoist) activists to lay down their arms to pursue their goal peacefully. On the other hand, the European Union Heads of Mission (EUMH) believed that the People’s War is a political problem and it should be solved politically. Urging for a peaceful solution, the press release of the EUMH stated: „No sustainable solution to political and economic problems can be secured through violence%.

A joint meeting of Emergency Monitoring Committees (EMC) of NC, UML, ML and RPP decided to initiate a political process to end SoE latest by January 14, 2002. Each party had formed its EMC to monitor the SoE and had decided to bring the facts of human rights violations soon in public. Meanwhile, PM Deuba requested them not to bring the facts in public, which may trap the government and the strategies of army operation. There was no doubt that a great majority of killings involved innocent civilians.

Human rights activists called upon the government to let them visit the places
where the Army's Cordon, Search and Destroy operation was launched on and to investigate whether no one except the targeted group was victimized. In an interaction program on "State of Emergency and Human Rights" organized by the Forum for Protection of Human Rights held on December 25, 2001, Member of National Human Rights Commission (NHRC) Kapil Shrestha said: "The State of Emergency is a wrong diagnosis of the disease leading to wrong prescription." The facilitator of the peace-talks between the State and Maoists Daman Nath Dhungana urged the government to stop killing one Nepali by another. He said: "The democratic system was a failure in transferring power to the people and the people belonging to the rural areas had always been victimized." Human rights activists concluded that both the government and the Maoists were breaching the Geneva Conventions and the Laws of Prisoners of War 1949. No single human rights activist was happy with the proclamation of SoE. All of them wanted to end the problem permanently through the means of dialogue, not by the use of weapons.

After "the conspiratorial massacre" of most of the royal family members including King Birendra on June 1, 2001 and subsequent proclamation of State of Emergency and promulgation of Terrorist and Disruptive (Preventive and Control) Ordinance, the Maoists looked more hostile toward the present King Gyanendra, the palace and his Royal government of Nepal. As the government banned to publish any supportive news, articles, interviews, and activities of the Maoists in local newspapers, for the first time an interview of Prachanda was published in the *Sunday Times*, New Delhi on December 3, 2001 which stated: "If the lunatic course of imposing military dictatorship is continued, we will fight till this so-called monarchy is completely abolished." In consolidation, the chief of URPC Dr. Baburam Bhattarai published a two-and-half-month-long offensive program effective from December 26, 2001 to March 12, 2002. On December 25, 2001 and January 2, 2002, reiterating their former demand of the constituent assembly, Prachanda vowed that they are ready to suspend violence and sit down for talks if the government grants people's rights. Giving for the first time a radio interview to BBC World Service on December 19, 2001, another Maoist leader Dinanath Sharma also expressed their readiness to talks, if an election for the constituent assembly is guaranteed. Suspecting his involvement with the Maoists, the BBC stringer Sharad KC of Nepalgunj was taken away blindfolded and interrogated about his Maoist contacts immediately after the interview with Sharma.

The SoE put both print and electronic media in dark more than any other agencies of the government. Neither was there transparency to grave human rights violations nor did the government allow visits to the areas where casualties were held. The Federation of Nepalese Journalists (FNJ) press release stated: "About three dozen journalists have arbitrarily been arrested by the security forces since the imposition of SoE and until January 10." It was reported that the arrested media personnel were physically and psychologically tortured while in custody. It was a matter of grave concern and worry that the threat to press freedom was escalating. The pro-Maoist newspapers were completely banned during the entire period of SoE and other newspapers were restricted by the Ministry of Information and Communication. The restrictions imposed on both print and electronic media were:
a. Matters that cannot be published or broadcast

- That which is likely to generate contempt or disrespect towards His Majesty, or any other member of the royal family, or that which lowers the image of His Majesty.
- That which endangers the sovereignty and unity of the nation.
- That which may negatively effect the security, peace and administration of the Kingdom of Nepal.
- That which will create enmity between different castes, tribes, religions, sectors, communities or that which will incite communal tension.
- That which will hit good behavior, moral, and social standing of the common people.
- That which is against the Constitution of the Kingdom of Nepal 2047.
- News that insult the standing of multi-party democracy.
- News that will demoralize the Royal Nepal Army, the Nepal Police, and civil servants, spread negative feelings, and which will damage their prestige.
- Matters that tend to cause unnatural fear and terror among the common people.
- Matters that aim to use violent means to remove the elected government.
- Matters that demean, disregard, disrespect or undervalue any race, language, religion, and culture.

b. Matters that can be published or broadcast

- News that detail the criminal activities of Maoist terrorists without encouraging them.
- News that mention the bravery and victories of the Royal Nepal Army, the police and civil servants.
- Official news received from His Majesty’s Government and other government means.

Despite the opposite views and alternatives put forward by the political parties and party players to the government against the SoE, the House of Representatives approved the SoE on February 21, 2002 as per the constitutional provision that it must be passed within three months of its proclamation. The ordinance was passed with 194 votes against 7 by the parliament. The parliamentarians of the mainstream political parties, the NC, CPN (UML), RPP and NSP voted for the motion, but those of Nepal Workers and Peasants Party, Nepal People’s Front and United People’s Front stood against it. The House also approved the TADO Ordinance as TADA Act on April 6, 2002 ignoring the protests of civil society and others. Similarly, the government announced price tags on the heads of Maoists on April 23, 2002, including those of Prachanda, Kiran and Dr. Baburam Bhattarai. Rs. 500,000 (US $6,666.70) would be awarded for each of them, whether alive or dead. For politburo members, the rate was fixed at Rs. 300,000 (US $4,000) and Rs. 200,000 (US $2,666.70) for the central committee member. The decision was severely condemned nationally and internationally. Challenging the decision of the government, Raghu Nath Adhikari, a human rights activist, filed a petition against the council of ministers on May 27, 2002, but the Supreme Court turned it down. Nevertheless, the International Police Organization (Interpol) issued a
Red Corner Notice (RCN) against the top Maoists and issued arrest warrants through its 179 member countries on August 12, 2002.

When most of the cadres of mainstream political parties and civil society severely criticized the leadership of the parties that had approved the SoE ordinance as an act, both NC and UML turned their voices against and suggested the government to end the SoE at the earliest. Over such protests, when Deuba called a special session of the parliament to start from May 24, 2002 to further extend the SoE for another three months a second time and registered an emergency motion, the Central Working Committee (CWC) of NC directed him to withdraw it on May 22, 2002, insisting that the Terrorist and Disruptive (Prevention and Control) Act (TADA) is capable enough to deal with the Maoists. In retaliation, the same evening Deuba used his prime ministerial prerogative and recommended for the dissolution of parliament and mid-term polls to be held on November 13, 2002 without even consulting his cabinet and his party. The King also accepted his recommendation and dissolved the House of Representatives at midnight. The dissolution of House in late hours proves that there had been a conspiracy plotted against the parliamentary system of government.

As a result, Deuba was expelled from the party's primary membership for 3 years and he became independent. Against the norms and principles of multiparty parliamentary system of government, caretaker PM Deuba led Nepal as an individual in partyless system. He, therefore, followed the advice of the king and the security forces as they wished, instead of the nation and people as a whole. Three months before the dissolution of the House, he had a hosted a dinner to the king and queen at his premises.

On the advice of the RNA, Deuba government further extended the SoE for three more months effective from May 27, 2002. The opposition to the idea of further extension of SoE was also witnessed among the bureaucrats. Attorney General Badri Bahadur Karki tendered his resignation maintaining differences with the government (HRYB:2003:43). Moreover, Deuba government also toppled the elected local bodies after the end of their tenure, as the government did not resort to the provision of extension for a year as per the Local Self-Governance Act, in the circumstances when the election could not be held.

To express solidarity against terrorism and to combat terrorist activities in South Asia, HMG signed the SAARC declaration against terrorism, reiterating their commitment to the United Nations Security Council Resolution (UNSCR) 1373. It was accepted unanimously by all the member states on September 28, 2001. It was issued on the conclusion of the 8th summit of the regional organization in Kathmandu on January 6, 2002 (HRYB:2003:41). The SAARC Convention on Combating Terrorism was already there since 1987, but it was inactive. The attempts to combat terrorism had suddenly become significant following the attack of September 11.

Even during the period of SoE, the government had initiated some good works to promote welfare and to protect the life of disadvantaged and vulnerable people. It formed the National Women's Commission (NWC) on March 8, 2002 under the leadership of Dr. Durga Pokhrel. This was done without any enactment of law.
which was like putting the cart before the horse. The nomination of Dr Pokhrel was criticized by various women quarters as she was brought to Nepal from abroad on the vested interests of the concerned authority. Similarly, in order to protect and promote the interests of the most disadvantaged community - dalits, and to bring them into the mainstream of national development, the government also established the Dalit Commission on March 19, 2002 without, however, specifying its responsibilities, duties, rights, and mapping of work plans.

Notwithstanding such ups and downs, King Gyanendra sacked the government of NC splinter led by (later he became the president of the NC-Democratic) Sher Bahadur Deuba and retained the executive powers till alternative arrangements are made on October 4, 2002. Deuba was removed from the post of prime minister for his incompetence in not being able to hold the fourth general elections and his council of ministers was dissolved. It is to be recalled that Deuba had dissolved the House of Representatives in May and set the general elections for November 2002 following the same principle of 'elected autocracy' of Girija. Later, he recommended postponement of the elections for another one year to be held on October 3, 2003 against Article 53.4 of the Constitution on the pretext of fragile security situation and political turmoil. Deuba government could not improve the security and political situation even after one year of the SoE and deployment of Army. He was relieved of his office by the King under Article 127 of the Constitution which states: “His Majesty may issue orders to remove the constraints and obstacles in reinforcing this Constitution and such orders shall be presented to the parliament.” Among the candidates in the horse race for prime ministership, Lokendra Bahadur Chand finally won the match defeating the allegedly approved 'consensus leader' of the five agitating parties, Madhav Kumar Nepal, on October 11, 2002.
Due to the imposition of SoE, the number of extrajudicial killings was of paramount importance, but it was difficult to keep counts as heavy casualties were a daily routine. As a result, the numbers of killed victims obtained from the government sources are different from that obtained from the district representatives (DRs) of INSEC. The government sources claimed that a total of 5,213 people were killed extrajudicially in 2002 against the number (4,655) recorded by the DRs of INSEC which is 11 percent less (also compare the figures of Table No. 8.2.1) than the state claimed facts and figures. Against Article 6 of the ICCPR, the right to life and personal security was brutally violated and abused by both the security forces and the Maoists. According to INSEC, a total of 5,146 people were killed extrajudicially during the period of SoE (November 26, 2001 to January 29, 2003) out of which the state security forces had killed more than two times (70 percent) than the Maoists had done (30 percent). These are gruesome violations of the international humanitarian law of Geneva Convention and infringement of the existing constitutional fundamental rights.

The methods of extrajudicial killings included severe beating and torture using weapons, squeezing or hacking to death, firing, bomb blasting, ambushing, and so forth. Violating and abusing Article 9 of the ICCPR pertaining to the right to personal security, a total of 3,430 persons were arbitrarily arrested and tortured (HRYB:2003:ix) in the year 2002 alone. Torture and other cruel, inhumane or degrading treatment were widely practiced. Various methods of torture such as beating on soles (falanga), electric shocks, hanging upside down, blindfolding, rolling a weighted stick along the thighs causing muscle damage (belana), sexual harassment, tying both hands with electric poles, psychological threats to kill, pouring chilli solution into nostrils, forced inhaling of chilli smoke, rebuking in slang languages, pulling of ears and hairs, slapping on cheeks etc. were used to extract confession during the process of interrogation.

Violating both domestic and international fundamental rights, the state frequently practiced involuntary disappearances, unacknowledged detentions, not presenting the detainees before the concerned authorities, restricting the detainees to meet with their relatives and legal counsels, killing the detainees while being brought to the post or transferring from one post to another, and not performing legal procedures such as identification, post mortem of those who were killed in real or fake encounters of the security actions. Besides, the state did not respect the right of relatives to perform the last rites of those killed as the security forces neither informed them nor delivered the corpse to them. The fundamental rights of the common people were ceased due to the restrictions on transportation and sale of food items and medicines, freedom to walk or reside in any part of the country, communication, education and so on. The imposition of curfew from early dusk to dawn failed to respect the minimum fundamental rights and human dignity. People in the countryside were restricted to light the lamps after seven, early in the evening.

The right to press and publication was also curtailed during the period of SoE. As freedom of movement was restricted in volatile areas, true information could not be disseminated. The cultural impunity entrenched in political parties and se-
nior bureaucrats is the single-most damaging cause of human rights violations. Moreover, none of the political parties have clear understanding and vision for human rights. Despite the imposition of SoE for more than a year, one could not find any positive change in the situation. Instead, people were saddened due to the growing insecurity and political turmoil that has subsequently pushed the country into more volatile conflict due to increasing militarization.

The Maoists were involved in human rights abuses when they killed extrajudicially many security forces, alleged *surakis*, local feudals, cadres of the opposition political parties, social workers, and teachers. Some of them were locally familiar among the people, but did not agree with the Maoist ideology and political activities, nor were they informants of the security forces. Maoists were also responsible for numerous instances of torture, abduction, disappearance, detention, solitary confinement, extortion of private and public property, sexual harassment and so forth. On the status of human rights in 2002, National Human Rights Commission states: „They used children as shields at the time of violent conflicts and offended the children’s rights rampantly“ (HRYB:2003:257). Amrit Bahadur Basnet of NHRC writes that Maoists forcibly collected funds and commodities from teachers and businessmen. They threatened and murdered those who dared not to comply with them (HRYB:2003:257). They also attacked many educational institutions and frequent reports of looting both private and public properties had become a general phenomenon.

The SoE had severely affected the social and economic sectors of Nepal. Still, the RNA spokesman would publicly claim that such and such numbers and so and so terrorists were killed in an encounter or when they tried to escape while being brought to a police post or transferred from one place to another. As a comprehensive study has not been done yet, it is estimated that 60 percent of the victims were killed in fake encounters or exchange of fire.

People do not gather courage to come out in difficult circumstances at night. Due to the continued imposition of curfew, impoverished villagers were afraid to go out to defecate during night hours even if one would be suffering from diarrhea. They were compelled to urinate in plastic bags or utensils. The poor children, who helped their parents and guardians in day time, were deprived to have an opportunity to study at night, as the army had restricted them to light the lamps. The youths of Maoist-hit districts were barred from recruitment into the army and police services due to their possible links with the Maoists. Similarly, people’s daily use goods such as pressure cookers, G I pipes (water pipes), electric wires, etc. were banned. The Maoists shifted from the jungles to the urban centers at the time of SoE and got themselves absorbed in the populace to escape from the arrests or possible killings. The marginalized villagers (between 14 to 50 years old) fled from homes fearing both the security forces and the Maoists. Indeed, the marginal civilians who neither supported nor refuted either side were being terrorized by both in general and particularly by the state security forces. The public *melas* (fairs) were stopped and the security forces even examined the dead body processions, for instance:
Case 8.2.1: State of emergency and people’s suffering

On December 19, 2001, about four dozen of villagers gathered for a funeral procession as malamis (participants of funeral procession) at Trishuli River in Kalleri VDC, Dhading district, 50 km away from Kathmandu. On the way to funeral procession, the RNA closely examined them and they were ordered not to perform any more of the funeral ceremony until further notice. As a result, the malamis were compelled to stay the whole cold night on the bagar (river bank) without cremating the dead body. The following day they received the order from the RNA and only then the rituals could be performed. The RNA had watched and searched the malamis using floodlights throughout that night.

The flux of migrants in urban cities was seeking „internal refugee status“ to be provided basic needs free of cost. The bombs and bullets, indeed, cannot identify who is who. The members of parties such as NC, UML, RPP and others were acting often against their own leaders, as they did not get any assistance even in the case of emergency. The gap between activists and leaders was widening as the leaders hardly interacted with the workers. Thousands of youths fled to India to escape heavy casualties.

Poverty-stricken villagers were deprived of proper medical treatment in the absence of doctors in countryside. About a dozen of medical doctors disappeared after they had been taken into the army’s custody, as they had allegedly treated the Maoists without prior permission from the local authority, although with the feeling that „humans after all remain humans.“ As the army suspended public transportation in some of the Maoist-hit districts, people were deprived from basic necessities and services. Frequent check-ups along the road by the army personnel made people frustrated and compelled them to stay home or in a rented room in urban centers at all the times.

Besides that, an ambulance was also hit by a Maoist pressure cooker bomb at night while it was carrying a sick woman from Gularia, Bardia district in west Nepal (Kathmandu Post: December 11, 2001). Since the Maoists had destroyed a private company’s helicopter in Surkhet airport on November 24, 2001, ferrying of vital salt and food grains to remote districts such as Kalikot, Humla, Mugu, Dolpa, etc. in mid-western Nepal were stopped. Some of the airports were forcibly closed down.

In order to destroy the old regime and establish a new one, the CPN (Maoist) set fire to hundreds of VDC buildings, destroyed dozens of telecommunication towers, blasted many installations of electricity, airports, roads, bridges, drinking water, private schools and so forth. More than a dozen houses of ministers and leaders in the countryside and urban places were set fire through petrol bombs. Petrol bombs were hurled on public vehicles and many of them were smashed even in the heart of Nepal, Kathmandu. On January 12, 2002, the public vehicle under the possession of Hom Nath Dahal, chairman of the Parliament’s State Affairs Committee, got exploded when hit with a petrol bomb. Dozens of small or big industries were set to fire and the insurgents fled the scene shouting slogans such as „Long Live Maoism“ in line with their hit-and-run tactics.

The deployment of army and accelerated cost of weapons severely affected physical development infrastructure of Nepal. Without restoration of peace, the
development projects cannot proceed ahead. The ongoing conflict has become the main hindrance to development. Speaking at a talk program on Development and Good Governance in Karnali, Prime Minster Deuba said that unless peace is restored in Nepal, development is impossible (Kathmandu Post: January 16, 2002). Due to the escalation of violence and political turmoil, it is estimated that one-third of the annual budget is diverted towards importing of modern helicopters, weapons, bullets, and ammunition and mobilization of security forces. As a result, most of the development projects have been either postponed or their budgets have been curtailed by 50 percent. The Integrated Development Security Program (IDSP) that had been launched in seven Maoist-hit districts, Gorkha in central region, Rolpa, Rukum, Pyuthan, Salyan, Jajarkot and Kalikot in mid and far-western Nepal, and had been planned to be expanded into another 23 districts, had completely been postponed except in Gorkha - the model district.

The allocation of development budget to the VDCs and municipalities was cut off by 50 percent. The slashed budget of VDCs had badly affected the proposed private and public schools against the right to education. Hundreds of schools were closed down and thousands of teachers were terminated from their jobs. The staff of 14,000 persons in Tribhuvan University was directly influenced by the SoE as the government could not provide salary to them in time. The health posts and health centers were run without medicines and doctors due to the lack of funds. The economic blockade at one place or other by the Maoists and the overwhelming government apathy marginalized the countryside population. Accepting the deviation of national budget toward the military costs, Minister for Water Resources Bijaya Kumar Gachchhadar said: "About 25 to 30 percent of the total development funds from the 2001/2002 budget will be re-allocated to meet the operational costs" (Kathmandu Post: December 24, 2001). However, the operational cost of the army accelerates each year with the advancement of the People's War.

Some of the donor-funded projects were put in limbo or curtailed heavily. Four local staff members of the FAO program in Syangja district were shot dead by the army while they were on the way to distribute food and other goods to the needy people. The few INGOs are doing very little work what they can instead of closing down altogether.

On the other side, the main income source of the country's tourism industry dropped steeply during the SoE as many developed countries such as USA, UK, Japan, etc. appealed to their citizens not to visit Nepal. In 2001, according to the statistics provided by the immigration department, the arrivals of Indian tourists, which amounted to 40 percent of the total arrivals, had steeply been dropped by 53 percent and those of overseas tourists by 32 percent as compared to that in 1999. The exports also declined. Many garment, carpet and handicraft industries were closed down. Even some big industries had been closed down and some of the industries had to cut off one shift from the usual three or two. The closures of factories and industries created huge jobs lay off resulting in hunger in labor families. Hungry bellies and unemployment are the fuelling catalysts of the People's War.
To break the Maoist financial network, Nepal Rastra Bank has frozen more than a dozen individual accounts. A high level source says: "The accounts of some individuals have been frozen due to their suspicious links with the Maoists%. This is the first time in the history of Nepal that the central bank has directed the commercial banks to freeze individuals' accounts. The commercial banks are compelled to obey the directives issued by the central bank as per the Commercial Bank Act 1974. To fulfill the growing expenses of the RNA, the government gave an opportunity to legalize the wealth and property accumulated through corrupt means by paying taxes under the Voluntary Disclosure of Income Scheme (VDIS).

In spite of such a crisis, there is no common vision among the major political parties with which to look at the Maoists. Both NC and UML are just playing "a dirty game of power and politics." When Girija Prasad Koirala was inaugurating a photo exhibition on Life and Times of BP Koirala: A Struggle for Democracy on September 6, 2001, he said: "The Maoists who have been waging terrorist activities in the country, are fostered by the Royal Palace and sheltered by India. They have been nurtured by the Palace and protected by India." Disagreeing with the Girija statement, the following day Madhav Kumar Nepal reported: "Not just the Royal Palace and India, but Nepali Congress is also behind the People's War." Hinting at the possible intervention of India, the then Prime Minister Girija Prasad Koirala at the Annual General Meeting of the Federation of Nepalese Chamber of Commerce on July 18, 2001 had intimated, "We would not seek foreign cooperation to bring normalcy in the country. My opinion is to solve the problem by Nepali themselves%."

Despite this, Deuba government welcomed US military strategists, claiming to wipe out terrorists from the world. The influence of US military forces has increased in recent days despite strong protests from civil society and national and international human rights organizations. There is no doubt that USA has its vested interests in Nepal's People's War. It wants to (i) impose US imperialism on the rest of the world; (ii) sell the world's most sophisticated and expensive arms and ammunition; (iii) withdraw huge sums of aid delivering arms, ammunition and technical support; (iv) squeeze the communist ideology; (v) inspect the progress made by China and India and (vi) help secede Tibet from China and to raise internal confrontation in China to prevent her from being a superpower in the world. India is also seeking right time to spread its neo-colonial policy in South Asia, especially in Nepal after Bhutan.

In time of public emergency, the ICCPR prohibits to suspend the provisions relating to human rights such as right to equality, right to life, right to form unions and associations, freedom of thought and conscience, freedom of religion, freedom from arbitrary arrest, freedom from torture of any kind, rights regarding criminal justice, right to fair and speedy trial in a regular manner, cultural and educational rights and the right against exile. Articles 6, 7, 8 (paragraph 1 and 2), 11, 15, 16, and 18 of ICCPR are non-derogable rights which cannot be suspended during SoE. Nepal is a state party to ICCPR. The suspension of the right to constitutional remedy of Article 23 of the Constitution 1990 · apart from habeas corpus · denies people access to judicial remedy which is a matter of serious
concern. Article 4 of the ICCPR states that any state party may suspend some fundamental rights at the time of public emergency but it must not be inconsistent with other international obligations and must not involve discrimination based on the grounds of race, sex, color, language, religion and social origin. Besides, the state must officially inform the UN Secretary General illustrating what rights have been suspended and why. The general comment of Article 4 adopted by Human Rights Committee on July 24, 2001 states that Article 2 (3) requires non-violation of the provision of ICCPR. It says:

This clause is not mentioned in the list of non-derogable provisions in Article 4, paragraph 2, but it constitutes a treaty obligation inherent in the Covenant as a whole. Even if a state party, during a state of emergency, and to the extent that such measures are strictly required by the exigencies of the situation, may introduce adjustments to the practical functioning of their procedures governing judicial or other remedies, the state party must comply with the fundamental obligation, under Article 2, paragraph 3, of the Covenant, to provide a remedy that is effective.

The imposition of curfew in almost half of all the districts and the government order to shoot at sight violated Article 6 (1) of the ICCPR which ensures the right to inherent life to all people and is protected by international law. No individual shall be arbitrarily deprived of his/her life. The general comment no. 6 of Article 6 adopted by Human Rights Committee states:

The protection against arbitrary deprivation of life is of paramount importance. The Committee considers that the state parties take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the state is a matter of utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.

During the SoE, the government did not comply with the international human rights instruments, although some of them are obligatory and non-derogable. The Convention on the Armed Conflict (1949) ratified in 1964 by Nepal has also become another legal challenge. The Geneva Convention 1949 prohibits acts of all kinds of violence, arbitrary tortures, taking hostages and humiliating them. It also prohibits executions without trial in a regular court; yet many were killed without any hearing.

Both the security forces and the Maoists violated Article 3, common to the four Geneva Conventions of 1949 which is concerned with prisoners of law, despite frequent vows to respect it. On the whole, it has been found that the security forces are two steps ahead in extrajudicial killings, arbitrary arrests and detentions, inhumane and degrading treatment to common people and in violating laws of war than the Maoists are, although a legitimate government must own total responsibility for personal life, liberty, security, and dignity than any other conflicting parties or groups.

Nepal has acceded to or ratified many international conventions and treaties, but there has been a slow progress in incorporating these international human rights laws in Nepalese legislation, although it is obligatory to do so. The Treaty Act 1990 (2047 BS) has ensured for special legislation to substantive and proce-
dural matters of accession and ratification of conventions and treaties. Section 9 of the Treaty Act states that any treaty or convention acceded to or ratified by Nepal inconsistent with Nepal's legislation, cannot override it.

SoE need not aim at impoverished people, but it should use its means against the real terrorists - corrupt political leaders, security forces, bureaucrats, and smugglers, etc. The prolonged state of emergency further weakened democracy and kept the politicians away from people. If Nepalese democracy cannot free people from the shackles of poverty (economic and political) or fulfill the basic needs as basic rights, the nation of Mt. Everest will always be having activities like those of Maoists. The mobilization of army without development and security, without socioeconomic transformation, without reculturing the political system, without religious and linguistic freedom, without regional and caste/ethnic autonomy and without proportional representation will make the ordinary people feel more resentful and the mode of aggression against state mechanisms and the nature of conflict will transform from one form to another. The democracy in Nepal is at crossroads. Peace-talk is the crux to solve all the existing problems of the country. Initiation of peace process erases the black spot of terrorist on Maoists and recognizes them as a political force in the world political arena that would compel them some day to give up weapons and violence. After all, violence begets violence.

8.3 Talks II

On the night of January 29, 2003, just four days after the killing of Inspector General of Armed Police Force (IGP) Krishna M. Shrestha, a truce was agreed which was first announced by the Maoists, and then followed by the government after one hour and half. It seems that there was a time-link or coincidence between the two events. Immediately after the killing of IGP, the government had put forward a counteroffensive strategy against the Maoists and the Maoists announced the truce as they foresaw heavy casualties on their side. On the other hand, the truce was indirectly confirmed through frequent visits and informal talks between the representatives of the State and the Maoists.

In order to understand the dynamics of the conflict in Nepal, it is important to recognize that both of the combatant sides consider the other in a temporary position of strength. The King, the palace and the royalist government, including RNA, were politically and militarily supported by some international forces, for instance India, United States and United Kingdom. As a result, the democratic prerogatives of the mainstream political parties such as NC, CPN (UML), etc. in a genuine democracy were highly undermined. Due to the armed insurgency, the strong threshold of political parties and the presence of state authorities and activists of the parties were confined to district headquarters and big urban areas. The Maoists, on the other hand, were directly controlling relevant portions of territory and had spread all over the country, including the urban centers where, with the brutal attack on the IGP, they showed their capacity and relative strength to strike easily in Kathmandu too. Despite their relative strength of power-holding, both the palace and the Maoists realized that the escalation of conflict in this regard the
arrival in the country of new weapons constitute either a deterrent or a lure to keep on fighting would hardly have brought a final victory to any of them. The apparent strength of the two forces showed that the second truce was not like the earlier one. In fact, after a year of severe armed clashes, all of them were politically and militarily weak: the King, the palace, the royalist government, RNA and the Maoists. All were tired. That is why they all tried their best to succeed in negotiations.

On the other hand, a protracted conflict would probably have hindered the capacity of the forces on ground (King’s RNA and Maoists’ PLA), leaving room for a possible military coup d’état or for the fragmentation of the People’s War into isolated and more predatory armed groups, not to mention the opportunity for democratic forces and civil society to regain strength and capacity to impose their own political, social and economic programs for a longer period and have increasing support from the international community in various ways: aid for development, conflict resolution expertise, emergency relief, etc.

Hence, the truce may be considered tactically favorable for a limited period, with the momentous exclusion of political parties and with a low level of foreign forces’ influence (both the monarchy and the Maoists have strong nationalistic orientation). The peace dividend shall be regarded as a realistic and pragmatic opportunity to make concessions for each other without losing face and to retain the capacity to familiarize with the national and local political agenda in the years to come. Thus, on January 29, the Government informally accepted the following requests set as tangible pre-conditions by the Maoists for the talks to:

- withdraw the previous government’s decision to declare CPN (Maoist) a terrorist organization;
- withdraw the Interpol Red Corner Notices issued against the Maoist leaders;
- withdraw the previous government’s decision of fixing price tag on the heads of Maoist leaders; and
- withdraw all the alleged cases against the Maoists who have been detained in custody or are in jail.

In the statement through which Maoist leader Prachanda had announced the truce, he requested his People’s Liberation Force and political activists to suspend all kinds of guerrilla activities, including forceful collection of donations, and urged them to continue political activities across the country. He reiterated the three-step procedure to be concluded during the period of truce:

- Promoting a roundtable conference with all the political forces, representatives of palace and civil society.
- Such conference forming an interim government.
- The government going for an election to a constituent assembly to draft a new constitution for the kingdom of Nepal.

In response and to create a conducive environment for meaningful outcome of talks, the then PM Lokendra Bahadur Chand in his speech of public importance withdrew the label of terrorist, nullified the red corner notice, removed the price tags on the heads of the Maoists and annulled the alleged charges against them on February 2, 2003. On the request of the state, the INTERPOL withdrew the red corner notices against the Maoists.
It has been observed that these conditions are merely soft wishes and do not belong to the Maoist strategy of warfare, and should be considered just tactical attempts to gain time to organize, restructure, and re-strengthen the party, the underground military forces and the pro-Maoist wings as had happened before the previous talks. It is to be understood that the request for a constituent assembly is not a current theme of the Maoist propaganda; rather it is one of the principal tenets of communist forces since the establishment of Communist Party in Nepal in 1950 and also of NC in BP Koirala era. The history of the communist party in the world over has shown that they want presidential system sweeping away monarchy. In Nepalese communist movement, the UML stands for the strong pillar of the monarch not in terms of politico-ideology but as a tactical strategy to remain attached to power and politics against the wishes of great majority of the cadres.

During the time of King Tribhuvan, the grandfather of the present King Gyanendra, the slogans for constituent assembly were also raised by NC between 1950 and 1960. While the Constitution of Nepal 1990 was under construction, voice for constituent assembly was pronounced from streets to the Constitution Draft Recommendation Committee. The constituent assembly seekers launched various programs such as workshops, mass demonstrations, meetings, rallies, wall paintings, and other means of information warfare.

With the announcement of the truce, the government appointed Minister of Physical Planning and Works Narayan Singh Pun as coordinator on behalf of the government's peace parley. And he played a pivotal role while bridging the gap between the King and the Maoists. He worked at once as an initiator and a coordinator for the peace process. In response, the CPN (Maoist) also declared its negotiating team on February 2, 2003 under the leadership of Dr. Baburam Bhattarai. In the beginning, he was reported to have some doubts in getting involved, claiming that the counterpart representative · namely Pun · did not rank in the government structure at par with his political statute. The head and chief military strategist Ram Bahadur Thapa was also selected as a member of the Maoist negotiating team. The other three members of the team were Dev Gurung, Krishna Bahadur Mahara and Matrika Yadav who represented, at least in the eyes of Maoist cadres and the general public, and made for a strong balance of ethnical and lower castes interests to counter against any temptation of separate agreement between bahuns, chhetris and Newars (BCNs) belonging to different political sides. What was lacking in terms of direct representation on the Maoist side · and it is relevant given the high number of women involved in the political or military wings of the movement, not to say the Maoist rhetoric on the issue · was gender component in the negotiating table.

On February 9, issuing a press statement Prachanda asked all the political parties and civil society to actively take part in the peace process. Expressing that the peace process is a part of the PeopleEs War strategy, he said: „Talks are a part of war%As several news services had reported that some forced donations were taken by the Maoists, Prachanda in a press statement of February 16 urged the Maoist cadres not to collect funds by force and prioritized voluntary donations.

Immediately after the truce, the government-Maoist understanding turned out
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to be an accelerator of peace process. Giving importance to create a conducive environment for the talks, considering that the talks are an important medium for peaceful solution of all crises and respecting commitment to the declaration of the truce announced by both the state and the rebels, the following 22-point Code of Conduct or laws of truce was agreed upon as a guiding principle to be respected during the entire period of truce:

1. Both sides will remain committed to find a peaceful solution of the problem through talks.
2. Both sides will try for a consensus on all important matters in view of national interest.
3. Both sides will stop all kinds of violent activities, and will not mobilize or use armed forces that may cause terror among the people.
4. Both sides will not perform activities which may incite the other party in the sensitive areas.
5. Both sides will gradually release all the people captured by them.
6. Both sides will not hinder in regular and peaceful activities of public welfare.
7. Government-owned media will impartially broadcast opinions of both sides.
8. Nobody will vent their views which are likely to adversely affect the talks and peace process. They will pay attention to use polite and disciplined language while publicizing their own political views through media.
9. Both sides will not extort money or seek financial support against the will of the person concerned.
10. Both sides will not organize transportation or other kinds of strikes during the talks but peaceful rallies or gatherings may be organized.
11. Both sides will stop unnecessary search, arrest or kidnapping.
12. Both sides will help each other to maintain peace in the country during the ceasefire.
13. Both sides will not prevent the transportation of food items, medicines and other daily consumer goods.
14. Both sides will respect people’s rights to free movement from one place to another.
15. Both sides will respect the fundamental rights of people.
16. Both sides will not disturb the movement and activities of the persons involved in the peace talks.
17. Both sides will help the displaced people to return to their homes.
18. The code of conduct monitoring team will be formed through mutual agreement.
19. If any amendment in the code of conduct is needed, it will only be done through mutual agreement.
20. In case of a difference or controversy in the interpretation of the code of conduct, both sides will sit together to solve it.
21. The code of conduct can be terminated through mutual agreement.
22. And this code of conduct will come into effect immediately and should be fully implemented within three weeks of the signing of this agreement.

The Code of Conduct (CoC) made public on March 13, 2003 was jointly signed by Col. Narayan Singh Pun, Convener, State (His Majesty’s Government) and Dr. Baburam Bhattarai, Convener, Rebel (Nepal Communist Party, Maoist).

It has been observed that the CoC is an ambitious document; some points particularly Nos. 3, 9, 11, 14 and 16 proved difficult to be observed. Violation of the code was widely practiced by both sides during the entire period of ceasefire. A monitoring committee (no. 18) could not function during the entire period of truce, although an agreement was reached to form a 13-member monitoring commit-
tee in the second round of peace talks on May 9, 2003 which could not be implemented. While Dr. Baburam Bhattarai was on his way to reach Kanchanpur district to attend a public program organized by the Maoists' regional cell, he was severely enquired by the security forces. There were also some armed confrontations between the security forces and Maoist militia. Continuous reporting of breaches of the code hindered the goodwill toward the peace process. Similarly, the slow pace of releasing the lamenting prisoners and interference in the fundamental process of reintegration and confidence building measures in a post conflict situation (with public services re-established in Maoist controlled areas) also affected the smoothness of peace process.

Despite the truce reached between the State and the Maoists, the records of human rights violations by either of the parties have not improved. Furthermore, the continuation of human rights violations by both sides even after the commencement of the CoC has disappointed those expecting for improvement in human rights records of the land. Both have failed to stand for the CoC. In the entire period of truce, the state had killed 124 persons (60 percent) and the Maoist rebels had killed 82. In Doramba incident alone, the security forces arbitrarily arrested about two dozen unarmed Maoist activists and after three hours of walking and interrogation killed them on August 16, 2003 on the eve of the third round of talks.

After firm commitment from the government for security to the negotiation team of the Maoists, Dr. Baburam Bhattarai arrived in Kathmandu on March 28 from the western Nepal and the following day appeared amongst the huge crowd of public and journalists along with his team members for the first time since the Maoists had launched the People's War nine years ago. In his first press meeting, Dr. Bhattarai asked all the political parties and representatives of civil society to get themselves involved in the peace process. In the course of exercising genuine democracy he said that the present system represents only a formal democracy only, but we want “real and essential democracy where people's role is not confined to electing a government once in five years” (Kathmandu Post: March 29, 2003). As the Maoists have given top priority to the uplift of the poor, disadvantaged, marginalized, and vulnerable groups, he further stated: “Such democracy would ensure participation of the left out and marginalized people in the decision making process.”

In answer to a question regarding the role of the King in peace process, he stated that the King has control over the old regime but we want him to play his role on behalf of the integrated people. He stated that they would talk with him to try to reach a compromise for the people in general. He clearly said: “If he fails, he will be lost into stupor.” Regarding their former political demands, he reiterated that the right process to resolve the present political crisis would be to go for a round table conference which would form an interim government and that government would go for an election to the constituent assembly. On the question of regional and ethnic autonomy, Dev Gurung said: “We want to go for a federal system that would maintain regional and ethnic balance and ensure people's right to self determination” (Kathmandu Post: March 29, 2003). Ram Bahadur Thapa - the military strategist who had appeared for the first time in 23 years of his politi-
cal career gave answers to some of the questions of journalists. Similarly, Matrika Yadav advocated for the rights of the Madhesi people as they are regarded as second class citizens in their own country.

The Maoist negotiation team appeared more serious, sincere and committed towards the peace process and utilized it as a window opportunity to raise their political agenda before national as well as international community. In the process, the team frequently visited several political parties including NC and UML and tried to convince them on their forward-looking agenda. They discussed peace process with a number of intellectuals at the Kathmandu University on April 4, 2003. The team expressed their willingness several times to meet King Gyanendra in public, but the King denied the proposal indirectly. The team also wanted to meet with various diplomats residing in Nepal, but they were able to meet only a few of them, including the Delegation of the European Commission. In the meeting with the NGOs Federation, Dr. Bhattarai vowed not to interrupt functioning of the I/NGOs which are working for the benefit of the people (Himalayan Times: April 20, 2003).

Human rights organizations heartily welcomed the announcement of truce as they had played a very active and crucial role to materialize it. They had raised a lot of concern for gross violation and abuses of human rights in the country. To make the peace process successful and fruitful, they organized mass processions, street demonstrations, seminars and so forth and emphasized to include the issue of human rights as a principal point of agenda for the forthcoming talks between the government and the Maoists. Even Amnesty International and NHRC requested both of them to include the issue of human rights in the peace agenda. To facilitate the government-Maoist truce, human rights organizations put forward a 27-point code of conduct which is divided into three sections for: (i) the government, (ii) the Maoists and (iii) the government and Maoists both (see Annex-VIII.III).

After two and half months of truce, the government formally announced a six-member negotiation team under the leadership of Deputy Prime Minister Badri Prasad Mandal on April 16, 2003. Other members of the team were Ramesh Nath Pandey, Narayan Singh Pun, Dr. Upendra Devkota, Kamal Chaulagai and the only woman representative Anuradha Koirala. The formation of this team, however, marginalized the role of Narayan Singh Pun.

**A. First round of Talks II**

In accordance with the mutual understanding between them, the first round of talks was initiated on April 27 at Shankar Hotel, Kathmandu. The Maoist negotiating team put forward its agenda. The preamble of their forward looking proposal stressed to establish a new progressive democratic regime through political, social, economic, and cultural changes. The excerpts from Maoists' proposal are:

**a. Goals and objectives**

- To end the state of conflict;
- To address regional, ethnic, caste, and gender issues;
- To create strong and pro-people national unity, integrity, and sovereignty;
- To ensure civil and human rights to the poor and lower rank citizens; and
b. Immediate actions to ease the peace process
- To make public the whereabouts of the central leader Dandapani Neupane and other detainees by May 14, 2003;
- To release imprisoned Maoist alternative politburo member Rabindra Shrestha and the central committee members Bam Dev Chhetri, Mumaram Khanal and others within 15 days;
- To annul all the fake court cases and release prisoners of conscience within 15 days;
- To dismiss TADA;
- To call back the RNA to its barracks within a week;
- To stop search operations against civilians; and
- To form a monitoring team comprising representatives of national and international human rights organizations, professional organizations and civil society to implement the CoC, to check the situation of disappeared ones and to release the detainees.

c. Time table and transparency of peace process
- To form a facilitator team with the mutual agreement of both sides;
- To appoint facilitators for all the steps of peace process;
- To fix the date and venue of the talks through the facilitators after mutual understanding;
- To prioritize political agendas and to raise other socioeconomic issues in due course; and
- To initiate the peace process to achieve a fruitful solution at the earliest.

d. Main political agendas
(i) Methods of formation of a new constitution
- Through convening a round table conference
- Through formation of an interim government
- Through election to a constituent assembly
(ii) Minimum contents of the new constitution
- To provide full sovereignty to people;
- To elect representatives in all the regions from women, dalits, janajatis, ethnic minorities, linguistic groups and religions for the People’s House of Representatives (PHoR). All other organs of the regime shall be entirely accountable to the PHoR;
- To change the provisions of the constitution by a two-third majority in the PHoR or through a national referendum;
- To integrate both RNA and PLA into National Army and to bring it under the control of people’s elected representatives;
- To guarantee civil and democratic rights, multiparty democracy, right to adult franchise, rule of law, freedom of press and speech, personal rights and security;
- To establish regional and ethnic self-governance to determine the right to self-determination;
- To declare Nepal as a secular state;
- To ensure education, health and employment to all as personal rights;
- To establish a new relationship for land ownership on the basis of ‘one who works for the land owns the land’ or the land to the tiller; and
- To build up independent foreign policy by eradicating unequal Indo-
Nepal Treaty 1950 and other asymmetrical treaties and the ratification of such treaties should require a two-third majority in the PHoR.

e. Public interest issues

- To stop military assistance, presence of foreign military forces and their activities and abolish the treaties and agreements related with the control of terrorism;
- To regulate open border between Nepal and India and to introduce work permit system for the foreigners employed in Nepal;
- To discontinue Gorkha recruitment and to ensure honorable job to a Nepali within the country;
- To stop foreign monopoly on national industries and to promote them;
- To stop foreign encroachment and internal damage created in the name of I/NGOs and to declare null and void all the policies imposed by international financial institutions;
- To construct and implement united and concrete water resources policy and to give priority to small and medium scale power plants for generation of electricity;
- To cancel the debt taken by the landless and poor and to ensure jobs for them
- To rehabilitate the landless people and the abolish *kamaiya, haruwa, charuwa* and such discriminatory practices;
- To provide improved seeds, irrigation facility and markets to farmers;
- To control price hike in petroleum products and basic needs and to increase wages and salaries;
- To formulate an effective legal instrument to punish the smugglers and graft receivers;
- To provide scientific and technical education and to abolish the commercialization of education;
- To provide free health service to the people of countryside;
- To protect the disabled and elderly people;
- To abolish gender discrimination and exploitation;
- To end caste discrimination and to ensure equal rights to *dalits*;
- To introduce 40-hour week for work in factories and to ensure participation of employees in the board of management;
- To ensure concrete program for youths;
- To encourage intellectuals and occupational service providers such as doctors, engineers, etc. to deliver best services to the people;
- To control western cultural pollution;
- To set up infrastructure development in the villages rapidly;
- To protect the rights of Nepalese workers in foreign lands;
- To declare the persons killed for political affiliation as martyrs and to punish the murderers; and
- To address all the pro-people demands put forward by the pro-people organizations.

f. Issues of human rights, compensation and rehabilitation

- To form a high-level human rights commission to carry out an independent investigation of gross violation of human rights and to punish the perpetrators;
- To supply relief support and compensation to the families of martyrs;
- To provide treatment to the victims injured in the civil war; and
- To rehabilitate those displaced in the civil war.
Except for the political agenda point of constituent assembly, other issues of social, economic and human rights put forward by the Maoists are genuine and almost similar to the 40-point demands and agenda put forward previously in Talks I. In response to the Maoist agenda, the government negotiators said that since it was just the first round of talks, they would come with their agenda in the next round of talks. However, the first round of talks was quite positive as it was able to form a four-member facilitating team consisting of Daman Nath Dhungana, Padma Ratna Tuladhar, Shailendra Kumar Upadhaya and Karna Dhoj Adhikari. The same meeting agreed to form a four-member Homework Committee comprising Narayan Singh Pun and Ramesh Nath Pandey from the government side and Krishna Bahadur Mahara and Ram Bahadur Thapa from the Maoists. Both parties mutually agreed to fix the time and venue for the next round of talks through the help of facilitators.

B. Second round of Talks II

The second round of Talks II was also held at Shankar hotel on May 9, 2003. It made a vital progress, as both sides agreed to:

- release a few Maoist detainees from the jails, including three central leaders - Rabindra Shrestha, Bam Dev Chhetri and Mumaram Khanal;
- limit the Royal Nepal Army within five kilometers of their barracks or their stations;
- limit the People’s Liberation Army roaming inside the areas under the control of RNA;
- form a 13-member Monitoring and Evaluation Committee (MEC) to watch the implementation of CoC as several breaches were reported everyday by both sides;
- formulate a code of conduct for the MEC; and
- formulate a code of conduct for the facilitators.

The second round of talks seemed successful as it was held in a cordial atmosphere and some historical decisions were taken. Having received the political agenda put forward by the Maoists, the government asked for some more time to do the homework. Pun said that they had agreed to enter into the political agenda of Maoists and a decision would be taken after the matter is intensively discussed at the committee meeting for homework (Kathmandu Post: May 10, 2003). Pun further stated that they had agreed not to mobilize the army for search and operation beyond a radius of five kilometers from its barracks. And the Maoist spokesman Mahara said to the press: „No new agenda was entertained during the talks. The meeting just revolved around the measures to facilitate and manage the peace dialogue in the future‰ (Kathmandu Post: May 10, 2003).

An agreement was reached between the government and the Maoists to limit the army’s movement within a radius of five kilometers from the military barracks. It was the most debated and controversial subject matter and it was criticized from all the corners. The NC said that it was unconstitutional and unwarranted. RPP leader termed it as an absurd decision. Some leaders said that it was an irresponsible act. Others warned that it would be counterproductive for the ongoing peace.
Over the decision, the army also expressed its displeasure and protested the government strongly for concession to the Maoists in the emergency meeting held at the Prime Minister’s residence the day following the conclusion of the second round of talks. According to the Kathmandu Post of dated May 12, 2003, Deputy PM and Coordinator of the government’s talks team, Badri Prasad Mandal had to face the fury of the army and other security forces. With resentment, the army spokesman Colonel Deepak Gurung said that the Maoists were still posing a grave threat in maintaining internal security and in providing a sense of security to the people with the arms they had looted and the RNA wanted to recover them at any cost (Informal: Vol.16/No.3:28). The Constitution 1990 states that the issue of army mobilization shall be decided by the Council of Defense, not by a minister. In the mean time, Ramesh Nath Pandey, the member of government negotiation team gave an interview denying that an agreement had been reached on the limitation of the army’s movement. It is reported that he was severely beaten by some unidentified men soon after he was ousted from the government due to his controversial statement.

In a mass rally organized in Gorkha district, the coordinator of the Maoist negotiating team Dr. Baburam Bhattarai said that King Gyanendra had let it be known through the ministers that he was not ready to give up the throne nor the army, but he had agreed to the rest of the demands put forward by them (Kathmandu Post: June 9, 2003). Disclosing the agreement reached between the palace and the Maoists, Dr. Bhattarai said that the suggestion for the limitation on army movement within five km had come from the King, not them. He added: „Since we had rejected the proposal put forward by PM Chand, King Gyanendra amended the radius of eight to just five km.‰ Another member Dev Gurung commented that the army was venturing into politics. He said that when the army comes into politics, in effect it would be military rule at work (Himalayan Times: May 13, 2003). As the negotiation teams did not sign the minute of the relevant meeting of the second peace-talks and had only verbally agreed upon the limitation of army, the matter could not remain uncontroversial.

Both the King and the seniors of Army must have agreed upon a decision of a radius of five km before the talks was held. But, as it was severely criticized by all the quarters, the army publicly expressed their disagreement on the decision. The primary reason behind the disagreement might be some informal foreign hand, for instance US military experts, who awakened the army from the negative consequences of such limitations.

The past has been witness that monarchy has been ruling in Nepal since 250 years ago not because of the popular mandate and wish of the sovereign people but due to the imposition of armed force. It is feared that disentanglement of the army from the grip of the king would cause abolition of monarchical system in the country for ever.

Apprehending a positive outcome of the talks (an agreement for constituent assembly), the internal power holders (3P players) · the King, palace and his loyal Nepalese army · ordered Lokendra Bahadur Chand to resign from the post of prime minister on May 30, 2003. Soon after his resignation, the King invited
leaders of major political parties for a joint audience, when four agitating parties put forward the name of CPN (UML) leader Madhav Kumar Nepal as the consensus candidate for the post of prime minister. The King formally asked them to submit the name of their candidate within the next 72 hours. As they failed to come up with a formal letter, the King finally appointed Surya Bahadur Thapa as Prime Minister of Nepal on June 4, 2003 and announced that he had granted the entire executive authority to him. All agitating parties denounced his appointment and ruled out any possibility of joining the government. The appointment could not improve the relation with agitating political parties as they were launching the movement against the regression for a long time. On the other hand, the Maoists themselves were not convinced in the success of the talks as they perceived some foreign guided conspiracy hidden in the peace process. Issuing a press statement on June 3, 2003 Prachanda warned that the old regime would be solely responsible for the consequences if the peace process failed.

Commenting upon the new government, Prachanda accused that the change of government was just a drama and it was done in the interest, and on the direction of foreign powers (Press release of June 5, 2003). In the same press statement he said: „The latest political move is a new step of regression”. He accused that the government was pursuing divide and rule policy instead of showing commitment towards truce and implementing the CoC as agreed upon between the government and the Maoist teams. Reiterating the Maoist political proposal, Prachanda urged all the political parties to support for the constituent assembly in order to progressively move ahead from the current political impasse. He further stated that the latest political move should be a lesson for the agitating political parties to realize the need of a new constitution instead of advocating for the restoration of the parliament and activation of the Constitution.

The new government announced its negotiating team comprising two senior members of the cabinet under Finance Minister Dr. Prakash Chandra Lohani and Kamal Thapa being appointed as spokesman for the talks on June 12, 2003. Similarly, the government established the Peace Process Coordination Secretariat (PPCS) at the Prime Minister’s office. However, the situation of the peace process gradually deteriorated as the gruesome violations and abuses of CoC were reported more frequently by both sides. As the Maoists foresaw security risks, they closed their contact office situated at Anamnagar, Kathmandu on July 20, which was open since April 10, 2003 and their negotiating team also went underground for security reasons.

In the meantime, various organizations of civil society pressured the government to ensure security for the negotiation teams in order to create a conducive environment for the third round of talks and appealed Maoists not to discard peace process. National Human Rights Commission put forward a Human Rights Draft Accord (HRDA) to be signed as an agreement between HMG/N and the CPN (Maoist) to promote respect for the rights to life, liberty, and security of individual in accordance with the principles of human rights and humanitarian law (Annex-VIII.IV).

Finally, Dr. Baburam Bhattarai sent a letter addressed to the government talks team through the facilitator on July 23, 2003. The letter clearly stated that as the
royal palace had controlled and directed the discussions from behind the curtain from the very beginning of the truce and for the decision reached during the second round of talks, there is no meaning in further continuing the talks with the powerless and helpless negotiation team of the government. For the creation of favorable environment within the stated deadline, the letter proposed the following demands for the third round of talks:

- State whether the King would be involved in the talks in future;
- Expel US military advisors and other related experts;
- Cancel the five years' anti-terrorism agreement with the USA;
- Government should implement all agreements reached so far; and
- Army should follow the decision taken during the second round of talks (see Annex VIII.V).

In response, the government also put forward a letter through the facilitator on July 28, 2003 before the Maoist deadline. The government firmly agreed to:

- Free three Maoist leaders, namely Rabindra Shrestha, Bam Dev Chhetri and Mumaram Khanal and an activist;
- Publicize the details and whereabouts of 35 Maoists under custody;
- Disclose its political agenda when the talks resume; and
- Remain flexible in negotiation.

C. Third round of Talks II

The much awaited third round of talks initiated in Nepalgunj and Dang, mid-western Nepal on August 17, 2003 an effusive environment. The government for the first time officially put forward an agenda of massive socioeconomic reforms and major constitutional changes to accommodate the Maoist progressive demands. The main points of the forward looking proposal made by the government were as follows:

a. Roadmap of the proposed reforms

- Phase 1: Maintain consensus between the government and the Maoists on the objectives, content and process of the reform.
- Phase 2: Hold a round table conference involving all the political parties in order to establish national consensus on the basis of the consensus reached between the two sides.
- Phase 3: Form an electoral interim government in which the Maoists too, would be included.
- Phase 4: Hold elections for the House of Representatives.
- Phase 5: Amend the constitution in accordance with the national consensus reached.

b. Bottomline of the proposed reforms

- Safeguarding the sovereign rights vested to the people, constitutional monarchy, multiparty democracy and national integrity and unity.

c. Objectives of the proposed reforms

- Formulation of a political system where all the Nepalese can participate and involve themselves in;
- Creation of equal opportunities for self-development of all the Nepalese people;
- Development of a political system on the basis of contemporary political
balance among the political forces; and

• Creating an egalitarian/equitable society by abolishing all forms of discriminations, inequalities and exploitations.

d. New issues in the proposed reforms

• Formation of a neutral electoral government three months before the general election;
• Introducing the system of proportional representation for the elections;
• Revamping the Upper House of Parliament by ensuring proportional representation of ethnic communities, indigenous people and dalits;
• At least 25 percent of the seats in all representative institutions, including the parliament, to be reserved for women;
• Restructuring of the local government units by constitutionally devolving more power to them;
• New structures to be created at regional levels in accordance with the spirit of local self-governance;
• Provision of referendum on all national issues except those considered inviolable in the preamble of the constitution;
• Allowing local government bodies to use the local language as the second language;
• Special provision of reservation for women, indigenous people, ethnic communities and dalits for a certain period of time in education, health, people’s representation and employment sector;
• Open and liberal market-oriented economic policies to be adopted by the state;
• Parliament to be given a role in the appointments of constitutional bodies;
• The government to be in agreement with several economic and social issues proposed by Maoists;
• The proposed concepts for reforms may be reviewed on the basis of mutual understanding;
• The issue of handing over the arms and ammunition held by the Maoists to the government should be incorporated in the agenda for talks;
• The issues of reconstruction and rehabilitation should be included in the agenda for talks;
• The issues of agenda for the peace talks shall be finalized by including the proposals and suggestions from both sides;
• There shall be no hindrances and obstructions to the activities of the political parties and in the functioning of the government; and
• Both sides should express commitment not to violate the ceasefire under any circumstances.

The proposal did not address the fundamental political issues put forward by the Maoists; still some of the major reforms in socioeconomic issues were incorporated. It was silent on the role of the King, the palace, the army and for the secular state of Nepal. Also, it rejected the key demand for constituent assembly; instead it suggested the Maoists to hand over the arms and ammunition in their possession to the government.

The second session of the third round of talks was held the same day at Purandhara VDC-3, Hapure village of the Dang valley. Commenting on the proposal put forward by the government, Dr. Bhattarai said at the outset: „It is a fruitless offer and an attempt intended at cosmetic changes while getting away from present political
And the Maoist talks team straight away rejected the notion of surrendering the arms and ammunition to the government. As a result, the chances for success of the peace process became very dim. Bhattarai said: „The talks are heading towards failure“ (Himalayan Times: August 17, 2003). In response, the chief of the government talks team Dr. Lohani stated that the government was not ready to compromise on sovereignty of the people, constitutional monarchy, multiparty democracy and independence and territorial integrity of Nepal.

However, both agreed and identified six major topics of agenda for negotiations: (i) political issues, (ii) socioeconomic reforms, (iii) procedures for the reforms, (iv) settlement for the Maoist army and its weapons, (v) rehabilitation of the conflict victims and reconstruction of development infrastructure in Maoist affected areas, and (vi) miscellany. The negotiators of the government side stressed to initiate the deliberations with socioeconomic reforms, but the Maoists wanted to discuss the fundamental political issues first. On the other hand, the government urged to stop extortions, abductions and other intimidating activities conducted by the Maoists and handed over a list of 233 missing people including security personnel, political activists, and civilians.

Similarly, the Maoist talks team handed over a letter to the government team protesting strongly against the extrajudicial killings of their unarmed cadres in Doramba VDC, Ramechhap district. The following case study is taken from National Human Rights Commission as an illustration.

**Case 8.3.1: Doramba incident**

The army attacked a group of Maoists at Doramba, Ramechhap district at 10.30 AM on August 16, 2003 (Shrawan 32, 2060 BS) while they were holding a meeting in the house of local teacher Yuwaraj Moktan. As the Maoists discovered that the RNA was approaching towards them, some of them fled from the meeting. Still Tek Bahadur was shot dead near the house. After surrounding the house from outside, the RNA arrested 18 unarmed Maoists on the spot, including the house owner and his son. While they were being brought to the army barrack, they were shot dead at Darakateri of Daduwa VDC at three hours’ walking distance from the house where the meeting was held. The victims were kept in a line and shot one by one. Their hands were tied behind their backs and most of them were shot in the head.

The victims were identified as (1) Babu Ram Lama [Chief, District Jan Sarkar (People’s Government) and Member, Eastern Regional Bureau], (2) Ambika Dahal [Area Secretary], (3) Pradeep Dong [Member, District Committee], (4) Tek Bahadur Thapa Magar [Member, District Committee], (5) Bishnum Kumari Thapa Magar [Member, District Committee, Women wing of CPN Maoist], (6) Yadav Ram Giri [Advisor, Area Committee], (7) Thulo Ram Moktan [Secretary, District Committee, Tamang Liberation Front], (8) Laxman Moktan [Area Member, Tamang Liberation Front], (9) Chatur Man Thami [Member, Jan Sarkar], (10) Shyam Tamang [Treasurer, District committee, Student wing of CPN Maoist], (11) Harka Ghising, (12) Uma Karki, (13) Harka Lakshmi Rai, (14) Som, (15) Sangita Yonjan, (16) Sano Ram Yonjan [Area Member, Tamang Liberation Front], (17) Samir, (18) Yub Raj Moktan (19) and Lila Moktan [Son of Yub Raj].

Twisting the Doramba incident on August 18, the RNA Spokesman Colonel Deepak Gurung asked: „Why the Maoists are attacking us is a question which is
mysterious to us. Explaining the reasons to kill them, Gurung said that a total of 17 Maoists were killed in two separate encounters when the Maoists suddenly attacked the army. Similarly, the army formed an investigation team to inquire into the incident, but the team did not bring to public any different answer from that pronounced earlier by Col. Gurung. However, National Human Rights Commission brought out quite a different report after thorough investigation. The report stated that all the Maoists were killed even after interrogation in one place at three hours walking distance.

The third round of government-Maoist talks ended inconclusively when Dr. Bhattarai insisted on the demand for constituent assembly and the government side opposed it as it was not even willing to discuss the issue in addition to those related with the institution of monarchy and the army.

Why did the talks of 2001 and 2003 fail? Multiple stakeholders and actors, for instance the King, the army, the government, the Maoists, the mainstream political parties etc. played their role exclusively in their own interests which ultimately led to the failure of both the talks. There were always constant fights between the hardliners or spoilers and the softliners or well-wishers of the peace process among all the actors. Softliners want to settle the armed conflict permanently through negotiation. But, hardliners connive to remain constantly in power and want yet more power through politics and property and after all, they have proven their might in derailing the peace process.

The history has proved that the monarchy, the epitome of feudalism, has ruled Nepal on the principle of "shedding blood and grafting power" rather than winning consensus from among the dissenting parties. It would be factually correct to recognize that the main forces on the ground are only two · the King and the recently emerged Maoists · and their power is essentially of military nature. History is witness that Nepal has been ruled by the vested interests of the King with his hold on army instead of getting democratic support from the people or relying on welfare approach. It is also a fact that the present King nor his ancestors ever tested their popularity among the people during the entire period of 250 years regime. As a result, when the peace process was approaching towards success, the King suddenly changed the Chand government and appointed Thapa as PM. I agreed with the International Crisis Group when it stated, "King Gyanendra's recent appointment of a new prime minister has generated a great deal of general animosity and concern, with the risk that both the political parties and the Maoists will increasingly take to the streets" (Nepal: Obstacle to Peace: June 17, 2003:1).

Even after the restoration of democracy in 1990, the army felt that they are an inalienable and inherent asset for the King. This is owing to the fact that most of the senior officers in the army are relatives of the King; only subordinates are from the common people. Since the beginning of the peace process in 2003, the army has been unwilling to stop the war. However, as the Maoists had announced the truce first, and the government simply followed them, so the army was obliged to stop fighting. When the government and Maoist negotiation teams confined the army within the radius of five km from their barracks or their camps and particularly when the Maoists demanded that the army must remain under the people's
representatives, the top brass of army became furious and reluctant to prolong the talks any further. The resentment of the army subsided only when the structure of the government was changed. The succeeding royalist Thapa government denied the limitation of five km and even launched the security forces against the Maoists clandestinely. The case of Doramba is an example of the breach of peace process. As the army relies on the mature political power through the gun, the country is heading towards militarization.

The lacuna in selecting the right members for the negotiation team from the government side proved another drawback of the peace process. Except for a few, both times the government appointed suspect and infamous ministers as the members or even chief of the negotiation team instead of selecting neutral, sincere, honest, and committed persons for the interest of nation and welfare of the people. The team members had neither self-confidence nor legitimacy from the people. Externally they were seen as members of the government negotiation team, but in reality they were merely facilitating the King. Why do we expect oranges from a lemon plantation? Can a cat guarantee the rights of mice? Due to fundamental disagreement on major political issues, particularly for the role and status of the king and the army, the talks could not go ahead toward a genuine democratic process – election for constituent assembly.

The Maoist negotiators wanted either to have election for constituent assembly to lead the country to a republican state or to prepare for a prolonged guerrilla warfare as per the strategy of protracted war. The peace process was utilized as a great opportunity by the Maoists for consolidation of their power, mobilization among the masses as a legal left party, restructuring the party and the people's governments, advancement of military forces, gathering arms and ammunition, collection of donations, freeing detainees, annulling the anti-Maoists laws, and so forth (Annex-VIII.V). Indeed, they utilized the talks as a regular warfare strategy, as Mao had done in China.

The mainstream political parties played a very marginal role during the entire period of peace process. Neither they had any vision, mission and goal nor could they develop any concrete plans and policies to put forward for the resolution of crisis. However, they kept a constant pressure upon the Maoists to come under the present constitution, although they knew it was hopeless. No member of the political parties supported the government, but always demanded to have a meaningful resolution. They had deep-seated mistrust and suspicion upon both the conflicting parties of military nature. They also had a fear that if they ever went to participate in an election for the constituent assembly, they would be wiped out by the people. The past has been a witness that none of the political parties care for national interest and integrity, nor for sovereignty and welfare of the people. They are interested in grabbing the power at any cost in order to hold elections, as they know through their experiences in the past that power helps to mobilize resources of the country to swing votes in their favor.

The international community had also adopted inconsistent policies during the entire period of peace talks. Most powerful nations like USA and UK, and developing nations such as India were in favor of the king and the government and
severely pressured the Maoists to accept either the agenda put forward by the government or face the consequences involving military strategy for a "war for peace" solution. The UN and member countries of the European Union such as Norway, Denmark, and Switzerland were advocating for a non-violent solution. Moreover, they had offered international mediation.

Some nations, including China, had a wait-and-see policy. Lack of international support and the absence of consensus in the international community had also played instrumental role for the failure of peace process.

Honest people from civil society welcomed the truce and initiation of peace talks. For the achievement of a long lasting peace, civil society organizations launched various programs such as mass demonstrations, rallies, seminars and so forth. But, some of the most powerful persons in civil society, who were hands-in-gloves with some self-centered political parties, were busy to build a net of conspiracy against the peace process. Some even feared that if sustainable peace was achieved, they would lose donations for their peace agenda. Pointing out the lack of broad-based support for the negotiation process, Thania Paffenholz reported: "...there was no dynamic process in place to ensure sustained pressure on the parties to stick to the dialogue. Civil society organizations' support to the peace process was far too weak" (November 2003:13).

Two highly respected, honest, and sincere persons who were committed to national interest and welfare of the common people had been appointed as facilitators for Talks I. The same persons were reappointed by the Maoists for Talks II, but two more persons were selected by the government in 2003. However, it was observed that they could not maintain the universal ethics of facilitation; neutrality, secrecy, diplomacy, and low profile activity. They also lacked facilitating skills and knowledge of international standards. Thania states: "Both the negotiations were handled in an unprofessional way, simply because fundamental negotiation standards were not met" (November 2003:14). Due to the poor handling of peace process and single-track facilitation channel, the talks failed.

Peace promotes respect for personal life, security, liberty, and dignity. The creation of a new society can only be possible through the achievement of sustainable peace. Peace is a state of mind. It balances multiple stakeholders and actors. It is for intercultural harmony, integrity, and sovereignty. It is the absence of structural violence. Peace facilitates development whereas war involves destruction. Unless the root causes for the breeding ground of Maoists are eradicated through peaceful means, violence will transform from one form to another. Peace strengthens equality, social justice, diversity in unity, and socio-cultural welfare. Sustainable peace is an essence of mobilization, transformation, and participation. Participation approaches lead to (i) people's direct participation (people's decisive role to accept or reject an issue as in a referendum) (ii) people's consultative participation (through civil society and its organizations), (iii) people's proportional representation, and (iv) conference diplomacy.

Political participation of the main stakeholders (including Maoists and other political cadres) in the peace process; a sort of diplomacy from below; could be considered a window opportunity for any kind of election for constituent assem-
bly. If the revolutionaries are expected to put aside their weapons in regard to the aspirations of the common people, the King, the army, and political parties are also supposed to put the people and the nation first in place of the 4 Ps of their vested interests and ambitions (power, politics, property, and prerogative). Exchange of bullets with ballots is a supreme form of democracy. The way out of the national crisis through voting rights lies under the purview of values, norms, and principles of genuine democracy. Universal genuine democracy is for the sake of people. It is noteworthy that only the people have the inherent, non-derogable, and sovereign right to accept or to reject the demand for constituent assembly, not any other actor - the king, the army, the government, or the leaders. However, the election should be held in free, fair, and impartial manner as it has the universal spirit for genuine democracy.

**Endnotes**

1 Nepal Samacharpatra: August 19, 2001
2 Rajdhani: April 24, 2002
3 The seven member team comprises: Professor Dr. Mathura Shrestha, Sudip Pathak, Dr. Bhogendra Sharma, Gauri Pradhan, Mukti Pradhan, Kalyan Dev Bhatta, and Sarva Raj Khadka.
4 The memorandum was signed by the main opposition party in the parliament, CPN (UML), and the Rastrriya Prajatantra Party, CPN (ML), Nepal Workers Peasants Party, Hariyali Party, CPN (Marxist), CPN (MLM), CPN (Unity Center), CPN (Masal), United People’s Front, National People’s Front, Nepal Praja Parishad and CPN (United).
5 „His Majesty may dissolve the House of Representatives on the recommendation of the Prime Minister. While so dissolving, His Majesty shall also specify the date of the election for the new House of Representatives to be held within six months.“
6 Nepalese people got democracy in 1951 for the first time in the history due to the cooperation of Raja (King) Tribhuvan and Praja (people) mainly under the leadership of NC leader B. P. Koirala with the support of India. Before the restoration of democracy in Nepal, almost all the key figures of NC had taken shelter in India. Many new leaders who were educated in India had also come up. From the past experiences it is proved that India seeks to put Nepal under its umbrella like Sikkim and now in Bhutan, capturing all economic and political spheres. During the rule of NC, Nepal lost the natural upper riparian rights on rivers as they sold out Koshi, Gandaki, and Mahakali in the name of bilateral treaty despite strong protests from the people. Influenced by India, Nepali Congress government also sold away most of the prominent Chinese aided industries on very cheap prices to the private parties of Indian origin in the name of privatization and globalization.
7 After the attack on World Trade Center and Pentagon on September 11, 2001, USA labeled all the groups in the world who had adopted armed violence against the state powers as terrorists. But in the case of Nepal, a great majority of poor, disadvantaged, marginalized, and vulnerable community, who have suffered in the past and have been continuously suffering politically, socially, and economically even after the restoration of democracy in 1990 believe that CPN (Maoist) is the party for emancipation of all injustices and inequalities.
Fundamental rights suspended during the State of Emergency

Article 12. Right to Freedom
Article 12.2. (a) freedom of opinion and expression; (b) freedom to assemble peaceably and without arms; and (d) freedom to move throughout the Kingdom and reside in any part thereof.

Article 13. Press and Publication Right
Article 13.1. No news item, article or any other reading material shall be censored, provided that nothing shall prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes or communities; or on any act of sedition, defamation, contempt of court or incitement to an offence; or on any act which may be contrary to decent public behavior or morality.

Article 15. Right against Preventive Detention
Article 15.1. No person shall be held under preventive detention unless there is a sufficient ground of existence of an immediate threat to the sovereignty, integrity or law and order situation of the Kingdom of Nepal.

Article 15.2. Any person held under preventive detention shall, if his detention was contrary to law or in bad faith, have the right to be compensated in a manner as prescribed by law.

Article 16. Right to Information
Every citizen shall have the right to demand and receive information on any matter of public importance.

Article 17. Right to Property
Article 17.1. All citizens shall, subject to the existing laws, have the right to acquire, own, sell and otherwise dispose of, property;

Article 17.2. The State shall not, except in the public interest, requisition, acquire or create any encumbrance on, the property of any person;

Article 17.3. The basis of compensation and procedure for giving compensation for any property requisitioned, acquired or encumbered by the State in the public interest, shall be as prescribed by law.

Article 22. Right to Privacy
Except as provided by law, the privacy of the person, house, property, document, correspondence or information of anyone is inviolable.

Article 23. Right to Constitutional Remedy
The right to proceed in the manner set forth in Article 88 for the enforcement of the rights conferred by this Part is guaranteed (However, the right to the remedy of habeas corpus under the article has not been suspended).
Annex-VIII.II

Terrorist and Disruptive Activities
(Control and Punishment) Ordinance 2001

Preamble
As there is a necessity to make legal provision in relation to the control of the terrorist and disruptive activities in order to maintain the peace and order in the Kingdom of Nepal and for the security of the common people and given that the parliament session is not on now,

His Majesty King Gyanendra Bir Bikram Shahdev has, in accordance with the Article 72 of the Constitution of the Kingdom of Nepal, 1990, promulgated this ordinance.

1. Short title and commencement
(i) This ordinance shall be called the „Terrorist and Disruptive Activities (Control and Punishment) Ordinance 2001.
(ii) This ordinance shall come into force immediately.

2. Definition
Unless otherwise meant with reference to the subject or context, in this ordinance-
(a) Weapons denote rifle, gun, artillery, pistol, revolver or any other means or instrument of similar type or spear, knife, khukuri or log or other risky weapons with or without blade and this word shall denote the batons and stones too.
(b) Arms and ammunition (kharkhajana) denotes smoky signals (fog signal), fuse, gunpowder, cape, cannon ball, chharra (small bullets that go to many directions when fired), detonator, catridge and similar types of other arms and ammunition.
(c) Bomb denotes grenade made of any material or instrument, used in military or non-military purpose, made to self-explode or explode with the help of any other means, or any other types of weapon with explosive materials or any other material which self-explodes or helps to make explosions.
(d) Explosive material denotes any material that causes damage by explosion like TNT, ematol, barotol, pantolight, RDX, torpekas, plastic explosives, dynamite, gunpowder, nitro glycerin, jelegnite, stamite, selsite, guncotton, blasting powder, mercury or fulyunet of other metals or if not of these types any other material produced or used with a purpose of causing effect through explosion.
(e) Poisonous material denotes any poison or any solid or liquid substance with such poison mixed, and this word shall also include poisonous smoke or gas of any kind.
(f) Security personnel denotes police or armed police or the Royal Nepalese Army or any individual deputed by His Majesty’s Government to prevent or control the terrorist and disruptive activities.
(g) Terrorist and disruptive activities denotes such terrorist and disruptive activities as mentioned in Clause 3.
(h) Terrorist denotes any individual or group involved in terrorist and disruptive activities as per the Clause 3.
(i) Accomplice denotes the following persons:
   (i) any individual in contact or involved with any individual or group engaged in terrorist and disruptive activities,
(ii) any individual providing information or helping in providing information to any individual or group involved in terrorist and disruptive activities or any individual passing, publishing or distributing information about any individual or group involved in terrorist and disruptive activities,

(iii) any individual giving direct or indirect financial or any other type of help to the individual or group involved in terrorist and disruptive activities.

(j) ‘Property’ denotes any movable and immovable government or public or private property inside or outside the Kingdom of Nepal.

(k) ‘Informer’ denotes any individual providing or helping to provide information to His Majesty’s Government about terrorist and disruptive activities and explosive materials.

(l) ‘Security officer’ denotes Chief District Officer or any gazetted officer of His Majesty’s Government as designated by it by publishing a notice in the Nepal Gazette.

(m) ‘Order’ denotes any order issued by His Majesty’s Government or the security officer.

3. Terrorist and disruptive crime

(i) If somebody carries out the following acts, that shall be considered as the terrorist and disruptive crimes:

(a) With a motive to disturbing or assaulting the sovereignty, integrity of the Kingdom of Nepal or the security or peace and order of its any part, or any diplomatic agency, or property in foreign country, causing damage to the property of any place by using any type of weapons, bomb, explosive materials or any other instrument or object or vandalizing such property or planning for such acts or any acts of taking life, causing bodily mutilation or causing injury or causing arson in such places or causing any physical or mental damage, or an act of taking life or causing bodily mutilation or other damages by mixing poison in the daily consumption goods or by using poison at public places or creating terror to the general public or commuters or gathering of people by carrying out any acts mentioned above, or

(b) With a motive as mentioned in section (a), taking life of anyone, causing bodily mutilation, causing injury by using the materials as mentioned in the section (a) or by threatening to use such materials or by not using such materials but using or threatening to use other materials or means, or forcibly treating anyone at any place or in any type of vehicle or terrorizing by giving threat of causing harm or abducting a person with or without such vehicle from such place or vehicle, or terrorizing by such acts, or

(c) With a motive as mentioned in sections (a) and (b), producing, distributing, collecting, trafficking or importing-exporting, selling, carrying, fixing any type of weapons or bomb or explosive materials or poisonous materials or helping in such acts, or

(d) With a motive as mentioned in sections (a) and (b), carrying out acts like gathering people, providing training,

(e) Any other acts causing an atmosphere of fear and terror in the public life,

(f) With motives mentioned in the clauses and sub-clauses, acts of extorting cash and kind, robbing property.

(ii) If someone commits or conspires to commit terrorist and disruptive activities or encourages or compels somebody to commit such acts, or gathers more than one person to commit or get such acts committed, or sets up any gang or group to
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commit such acts or makes arrangements to commit such acts or get such acts committed or participates in such acts by taking or not taking remuneration or publicizes or gets such acts publicized or creates obstructions to the government communications system or gives shelter to the person involved in terrorist and disruptive activities or hides him/her, such acts shall also be considered as the terrorist and disruptive crime.

(iii) Any individual committing or helping to commit the acts as mentioned in sub-clauses (i) and (ii) shall be prosecuted and punished as per this ordinance.

4. Use of the ordinance outside the region

Even if an individual remaining outside the country commits the crime of terrorist and disruptive activities targeting the Kingdom of Nepal or Nepali citizen or any property of the Kingdom of Nepal, the individual shall be prosecuted and punished as per this ordinance assuming such acts as equivalent to have been committed by remaining inside the country.

5. Special authority to prevent terrorist and disruptive activities

Whatsoever is provided for in prevailing laws, an order can be issued to commit any or all of the following acts throughout or in any part of the Kingdom by His Majesty's Government and in the region designated to him/her by the security officer:

(a) arresting without warrant an individual suspected of being involved in terrorist and disruptive activities,

(b) carrying out a search without any notice at any time on any person's house, shop, go-down, vehicle or any other place if there is a suspicion that unlawful weapons, arms and ammunition, bomb or explosive materials have been kept or any individual related with the terrorist has been hiding,

(c) Carrying out a search of anyone's body and belongings with him/her or the goods used by him/her or the vehicle at any place or on the way for the purpose of preventing terrorist and disruptive activities,

(d) Using necessary force or weapons if any resistance put while arresting as per section (a) or carrying out a search as per sections (b) and (c) or while taking any other action,

(e) Using necessary force or weapons if a situation appears that a person who is carrying out or who has carried out terrorist and disruptive act can run away or cannot be arrested,

(f) Using necessary force or weapons to prevent harm, risk or other damages on the hostages while rescuing them from the person committing terrorist and disruptive activities from the forcibly captured vehicle or airplane or ship or any other vehicle or rescuing such vehicle or airplane or ship or any other vehicle,

(g) Using necessary force and weapons if any individual or group attacks with or without arms any security personnel involved in discharging the duty or acting for work,

(h) Using necessary force or weapons if any individual or group with arms threatens or attempts to threaten any security personnel on duty with a motive of causing physical harm to him/her,

(i) Using necessary force or weapons if any individual or group, with a motive of causing physical harm, throws stones or any other objects at the individual in need of the protection of security personnel or general public being protected by the security personnel, civil servants deputed on government work or government property or at the security personnel,

(j) Using necessary force or weapons if an encounter with armed individual or group
takes place or while carrying out the designated work any armed or unarmed individual or group creates obstructions to the security personnel,

(k) Using necessary force or weapons on the individual or group carrying arms with a motive to commit terrorist and disruptive activities, in the place of weapon storage or in the area where training is being held,

(l) The security personnel to take control of any weapon lying with armed individual or group and to keep in possession such weapons or unarm the carrier of such weapons as necessary,

(m) Carrying out a vigilance on any suspected individual or place or if required, arresting such person or effecting a lock-out or blockade,

(n) Freezing for certain time the bank account or passport of a person suspected of being involved in terrorist and disruptive activities.

6. Right to take up property

His Majesty's Government or the security officer can take private or public vehicles, food materials or any other goods, objects or property with a provision to give appropriate compensation or to return later.

7. Right to declare terror-affected zone or terrorist

(i) His Majesty's Government can declare the area affected by terrorist and disruptive activities or with such possibility as the terror-affected zone.

(ii) In the terror-affected zone declared as per sub-clause (i) or in case of a country-wide emergency declared, His Majesty's Government can issue an order of control on freedom of expression, press and publication, or on transportation and communication system in any part of the country.

(iii) His Majesty's Government can declare as terrorist any individual, organization or group involved in crimes punishable under this ordinance.

(iv) Whatever provision is made in this clause, in case of the declaration or the order of the state of emergency as per the Constitution of the Kingdom of Nepal, 1990, it shall be ipso facto presumed to have been declared as the terror-affected zone.

8. Right to declare prohibition on carrying weapons and arms and ammunition

(i) Whatever is provided for in the prevailing laws, His Majesty's Government can issue an order in the terror-affected zone as per clause 7 or in case of the declaration or order of the state of emergency as per the Constitution of the Kingdom of Nepal, 1990, prohibiting for a specified time to carry the licensed weapons or arms and ammunition possessed in accordance with the law or to deposit such weapon or arms and ammunition at the stipulated place for a specified period.

(ii) The weapons or arms and ammunition in possession with any individual in defiance with the order made as per sub-clause (i) shall be ceased.

9. Right to keep in preventive detention

(i) The security officer can issue an order to keep a person in preventive detention at a particular place for up to 90 days if there is a reasonable ground to believe that s/he should be stopped from committing such acts that could amount to terrorist and disruptive activities.

(ii) If it is deemed that the person should be kept beyond the 90 days as provided for in sub-clause (i), the security officer can keep the person in preventive detention
for additional 90 days with the permission of the Home Ministry, His Majesty's Government.

10. Penalty/Punishment

(i) If any terrorist and disruptive activity considered as crime as per this ordinance had claimed any life, the person who committed or got other person commit such crime or the main conspirator and the person ordering such crime shall be handed down life imprisonment with confiscation of all property.

(ii) If any crime stipulated in this ordinance had been committed but no one was killed, then the person committing or getting other person commit such crime or the main conspirator and the person ordering such crime shall be handed down life imprisonment.

(iii) If someone commits or encourages or compels somebody to commit such crimes as mentioned in this ordinance or gathers more than one person or sets up any group to commit or get such acts committed or makes arrangements to commit such acts or get such acts committed or participates in such acts by taking or not taking remuneration, or with a motive to commit such acts produces or distributes or possesses or traffics or export-imports or engages in exchange of any kind of weapons, bombs, explosive or poisonous materials or gets involved in publicity or provides shelter to or hides the person involved in such acts, then s/he shall be handed down an imprisonment of 5 to 10 years depending on the magnitude of the crime.

(iv) If any property has been damaged by the person committing terrorist and disruptive act, then the damage shall be compensated by confiscating the property s/he is entitled to receive as his patrimony. While making such compensation if the total amount of compensation cannot be recovered from his/her property, then for the remaining amount, s/he shall be handed down imprisonment equivalent to the period for not paying the penalty as per the prevailing laws.

(v) Any accomplice to the crime punishable under this ordinance shall be handed down half the punishment as to that of the one handed down to the perpetrator.

(vi) If anyone deliberately puts up resistance during a search made as per section (b) and (c) of clause 5, s/he shall be eligible for an imprisonment up to one year and a penalty up to ten thousand rupees or both.

11. Keeping in custody during trial

In a situation of the declaration or order of emergency as per the Constitution of the Kingdom of Nepal 1990, any accused of the crime under this ordinance shall normally be kept in detention while being tried.

12. Right to hold gatherings and to use the freedom of thought and expression

In the terror-affected zone declared as per clause 7 or in a state of the declaration or order of emergency as per the Constitution of the Kingdom of Nepal 1990, there shall be no restriction on gathering peacefully without arms, using freedom of thought and expression or commuting in any part of the Kingdom of Nepal not in contrary to this ordinance.

13. Coordination Committee

(i) To maintain coordination among the Royal Nepalese Army, Nepal Police, Armed Police and other necessary government agencies in order to prevent or control terrorist and disruptive activities in the designated area, a Coordination Committee shall be set up consisting of the Royal Nepalese Army, Nepal Police, Armed Police and the chiefs of other necessary government agencies including the
national investigation agency and the related regional administrator or the chief
district officer as the coordinator.
(ii) The Coordination Committee set up as per sub-clause (i) shall frame its proce-
dure by itself.

14. Confiscation
(i) If anyone commits crime as mentioned in this ordinance and has used any prop-
erty, equipment or instrument to commit such crime, such objects shall be con-
fiscated.
But if such property, equipment or vehicle has been used without the consent of
the owner, they shall not be confiscated.
(ii) Any means of publicity, weapon, cash and kind used to commit or to support in
committing such acts as considered crime as per clause 3 shall be confiscated.
(iii) If anyone is found to have committed an act considered crime as per this ordi-
nance by remaining outside the country, his/her movable and immovable prop-
erty inside the Kingdom of Nepal shall be confiscated in addition to the punish-
ment handed down as per clause 10.

15. Judicial authority and appeal
(i) The authority to try a case on crime under this ordinance shall lie with the court
constituted or designated by His Majesty’s Government by publishing a notice
in the Nepal Gazette.
(ii) The court, set up as per sub-clause (i), shall adopt a procedure as per the Special
Court Act 2031 while hearing and deciding on a case.
(iii) An appeal can be made at the Supreme Court on the verdict or the final order
given by the court set up as per sub-clause (i).

16. Government to be plaintiff
His Majesty’s Government shall be plaintiff in the cases under this ordinance and such
cases shall be considered to be falling under Appendix 1 of the Act Relating to Govern-
ment Cases.

17. Special procedure
(i) Whatsoever is provided for in the prevailing laws, if anyone committing an act
considered as terrorist and disruptive crime as per this ordinance abscends, as
far as possible a 15-day warrant has to be issued in order to arrest him/her with
his/her description. There shall not be any obstruction to take action as per this
ordinance if the person could not be traced out or arrested within that period.
(ii) Any individual, civil servant or security personnel can be used as informer
against the group involved in terrorist and disruptive activities and the indi-
vidual, civil servant or security personnel shall not receive any punishment as
per the prevailing laws on the ground that s/he had been involved in the group.
(iii) The identity of the informer shall be kept secret.
(iv) Whatsoever is provided for in the prevailing laws, if any accused involved in a
case made under this ordinance provides important matters or evidences or
provides direct support in finding out the main perpetrator who is the real leader,
in a way that is deemed plausible by His Majesty’s Government, police person-
nel or other officers, such accused can be made a government witness and if so,
s/he shall not receive any punishment as per the prevailing laws.
But if the person gives a false written statement or produces forged evidences or
without any appropriate reason found to have acted out of spite or in enmity,
such person shall be considered as equivalent to the accused and the authority
looking after the case can hand down punishment if any punishment has been claimed.

(v) Whatever is provided for in the prevailing laws, anyone accused of being involved in the crime under this ordinance can be kept in police custody for investigation for up to 90 days from the date of arrest with the approval of the authority looking into the case.

18. Control on means of communication
His Majesty’s Government can control the means of communication like letters, telephones or faxes of the individual or group involved in terrorist and disruptive activities.

19. Provision about medical expenses or punishment
(i) His Majesty’s Government shall provide reasonable medical expenses or compensation if the security person deputed in controlling and investigating terrorist and disruptive activities is killed or sustains bodily mutilation.
(ii) His Majesty’s Government shall decide about the arrangement of required medical treatment of the person affected by or fallen victim of the terrorist and disruptive activities and about the relief facilities given to such person.

20. Protection on good intention
Any officer or individual shall not be made subject to punishment for the acts done with good intention or for the efforts to act with good intention in accordance with the rules formulated under this ordinance.

21. No time limit
There shall be no time limit in filing a case under this ordinance.

22. Award
His Majesty’s Government can make an award as it considers appropriate to the person arresting or helping to arrest the person playing main role in committing or getting committed the terrorist and disruptive activities.

23. Delegation of authority
His Majesty’s Government can delegate some of the authorities as conferred to it by this ordinance to an officer and can take back such delegated authority as required.

24. Right to formulate rules
His Majesty’s Government can formulate necessary rules for the implementation of the purposes of this ordinance.

25. Protection
The matters provided for in this ordinance shall be implemented as per this ordinance and the rest shall be implemented as per the prevailing laws.
The Government-Maoist Truce Proposed Code of Conduct by Human Rights Organizations

Considering the fact that there has been a tremendous loss of life and property along with grave and rampant violations of human rights and humanitarian laws as repercussions of the ‘people’s war’ waged by the Communist Party of Nepal (Maoist) and due to the policies and manners adopted by the state in the name of suppressing the ‘people’s war’;

Mindful of the reality of compulsory protection of the fundamental rights of people to a life in peace and dignity,

Welcoming consciously the truce reached between His Majesty’s Government and the Communist Party of Nepal (Maoist) aiming at opening a peaceful outlet for the existing internal armed conflict,

Recollecting the high scale violence last year resulting from the unsuccessful peace talks even after completion of the phases of such talks as efforts to explore peaceful solution to the ongoing armed conflict,

Taking note strongly of the incessant mutual accusations by both parties of rupturing the peace talks that emanated from an acute lack of proper definition of truce and absence of guidelines for the activities to be and not to be carried out by the concerned parties in the talks,

Realizing the truth that the ultimate solution of the internal armed conflict is dialogue and that perpetuity of violence escalates counter-violence,

Now, therefore, keeping in view the present circumstance where His Majesty’s Government and the Communist Party of Nepal (Maoist) have reached at truce followed by the nomination of delegates for talks, a meeting of the human rights activists in Kathmandu has proposed the following Code of Conduct to be adhered by both parties in reference and concerned with the truce and the peace talks.

A. The Code of Conduct to be adhered by His Majesty’s Government

1. The official delegation representing the government to take part in the proposed peace talks should be disclosed at the earliest.
2. No one should be detained on the basis of being a Maoist or of any conscience when the talks are in progress.
3. The Terrorist and Disruptive Activities (Control and Punishment) Act, 2001 should be annulled at the earliest.
4. The government should create or pose no checks or obstacles to anybody in enjoying the constitutionally guaranteed fundamental right of holding peaceful gatherings and meetings.
5. The whereabouts and fate of the persons detained and disappeared on the basis of political conscience should be disclosed and the prisoners of conscience should be released.
6. The proxy cases inflicted upon the prisoners of conscience on different grounds should be revoked and the released prisoners must not be detained again.
7. The government officials including the delegates in the talks should not express anything against the spirit of the talks.
8. There should be no deployment of security forces in association with the Maoist problem.
9. As a part of the talks, the government should launch programs of rescue and rehabilitation in support of the conflict-ridden public.

B. The Code of Conduct to be adhered to by the Communist Party of Nepal (Maoist)

1. No collection of donation by force from any industrial organization, non-governmental office, shop, private residence or anybody or else anywhere.
2. No abduction in the name of 'public action' and terrifying no public to create a favorable atmosphere for the party's interest.
3. Should cease to continue any act of demolishing or destructing the places and agencies that are directly associated with public interests and welfare.
4. Any act by force in the educational institutions in order to terrify the students, teachers and guardians and to disturb the academic environment should cease to persist.
5. The children in the 'people's militia' should be released at the earliest.
6. The whereabouts and fate of all the persons abducted and taken into control should be disclosed and they should be released.
7. Should pose no ban over the activities of other political parties nor terrify them in operating their activities.
8. The high command of the Communist Party of Nepal (Maoist) should circulate to all of its subordinates, leaders and activists, including those at grass root levels that this Code of Conduct is mandatory to all of them.

C. The Code of Conduct to be adhered to by both the parties

1. Should assume that the span of the truce is extended every time they comply to meet again after the completion of each phase of talks.
2. During the truce, none of the parties should operate, deploy, demonstrate or use armed force that creates fear and excitement in public and among themselves.
3. The truce should not be misused as a means to accumulate power for further confrontation.
4. Continuing the truce unconditionally, prepare a transparent code of conduct for peace dialogues.
5. Both the parties should make use of the means of information and communication to create an environment conducive to peace negotiation.
6. The meaningful representation and participation of women, children, indigenous people and dalits in the proposed peace talks should be guaranteed.
7. For the permanence and facilitation of the peace talks, a compulsory representation of different political parties, human rights activists and civic society should be guaranteed.
8. Human rights and humanitarian laws must be respected.
9. The grave offenders of the humanitarian laws and the perpetrators of crimes against humanity must be made accountable for their crimes.
10. There should be people's agenda in the peace process focusing on the roots of the unrest, causes of failure to address them and the opinion of common folks with measures to be taken for their lasting solution without violating the present constitutional parameters.

Observation
The human rights community will regularly observe whether the provisions cited in the aforesaid Code of Conduct are being followed.
Draft Human Rights Accord
Agreement between His Majesty’s Government of Nepal (HMG/N) and Nepal Communist Party (Maoist) on Principles of Human Rights and Humanitarian Laws
Preamble

Recognizing the willingness of His Majesty’s Government of Nepal (HMG/N) and the Nepal Communist Party-Maoist (CPN-M), hereafter referred to as „the Parties“, to find a negotiated solution to the present conflict in Nepal and to establish the foundation for a lasting peace in a society respectful of human rights,

Recognizing the suffering of Nepalese people during the armed conflict of recent years and their overwhelming desire for peace to provide a context for economic and social development,

Recalling the obligations of HMG/N towards both the Nepalese law and the international human rights and humanitarian treaties to which Nepal is a party,

Further recalling that HMG/N is a party to the Geneva Convention of 12 August 1949, which set out the basic rules of international humanitarian law,

Recognizing the willingness of the CPN-M to abide by the principles of humanitarian and human rights laws enshrined in these instruments,

Welcoming in particular the declaration by HMG/N and CPN-M in support of the provisions of Common Article 3 of the Geneva Convention, which regulates the protection of persons taking no active part in hostilities in armed conflicts of a non-international character,

Noting the need to implement in practice the commitments regarding human rights made by the Parties in the Code of Conduct of 13 March 2003,

Recalling the commitment expressed by the representative(s) and Negotiation Teams of HMG/N and CPN-M during their separate talks held with the National Human Rights Commission (NHRC) on April 21 and April 29, 2003 respectively,

Mindful of the fundamental role that the NHRC can play for the promotion and protection of human rights in the peace process and of the desirability of strengthening it and recognizing the Commission as a key actor in this process,

Reaffirming that the overall objective of the Parties is to ensure respect for, and the enjoyment of, the full range of internationally recognized human rights as set out in the Universal Declaration of Human Rights, other international human rights and humanitarian instruments, and in particular those treaties to which Nepal is a party,

The Parties have agreed to the following:

PART 1
1. The Parties undertake measures to guarantee to all persons the rights and protections spelled out in this Agreement without discrimination of any kind with respect to race, color, sex, caste, tribe, language, religion; opinions political or otherwise;
national, ethnic or social origin; disability, property, birth or any other status. Nobody will suffer persecution or harassment or be discriminated against for the reasons set out in this Agreement.

2. The Parties undertake to adopt without delay the necessary measures for the prevention of violations of the rights and guarantees in this Agreement.

3. Everyone has the inherent right to life, integrity, and security of the person. The Parties will unreservedly respect the right to life and no one shall be given death penalty. To this end, the Parties undertake to issue immediate instructions to implement total respect for the provisions of Article 3 common to the Geneva Convention in relation to anybody taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause. Accordingly, these persons will not, under any circumstance be subjected to:

3.1. violence on their lives and person, in particular murder of all kinds, mutilation, torture or cruel, inhumane or degrading treatment or punishment;

3.2. taking of hostages;

3.3. any other outrages upon personal dignity, in particular humiliating and degrading treatment, rape or other acts of sexual abuse; and

3.4. collective punishment against persons and their property, as well as pillage.

4. Everyone has the right to liberty. Nobody will be arbitrarily deprived of his or her liberty. The Parties shall undertake measures to prevent illegal or arbitrary detentions. No one shall be held incommunicado or in secret detention. Forced disappearances and kidnappings are prohibited. Anyone deprived of liberty shall be held in a recognized place of detention.

4.1 Anyone who is arrested shall be informed, at the time of arrest, of the reasons for the arrest and shall be promptly informed of any charges against him or her; no arrest shall be carried out at night except in case of flagrante delicto.

4.2 Accurate information on the whereabouts of persons in custody, including transfers, shall be made promptly available to their family members, counsel or other persons having a legitimate interest in the information.

4.3 Persons deprived of liberty shall be treated humanely and provided with food and drinking water, decent accommodation and clothing, and safeguards towards health, hygiene, working and social conditions.

4.4 Persons deprived of liberty shall be allowed to communicate with the outside world including their family members or counsel in accordance with reasonable regulations promulgated by the competent authority.

4.5 Persons deprived of liberty will be released in a manner permitting reliable verification that they have actually been released and in conditions in which their physical integrity and ability to exercise their rights are fully assured.

5. The Parties will guarantee the right to an effective remedy, including the right to habeas corpus, as a means to determine the whereabouts or the state of health of persons deprived of their liberty and for identifying the agents who ordered or carried out the deprivation of liberty. Any deliberate impediment to this remedy will be a punishable offence.

6. HMG/N will immediately suspend the operations of TADA. And HMG/N ensures the non-enforceability of TADA through ordinance, after its termination of date of enforcement.

7. HMG/N will guarantee that no person shall be prosecuted or punished for the same offense in a court of law more than once. However, HMG/N ensures that there shall be no impunity to any human rights violation.
8. No sentences will be passed without previous judgment pronounced by a competent court, affording all judicial guarantees recognized as indispensable by civilized peoples. Accordingly:

8.1 The accused detained during investigation or for any other reason shall not be subjected to physical or mental torture; nor shall be given any cruel, inhumane or degrading treatment. Any person so treated shall be compensated in manner as determined by law;

8.2 The accused shall be informed without delay of the particulars of the accusation against him or her, and shall be provided with a trial within a reasonable time;

8.3 The accused shall be provided with all necessary rights and means of defense before and during his or her trial; and

8.4 The accused shall have the right to be tried in his or her presence, to defend him or herself in person or through counsel of his or her own choosing and to communicate freely and privately with such counsel.

9. Everyone shall have the right to freedom of movement and to choose his or her place of residence. The Parties shall ensure the movement and access of aid agencies for the circulation and distribution of food and medicines and the provision of essential services.

10. The Parties shall ensure to those displaced by the conflict their right to return to their original residence, where possible, or to an adequate place of their own choosing in the vicinity of their former home. The returnees to the villages shall not be fined or levied.

11. Everyone shall have the right to freedom of opinion, expression and freedom to profess religion. This right shall include freedom to have or to adopt a religion or belief of choice, and freedom to practice religion or belief through worship, observance, and teaching.

12. Everyone shall have the right to hold opinion without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds.

13. Everyone shall have the right to freedom of association with others. The right of peaceful assembly shall be recognized.

14. Women and children are entitled to special protection. The Parties agree to fully respect international law applicable to the rights of the child and to the rights and protection of women and girls. The CPN-M commits to ending the recruitment of boys and girls under the age of 18 years in any capacity into their forces, and to releasing all underage recruits and ensuring, to the extent possible, their rehabilitation and reunification with their families.

15. The parties accept the importance of human rights and humanitarian organizations and other non-governmental organizations and ensure the presence of such organizations in all places of the country. The parties ensure the protection of human rights activists in all respects.

16. The parties accept that the schools be considered as peace zone and no political activities shall be conducted within the school premises or building by honoring the right to education of all.

17. Every citizen shall have the right and the opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives.

18. The Parties note that this Agreement does not constitute an exhaustive accord on human rights. The Parties shall review the implementation of this Agreement every
six months. The NHRC of Nepal will be entitled to propose to the Parties at any time during the duration of this agreement the expansion of the list of rights protected by this Agreement. The Parties agree to give their immediate and most serious consideration to such proposals.

PART 2

19. The Parties agree to institute in the shortest possible time a training program on humanitarian and human rights laws within their respective bodies.

20. Under the aegis of the NHRC, the Parties agree to set up a special joint committee to review the situation of all those currently in detention by the State. Immediate remedial action shall be taken to hasten the release of any person whose case shows any legal irregularities. The CPN-M in areas under its influence will allow inspection as outlined below in the section on monitoring, of any place suspected of being a center of detention.

21. As part of the ongoing peace negotiations, the Parties will set up a working group to examine ways to end discrimination on the basis of race, color, sex, caste, tribe, language, religion; opinions political or otherwise; national, ethnic, or social origin; disability, property, birth, or any other status and to explore ways of ensuring the rights of indigenous people and minorities according to international standards.

22. As part of the ongoing peace negotiations the Parties will, in consultation with interested organizations, agree to an appropriate mechanism for dealing effectively with past human rights violations since February 1996 and review the measures necessary to ensure an end of impunity which has resulted in human rights abuses. Similarly, this mechanism shall also work for the determination of compensation and assistance to the victims of the conflict or their families.

PART 3

23. The monitoring of respect for human rights in the context of the peace process in Nepal will be carried out by the NHRC.

24. The monitoring function of the NHRC is to:

24.1 Ensure that there is full respect for the rights spelled out in this Agreement for which the NHRC will receive, analyze and verify complaints regarding possible violations of the rights set out in the Code of Conduct of 13 March 2003 and the Human Rights Agreement. Any further agreements concerning human rights made during the peace process will also be incorporated into the mandate of the NHRC as instructed by the Parties to the conflict;

24.2 Ensure that the relevant national institutions are carrying out appropriate investigations into possible human rights violations in accordance with the national laws of Nepal and its international obligations on human rights;

24.3 Determine whether or not a violation of human rights has occurred on the basis of the information available and the NHRC will inform the Parties of its findings and recommendations and publish these findings on a regular and prompt basis.

25. In order to carry out these functions, the NHRC will be empowered, for the period of its monitoring role which will be terminated by mutual agreement of the parties, to take the following measures:

25.1 The NHRC will set up, under the guidance of its commissioners, a structure that will be able to carry out the tasks assigned to the NHRC. This unit will be known as the NHRC Monitoring Body. This Body will have its own executive director, to be appointed by the NHRC in consultation with the Parties, and will be contracted by UN agency.
25.2 The monitoring body will pay particular attention to the rights to life, integrity and security of a person; individual liberty; due process; and freedom of expression, movement and association.

25.3 The victims of the conflict who have suffered from the actions of either of the Parties shall be recognized equally and HMG/N shall ensure immediate relief to the victims of both Parties. In the course of relief distribution, priority will be given to the families of the deceased, the wounded, dependent children, the elderly, widows, rehabilitation of the displaced, and reconstruction of the destroyed private houses and properties, etc.

25.4 Particular attention will be paid to the situation of the most vulnerable groups of society, including children, IDPs, and any group subject to discrimination.

25.5 The NHRC will inform the relevant bodies of the United Nations of its mandate and seek through the UN to raise funds to cover the necessary costs of adequately carrying out that mandate in an independent, impartial, and credible fashion. This will include funds to contract, on a temporary basis, the necessary national and international staff and to procure the necessary equipment and infrastructure for the completion of these tasks.

25.6 The NHRC will be empowered to request the UN, in consultation with the Parties, to provide the necessary technical assistance to permit the NHRC to carry out its mandate in an independent, impartial, and credible fashion. This will include the strengthening of its capacity at the central level to receive and process complaints and other information to allow it to fully inform the parties and the public of the progress on the respect of human rights.

25.7 The NHRC will set up five regional offices in various districts as per the need to allow it to carry out its work throughout the national territory, prioritizing areas, which have suffered the most severe violations of human rights and humanitarian law. It will further establish working practices that allow Nepali citizens throughout the territory to have access to the NHRC in order to make complaints about violations of human rights or humanitarian law. The staff of the monitoring body will be allowed by the parties to move freely throughout the country.

25.8 The staff of the NHRC monitoring body will interview any person or group freely and privately, and will visit government establishments and areas under the control of CPN-M freely and without prior notice when this is necessary to carry out the monitoring function. This will apply particularly to the places and establishments suspected of being used for detention purposes.

25.9 The NHRC will collect all information which may be relevant for the implementation of its mandate.

25.10 The NHRC will launch a public information campaign to inform the entire population of its mandate, its methods and the progress of its work. This will include an educational and informational campaign on human rights. To facilitate this function, the state media will give reasonable access to the NHRC and the Parties shall urge private communication media also to cooperate with these efforts.

25.11 The NHRC will make recommendations to the Parties on the basis of any conclusions it has reached with respect to the cases or issues it has been called upon to consider.

26. The Parties agree to give their full support to the NHRC. This will include ensuring the security of the staff of the NHRC monitoring body as well as the persons who provide information to it. The parties will respond promptly to any request for
information or suggestions for measures to improve the protection and promotion of human rights. The Parties agree not to hinder the work of the NHRC, as set out in these terms of reference, in any way.

27. Each Party shall appoint a liaison officer or designate a focal point to ensure smooth communication between them and with the NHRC monitoring body.

28. Cases considered by the NHRC monitoring body will be passed, if appropriate, to the relevant national legal structures when there is a basis for criminal prosecution.

29. When the mandate of the monitoring body is terminated by the Parties, the NHRC will be given the necessary resources to publish, within two months, a report on its work, findings, and recommendations.

30. This agreement shall come into force from the date of signing by both parties. This agreement may be amended by the consent of both parties. National Human Rights Commission shall have the final authority to interpret any provision of this agreement. Any party may quit from the obligations of this agreement by providing a notice of fifteen days in advance.
The Peaceful Solution and the War Conspiracy*

Despite the ceasefire agreement followed by the issuance of the 22-point code of conduct, the climate of suspicion grows darker with each passing day due to the activities of Royal Army (RA) and the US-led imperialist bloc. After the first and second rounds of peace talks between the government and the CPN(M), the old state has been beset by crisis and division. The RA backed by US imperialism refused to reduce its armed activities within five-kilometer periphery of the barracks. The King-appointed Chand government was replaced by the pro-Indian Thapa government. However, Thapa's is a continuation of the old. It did not represent any qualitative difference from the earlier one.

The RA has launched several operations against the People's Liberation Army, specially the local militias who are involved in development and social work. The killings in Udaypur, Okhaldhunga, Dolakha, Ramechhap, Jajarkot, Kalikot, Dhading, and Hetauda, etc. show that the RA has not only arbitrarily been breaking the ceasefire but provoking and resuming war. RA spokesman Gurung, after the second round of dialogue in May, declared in a press conference that the RA is ready to suppress the rebels because they have obtained better training and have get well equipped during the ceasefire. So they insist that the only solution for the Maoists is to hand back the weapons and surrender. This is clearly not a political solution nor a commitment to it.

In the first and second rounds of peace talks and the informal talks with the new team, it was also agreed to release the leaders and political prisoners. What happened in response?

The answer is very sad and negative. The RA and the police are arresting thousands of members of CPN(M), students, women, and peasants. Those arrested have been accused of violating the code of conduct by collecting donations. It was agreed that there should be no forced donations, but donations out of free will are allowed. Lots of forced donations or lootings are organised by the army, police, or the secret service which are blamed on the Maoists.

There have been attempts to arrest or kidnap student leaders. The Secretary of the Office of the Dialogue Team, Bharat Dhungana, was arrested by the army personnel in civilian clothes and tortured severely. He was interrogated on an issue to which he was not related. Later, the government Coordinator of the Dialogue Team, Mr. Kamal Thapa, said that the government would guarantee security only to the members of the dialogue team. Then the office of the CPN(M) was closed. The office of the student organisation ANNISU (Revolutionary) was also closed for security reasons.

If the government does not guarantee the safety of the members of the CPN(M), who are in open for a peaceful solution, then what would be the result of a dialogue? One can easily imagine that the government is making war preparations and wants to arrest as many cadres as possible and launch the operation. It has failed due to the timely

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* From time to time, we will provide information about what is actually happening in Nepal. This is to counter the lies and misinformation being spread out by the imperialist and reactionary mass media.
measures of the CPN(M). Gyanedra Tripathi, a member of the Dialogue Management Committee, was kidnapped while carrying about Rs. 600,000 for printing cost and was seriously tortured in an undisclosed place. 14 members of the CPN(M) including supporters were arrested in Dolakha and tortured severely and were visited by the human rights activists Jhapali and others.

The RA is being mobilised in the name of medical help inside the liberated areas. When the authorities and the people oppose the violations of the code of conduct, the RA kills the people and supporters. But the RA is completely ignoring the areas where people are suffering from an epidemic.

The RA and the police have been making the Goebbels like propaganda against Maoists. Misinformation campaigns are going on as in the time of state of emergency. The solution cannot depend on restraint by only one side. The Mafia gangs and the Monarch see their hope of existence not on the people but on the foreign invaders and sophisticated weapons. They are not willing to allow the people to decide on their own rule and destiny.

The parliament was dissolved by the brother-killer King Gyanendra in May 2002. He even overthrew Prime Minister Deuba who helped the monarch to declare emergency and to dissolve the parliament. Deuba served as henchman of the White House and the Royal Palace and split the Nepali Congress Party.

The parliamentary parties were the partners of the murderer and criminal monarch in imposing the state of emergency, dissolving the parliament and providing higher authority to the monarch in a different manner. Now there is no constitution. There is no rule of law. There is no system of responsibility but anarchy and the Royal military dictatorship. The King appoints the prime ministers and ministers in the style of the 15th or 16th century absolute monarchs.

The result is: the dialogue team of the CPN(M) has gone underground. The CPN(M) has said they will come to dialogue if the government creates a conducive atmosphere, guarantees security, and implements the agreements of the first and the second rounds of the dialogue. But it seems to be more a dream than reality to expect from the traitor Royal Army who were even involved in the massacre of Royal family in June 2001. And now it is acting as the US-Royal army.

All the above mentioned facts show that there will be a war of bloodshed in the near future despite the commitment of the CPN(M) and the Nepali people for a peaceful solution. It is clear that the CPN(M) is also preparing the resistance which is natural because there is no guarantee for the holding of a third or another round of talks and the decisions taken in the earlier ones have been violated or ignored. The necessity is not only for the resistance of the Nepalese people but the international resistance against the US-led imperialist intervention.

The US and its allies do not want to see the independence of any part of the world and want to colonise and oppress. Today’s freedom struggle and resistance will not be successful without the worldwide resistance of the oppressed people. So this is the duty of the oppressed and democratic people of the world.

We have just received a news that, considering the peculiar situation, the CPN(M) has submitted an official letter to the government giving an ultimatum until July 31st to declare their position on some questions. The CPN(M) is against the current regime and their constitution.
The official letter points, among other things, that:
1. the government should implement the agreements reached in the earlier two rounds of dialogue and should strictly follow the code of conduct instead of making loud rhetoric of dialogue for nothing;
2. the king should directly participate in the dialogue or should give his full authority to his representatives to reach a conclusion through an open and public declaration.
3. the Royal Army should stay in the barracks and should openly declare their commitment to follow the decisions; and
4. the agreement made with the US during the cease-fire must be cancelled and the US armed forces and so-called experts must be expelled from the country.

Source: Adapted from INSOF (Internationalist Nepalese Solidarity Forum, Germany) Information Bulletin No. 1
Chapter Nine

Summary and Conclusion

In the light of their performance since 1990, the political parties in Nepal can be broadly grouped into three categories: right, center, and left. The Nepali Congress (NC) is regarded as a rightist party, very close to Indian power and politics, but it is recognized as semi-reformist. The Sadbhawana Party is on the extreme right that aligns itself with India on a regional basis. Its supporters are commonly called regionalist who advocate for the rights of tarai dwellers. Shiva Sena Nepal represents the category of fundamentalists. The Rashtriyta Pratatantra Party, which is placed at the center and called conformist, has no political ideology but supports absolute monarchy. The left force or Nepalese communist movement finds three trends in it from its very inception: (i) rightist, (ii) moderate, and (iii) ultra left. Those who support monarchy against the communist politico-ideology are called rightists, for instance, Dr. Keshar Janga Rayamajhi. The CPN (UML) is a moderate force that places itself in between China and India, but it is generally regarded as reformist communist party which is slightly sympathetic towards India for the sake of power, but politically closer to China. Other communist factions such as CPN (ML), CPN (Masal), etc. are figured as somewhere between UML and CPN (Maoist) and termed as semi-abolitionists which are slightly closer to China than India. The Maoist political party, which has been waging the armed conflict since 1996 following the politico-ideology of Marx and Lenin and military strategy of Mao Zedong, along with that of Che Guerra too, is named as abolitionist or revolutionary.

Conflict is not a new phenomenon in Nepal. At each 10-year interval, a conflict has occurred here in the 20th century. If we look at the socio-political history of the Communist Party of Nepal, it is clear that it has been fighting for socioeconomic transformation to achieve equity, social justice, and dignity for the poorest of the poor, marginalized, and vulnerable communities since its very inception in 1950. The communist movement often worked as a latent armed conflict before 1990 and had surfaced periodically in the half decade between 1990 and 1995. It finally emerged as an open armed conflict in 1996.

9.1 Politics of People’s War

Under the leadership of Pushpa Kamal Dahal, devotedly called Comrade Prachanda, and Dr. Baburam Bhattarai, the CPN (Maoist) initiated the People’s War on February 13, 1996 with the main objectives for sweeping away the constitutional monarchy, bureaucratic capitalism, feudalistic mode of society (semi-feudalism, semi-imperialism, and capitalism), and historical roots of social inequality to establish a patriotic, democratic, progressive, and prosperous People’s Republic of Nepal.
On March 27, 2002, commenting on the former 40-point demands for the abolition of multi-party democracy, Prachanda declared: „We want to clarify once again that we are committed to guarantee party freedom in the new state-power that will be constructed after the destruction of feudal autocracy and old regime. The state envisaged by us will not be a one-party dictatorship. The freedom to operate political parties according to one’s ideological convictions and contest elections will be guaranteed” (Tiwari: June 5, 2002).

Nepalâ€Es Peopleâ€Es War is ideologically similar to the Shining Path undertaken by the Communist Party of Peru and the Peopleâ€Es Wars conducted by the Communist Party of India (Marxist-Leninist), the Maoist Communist Center of India, Liberation of Tamil Tigers Elam (TTE), Coordination Committee of Maoist Parties and Organizations of South Asia (CCOMPOSA), Communist Party · Philippines, etc. It is coordinated with the London-based Revolutionary Internationalist Movement (RIM). Similarly, it is widely supported in terms of both political and economical dimensions in Europe, where several organizations are already formed. These are: RIM · London, Nepali Peopleâ€Es War Coordination Committee · Belgium, Nepali Peopleâ€Es Progressive Forum · Belgium, Workers Party · Belgium, Nepali Peopleâ€Es Progressive Forum · Holland, Internationalist Nepalese Solidarity Forum · Germany, Red Sun · Denmark, Workersâ€ Communistic Party · Denmark (Annex-IX.1), Nepali Peopleâ€Es Progressive Forum · Portugal, Nepali Peopleâ€Es Progressive Forum · Norway, Proletariat Communist Group · Italy, and all the revolutionaries in the world who are against American government, its policies of imperialism and alleged war against terrorism.

The CPN (Maoist) is fighting for identity, resources, politico-ideology, and armed fronts. First, the politico-ideology of the top leaders reached the grassroots levels and capitalized the sentiments of frustrated and alienated unemployed youths and communist forces through the legal left wing UPF with the message that the Westminster-style democracy in the context of Nepal could not fulfill their expectations. Second, the revolutionaries centralized and focused their attention towards the people of disadvantaged, vulnerable, and marginalized communities who were treated as second-class citizens in terms of identity (caste, ethnicity, sex, language, social origin, political, or other opinion), resources and opportunity (political, economic, social, legal, etc.) and they were continuously deprived from the main fruits of democracy, viz. human rights and rule of law, even after the restoration of democracy in 1990.

Theoretically, the CPN (Maoist) has applied the tools of Marxist philosophy, political economy and scientific socialism. But in practice, they have combined the party, the revolutionary peopleâ€Es army, and the united front to constitute the United Revolutionary Peopleâ€Es Council (URPC). The Peopleâ€Es War has generally adopted the policies of „one area, one unit, and one action” and „one man, one contact.” The Maoists utilize the strategy of „encircling cities/urban areas from the countryside/rural areas” and apply „hit and run” tactics, following a more-than-half-a-century-old guerrilla warfare method adopted by Mao Zedong in China. The principles of the guerrilla warfare are to „assemble the parts into a whole” for strong action that is to raid, ransack, and overpower the enemy and to „break up
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the whole into parts% after the completion of action. Rural people are voluntarily and involuntarily associated with the People’s War because of the Maoists’ slogan of “one house-one man, one area-one organization, one man-one suggestion, and one house-one bunker/trench% for the forthcoming offensive of decisive war.”

After the restoration of democracy in 1990, NC appeared as the state leader in Nepal. People had high hopes and expectations in democracy and they were convinced that the elected government would fulfill minimum standards of their basic needs as basic rights. Despite the people’s voices and expectations of equality, justice, freedom, security, and dignity, the ruling party gave priority to its own parivar (family), party and its activists aphan manchhe (sycophancy, nepotism, and favoritism) and aphan chhetra (own constituency). On the other hand, the common people including the poor, vulnerable, and disadvantaged youths, who had for long protested against socioeconomic injustices and inequalities, got affiliated towards the legal left wing UPF which appeared as an alternative to the ruling party government in the western hills and mountains, such as Rukum and Rolpa districts in particular, and showed its great strength in both the parliamentary elections of 1991 and the local elections of 1992. Instead of respecting the democratic values and norms, the ruling party NC tried to eliminate UPF in the areas where NC candidates had been defeated by the UPF through extensive misuse of the state apparatus such as power, politics, and physical resources. In order to emancipate the majority of the people from all kinds of political repression, socioeconomic injustice, and cultural intolerance, the UPF · the wing of the CPN (Mashal) · formally gave birth to a revolutionary warfare, called the Maoists’ People’s War. Indeed, the Maoists pulled the Aclass of poor, disadvantaged, marginalized, and vulnerable people and capitalized them for the protracted Aclash.

The communist revolutionaries around the world adopt Marxism-Leninism-Maoism in the title of their movement and march on to emancipate the great majority of common masses from widespread injustice, inequality, exclusion, exploitation, intolerance, and oppression by waging guerrilla warfare which is called people’s war in modern day world. The revolutionaries believe that people’s war is a national liberation movement, a war of common masses, and a war of emancipation of the entire poverty-stricken, vulnerable, marginalized, and disadvantaged people. The people’s war needs quantum jump to make qualitative changes in society through the means of socioeconomic transformation. It is a new weapon in the hands of world revolutionaries who believe that the common people are the judge and the master of the elite class people and the war will achieve socioeconomic transformation. The method of guerrilla warfare was used in China by Mao, in Cuba by Che Guevara, and in Vietnam by Ho Chi Minh against state imperialism, colonialism, feudalism, and absolutism. But war itself is painful and destructive. War violates human rights. And violence begets more violence.

In order to achieve New People’s Democracy and Republican State, the CPN (Maoist) has given priority to rural work, without abandoning the urban work. The Maoists have given priority to rightful armed struggle, without abandoning the lawful struggles. They have given priority to peace-talks, without abandoning military work and political process; they have given priority to some specific
areas, without abandoning the nationwide programs; they have given priority to the struggle of toiling peasants in villages, without abandoning the needs of workers in the urban centers; they have given priority to emancipation of the people, without abandoning the struggle against the tyranny of their enemy; they have given priority to propaganda within the country, without abandoning worldwide campaign; they have given priority to constructing a people's liberation organization, without abandoning frontal and united organizations; they have given priority to poor, disadvantaged, marginalized, and the vulnerable people, without abandoning the elite-class people; they have given priority to people's need-based and demand-driven policies and programs, without abandoning to examine the elite-based policies and programs; and they have given priority to paralyze the local governments for the establishment of people's governments by demolishing development infrastructures, without abandoning the threats to institutions at the central level in the past few years since 1996. With these guidelines, the Maoists have also tried to create unity among various nationalist, democratic, and progressive communist parties and revolutionaries, and to receive strategical and practical support from the international community.

And to drive the movement speedily, the CPN (Maoist) primarily adopts Maoism with its tools of strategic defensive, strategic stalemate, and strategic offensive that focus on surprise attacks and deceptions. In terms of diplomatic and psychological arts of strategy, it is way ahead from the rest of the political parties in Nepal. It applies strategic defensive measures to the enemy's strategic offensive, prepares for counteroffensive in order to face the enemy's strategic consolidation of the power, and resorts to strategic counteroffensive when the enemy is in the state of strategic retreat, following the Mao guideline: Withdraw when the enemy advances, harass him when he stops, strike him when he is weary, and follow him when he withdraws. The basic principle of a protracted war is to preserve oneself and destroy the enemy.

The CPN (Maoist) applies the theory of perspective knowledge to rationalize and utilize the rational knowledge in revolutionary practice. It has been able to revolutionize the people because of: (i) political repression, socio-cultural discrimination, injustice and intolerance, and economic disparity and deprivation; (ii) famine, hunger, and disease intensified in the countryside (as the government has centralized the economic resources, opportunities, power, and political system); (iii) repressive policy of the state against the aspirations of common people to acquire basic needs as basic rights; and (iv) the growing culture of impunity which is gradually demolishing the people's hope in democracy, human rights, and rule of law. Respecting the people's demands, desires, and voices, the CPN (Maoist) had forwarded the 40-point list of demands, prioritizing the causes of nationality, people's democracy, and livelihood and have tried to project the common masses as an alternative force to be reckoned with.

The demands forwarded by the Maoists are sincere, genuine and well targeted toward the mainstream of the rural people, urban poor, vulnerable communities, and disadvantaged groups. As Nepal is an agricultural country, they have given high priority to the needs of toiling village peasants with an aim to abolish the
traditional feudalistic mode of production and historical roots of social inequality and injustices. As to the demands concerning nationality, they have strongly opposed all discriminatory Indo-Nepal treaties including the integrated Mahakali Treaty. Despite the protests of civil society, the coalition government headed by Sher Bahadur Deuba and the major faction of UML managed to get the treaty ratified in 1995 from the Parliament. People who visit the dam site even today clearly realize how Indian interests exercise monopoly over Nepal's resources, sovereignty, and people's welfare. The Mahakali Treaty was designed to cover up the loopholes of the fatal Tanakpur issue.

Most of the demands put forward by the Maoists for the cause of nationality are against the high-handedness of India and Indian people. The aims to establish People's Republic of Nepal and practise non-discrimination in terms of caste, ethnicity, language, religion, and gender have been mentioned in the demands concerning people's democracy and their social and economic uplift. The Maoists have also demanded to cease all privileges of the king and royal families and to keep the Royal Nepal Army (RNA) under the people's government. Issues related to social and economic uplift of the common masses are raised in demands concerning people's livelihood. Except the two demands, viz. abolition of multi-party democracy and constitutional monarchy, 95 percent of the demands can be conveniently implemented without any reservation by any democratic government, as similar socio-cultural and economic aspects have also been dealt with by the Constitution under the directive principles and policies of the state under Articles 25 and 26. On the whole, the 40-point list of demands primarily focuses on putting the last first, such as poor, disadvantaged, marginalized, and vulnerable communities. And the People's War was initiated on the principle that "rights are snatched by fighting, not by begging."

The People's War intensified as a wildfire across the country because (i) the government has failed to ensure social security, transparency and accountability; (ii) inequality prevails in distribution of resources and opportunities; (iii) massive disparity exists in the ownership of productive assets both in capital and non-capital categories; (iv) media highlights the People's War all the time so that the ordinary people think that the Maoists have become the main political contender in Nepal; (v) the main opposition political party UML and other political parties could not play any effective role for the people and the nation; and (vi) the CPN (Maoist) has raised the slogan for emancipation from all kinds of social injustices and inequalities.

Since Nepal has been guided by elite-based ruling system and feudalistic mode of society, the genesis of the People's War is a multi-dimensional and interwoven complex web of political, social, and economic problems. The war is the cause of primary, secondary, and collateral factors, which in general have intensified it as a wildfire across the country within a short period of time due to the lack of state's vision and policy; revivalist character of the political leaders; dogmatic tendency in the ruling party; meaningless role of the main opposition party; revolutionary fervor in communist parties; polarized bureaucracy and technocracy; handicapped diplomacy and foreign policy; intellectual parsimony; absence of transparency.
and accountability; poor governance; corruption; feudalistic mode of society and historical roots of social inequality; resource scarcity; unequal access to knowledge, resources, and opportunities; uneven development; negligence on gender and ethnic issues concerning language, caste, religion, etc; ethnic desire for autonomy and self-determination; unemployment and frustrated expectations; deteriorating law and order; culture of impunity; criminalization in politics; media glorification; international support; India’s monopoly over Nepal’s resources; and transformation of the country into proxy battleground for India and Pakistan who have reportedly established intelligence services here. The rise in exploitation of the common masses by the rich, of the powerless by the elite class, of the rural people by the urban people, of the uneducated by the educated people, of the various nationalities by bahun, chhetri and Newars (BCN) are also the root causes of initiation and intensification of the People’s War.

Therefore, a huge number of individuals who are disadvantaged in and dissatisfied with the present system and frustrated with the fake commitments of politicians and bureaucrats fuel the Maoist militancy in the hope to get „food first“ in People’s Republic of Nepal. Impoverished people want to be freed from hunger and malnutrition, diseases, and illiteracy through progressive socioeconomic transformation and social justice for effective change. Professor David Seddon states, „It has continued to grow and gain support and sympathy from even those who do not support the armed struggle as a means of bringing about effective change“ (www.preventconflict.org/conference/nepal_comments3.html).

Instead of solving the problems peacefully, the government momentously intensified Cordon and Search and Search and Destroy operations silently and launched Sierra Kilo Two, Peter One, Jangle Search, and Chakrabyuh operations at different times. In retaliation, the People’s War has successfully gained a „new height“ crossing many obstacles and restrictions of the state. Within the half-decade, it has geared up various strategies and plans for: (i) initiation of the People’s War; (ii) development of the guerrilla warfare in a systematic way; (iii) development of the guerrilla warfare to new heights; (iv) establishment of base areas; (v) advancement in the prime direction for constructing new base areas; and (vi) undertaking new responsibilities in view of the new situation. Each strategy and plan is further divided for its preparation, initiation, continuation, and development.

After the announcement for base areas at the epicenters, the Maoist cadres formed the people’s governments and people’s courts which function as autonomous provinces and institutions at local levels and have paralyzed the entire machinery of the state and minimized its role. However, such people’s institutions do not remain static in one place. Also, in some cases, innocent people have been victimized due to the bias in the decision making process of the Maoists.

Except a few places as the district headquarters and urban centers, the rest of the country is under the sway of people’s government and is known as Mao land. It is also true that to the rest of the country, the present government appears only as an „Ambassador of Kathmandu, the capital of Nepal“. The People’s War has thus consolidated momentarily as the seeds bank in the countryside. The protracted nature of revolutionary guerrilla warfare has, thus, found a great leap both
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qualitatively and quantitatively.

Despite its internal conflicts, NC wants to stick to power for ever in the government, ignoring the voices of the mainstream people for equality, social justice, liberty, security, and dignity. Similarly, the main opposition political party is opposing the government not for the sake of people in general but for their own benefits and interests. The Maoists are also at crossroads: if they win, they will be remembered as revolutionaries and if they lose, they will be termed as terrorists in the history of Nepal. In 14 years of democracy, the role of political leaders has been linked to the players of a football game where the king including the so-called elite democrats, feudal and army are at one pole and the Maoists at another. The elite-ruled juvenile democracy of Nepal is, therefore, at a tightrope that may fall either side in not distant future: the King or the CPN (Maoist).

Indeed, the king is a symbol of feudal since ancient times. If the present king is able to impose authoritarian regime sidelining the political forces, monarchy itself will be wiped out soon for ever from the history of Nepal. Among the political forces, the few elite democrats: opportunistic feudal: will sideline with the king, but a great majority of political entities will join hands with the Maoists. On the other hand, the Maoists are advocating for the people’s government through multiparty democracy, parliamentary system of government, social justice, rule of law, adult franchise rather than adhering to their former demand for a partyless system.

There were high hopes on UML stalwarts, but they could not lead the nation properly. The common people got further disappointed when Pajero-pampered UML leaders split their party into UML and ML in 1998 primarily due to their personal ego and also some tactical differences, which significantly affected the course of the political scene that emerged. When the leadership betrayed them, most of the UML and ML cadres who were not satisfied with them either fuelled the People’s War. About 90 percent of ML and 75 percent cadres of UML became affiliated with the Maoist People’s War. When both UML and ML got united into UML again, loss of cadres to the Maoists could not stop. Even though, the tussle between UML and NC continues without heeding the voice of common people.

The so-called big brother India is seeking for the right opportunity to send her army into Nepal by any means to capture all the natural resources and the political system. Ever since the attack on World Trade Center on September 11, 2001, the national issue of People’s War has been internationalized and USA has informally kept the CPN (Maoist) among the global terrorists. USA has its own vested interests to make Nepal a political playground against both China and India. Chitra Krishna Tiwari has said, US interests in Nepal has been more symbolic than real (Tiwari: June 5, 2002). Because of such interests, USA sent high-level diplomatic and military delegations, including Secretary of State Colin Powell, to offer military and financial assistance against the Maoists. It wants to show that she is not fighting against Muslims alone, but also fighting globally against all the armed forces who oppose the vision, mission, policy, and governing system of USA.

Getting such support, Nepalese government declared the Maoists as ‘terrorists’ along the lines of al Qaeda and Taliban. A broad range of people live in Nepal
across the country in harmony unlike many a country in the present day world with an ongoing armed conflict on ethnic, language, and religious issues. On the other hand, the People’s War of Nepal is a politico-ideology and an armed front warfare, which is identity-based and resource-based. It is a war against political absolutism, social injustices, and economic inequalities.


Besides, the URPC has formed nine autonomous regions based on ethnicity, geo-political, and linguistic regions. The ethnic regions include: (i) Kirat Autonomous Region (the hill areas of Mechi, Koshi, and Sagarmatha zones); (ii) Tamang-Saling Autonomous Region (the hill areas of Bagmati, Narayani, and Janakpur zones except Kathmandu Valley); (iii) Tamuwan Autonomous Region (Gandak region); (iv) Magarant Autonomous Region (from Kali Gandaki region to the hill areas of Dhaulagiri, Rapti, and Lumbini zones); (v) Tharuwan Autonomous Region (western tarai areas from Rapti to Mahakali zones). Similarly, the geo-political and linguistic regions are: (vi) Bheri-Karnali Autonomous Region (the hill areas of Bheri and Karnali region); and (vii) Seti-Mahakali Autonomous Region (the hill areas of Seti and Mahakali zone). (viii) Madhesh Autonomous Region (Awadh area of mid-tarai and Bhojpur and Mithila Pradesh of eastern tarai); and (ix) Newar Autonomous Region (Kathmandu Valley).

However, there are no autonomous regions for bahun and chhetri nor for dalits. Regional and ethnic fronts have been given authority to work autonomously until a People’s Republic of Nepal is well established. What would be the fate of Nepali people if the People’s War could not succeed to establish such a republic? What would be the fate of Nepali people if the People’s War deviated from its political ideology? What would be the fate of Nepali people if the People’s War broke down itself? What would be the fate of Nepali people if the state security forces demolished the People’s War? What would be the fate of Nepali people if the CPN (Maoist) came in power but could not fulfill the hopes and expectations of people? The answer is, “Nepal is awaiting the other type of war - an ethnic war or civil war.”

Democratic changes bring high hopes and expectations. However, daunting challenges remain unchanged. Nepal is plagued by some of the poorest standards of living in the world, although certain sections of the nation, the elite class and neo-feudals (new barons), are highly privileged to reap the benefits. Democracy could not bring worthwhile change in the lifestyle of common masses; instead it has made their life harder. Consequently, it has adversely affected national integrity, social welfare, cultural solidarity, and harmony.
As the country’s resources and opportunities are constantly concentrated in the hands of the few and so they were largely benefited by the system, the democratic government of Nepal has, therefore, become "the government of the elite people, by the common people, and for the elite people," against the principles, norms, and values of genuine democracy. The crisis needs to be addressed with a comprehensive people’s need-based agenda and meaningful dialogue and negotiation.

Unless the objectives of power and politics are inspired by the people, devoted for the people and dependent on the people, armed conflicts do not end. The character of conflict, however, gets transformed from one form to another. One ends, another survives, and yet another erupts.

9.2 Politics of Human Rights

The issues of inherent, inalienable, non-derogatory, and indivisible rights are as old as human civilization. Natural rights and natural rights of man are interlinked and interdependent to each other. Human rights belong to a person or a group of persons as beneficiaries and the state as the duty holder. It means human rights are a relationship between an individual, a group of persons or a whole community with the state. The definition of human rights has been categorized into many perspectives in general. Philosophically, human rights are based on the concepts of human dignity, universality, paramountcy, and the natural rights of man. Politically, human rights are the respect for the integrity of life, the right to liberty of movement, freedom, and participation in political life. Legally, human rights are a rule of law, equality before and under the law, and protection from all kinds of injustices. Socially, human rights are the right to an adequate standard of living, the right of family, fraternity, solidarity, non-discrimination, and self-determination. Economically, human rights are the right to work and distribution of resources for the adequacy of basic needs such as food, housing, and clothing. Culturally, human rights are the right to participation in cultural life, the right to minorities, and the right to education. Human rights are, of course, a child of law which is continuously enriching through the needs and demands driven agendas of human beings.

The concept of human rights has been highly invoked since the establishment of United Nations and the formation of UDHR. The proliferation of human rights awareness has no doubt increased after the end of the cold war. The UDHR, ICCPR, ICESCR, etc. are based on the principle of freedom, fulfillment of basic needs as basic rights for livelihood, and eradication of all forms of discrimination. The Geneva Convention Relative to the Protection of Civilian Persons in the Time of War 1949 grants the rights to civilians as well as unarmed or armed forces at the time of an armed conflict in any situation. The convention for the prisoners of war protects the unarmed/armed forces from hunger, sickness, injury, torture, humiliation, and cruel, inhumane and degrading treatment. The Second World Conference on Human Rights held in Vienna in 1993 emphasized to eliminate racism, racial discrimination, xenophobia, and so forth. Its main purpose was to maintain, encourage, and respect the principles of equal rights and self-determina-
tion for the people through peace, justice, liberty, development, and solidarity.

The notion and use of human rights differ from developed to developing countries. Developed western bloc countries give top priority to individual rights, that is personal liberty, but about 80 percent people of the world’s poor and developing countries emphasize upon the collective rights for equal and universal social and economic justice. USA and its associated blocs primarily advocate for civil and political rights such as individual freedom and raise strong voice against human rights violations worldwide. But USA herself gives death penalty to more than a dozen people each year. On the other hand, some advanced European and Scandinavian countries remarkably stress upon economic, social, and cultural rights that ensure for food, housing, clothing, basic education, primary healthcare and so forth. Poor and developing countries, like Nepal, should strive for both national and international legal measures for personal security, individual liberty, social justice, and human dignity as well.

The Asian ethos of human rights consider an individual as the integral part of the collective whole and focus upon the socioeconomic nexus. The Hindu-Buddhist society enriches and reforms itself through the means of dharma (good governance and science of law) and enhances the rights and duties of human beings in the spiritual dimensions of soul, universe, heaven, power, luck, salvation, and hell. The directive principles of custom, practice, and usage of dharma are governed by the Supreme Civil Code of the religious texts, the dharmasasstras that respect the people and society. Based on the dictum, „crime is the violation of dharma and penalty is the form of fine,” the weak is protected from strong. Dharma and dharmasasstras predominantly focus on liberty, justice, peace, and fraternity. If contradiction rises between groups or communities, it is resolved through spiritual measures of morality, discipline, and wisdom. According to the civil and criminal laws, dharma is purity, perfection, giving up egoism and greed, belief in impermanence, and compassion. In addition to being state bound and duty bound in spiritual terms, dharma ensures for the service to community for social welfare as humans over humans.

In ancient Nepal, collective rights and freedoms were guaranteed through the means of panchali (group of five people), goshthi (symposium), and sangh (association). Dharma being the supreme law, even the kings were bound by duties rather than rights. However, by violating the principle of dharma and dharmasasstras, the Nepali society got segregated into bahun, chhetri, baishya, and shudra castes based on their traditional occupations in the Malla period and that still appears as a deep-rooted superstition and semblance as social stigma against universal spirit of brotherhood, sisterhood, and self-determination.

Based on dharma, the core features of the present day democracy, human rights, and rule of law had also been tried to be established as legal instruments in the 18th, 19th and 20th centuries by the absolute kings themselves, sometimes based upon social movements or revolutionary social transformations, and sometimes through public pressure. Due to international influence, despotic Rana Prime Minister Janga Bahadur introduced Muluki Ain, the first Nepali Magna Carta in 1854 and tried to abolish the customs of sati and kamara-kamari to guarantee
individual liberty. The highly prevalent system of child marriage in both sexes—a seven-year girl would be married to a 70-year-old man—was also restricted through some provisions. Chandra Shamsher abolished the system of kamarakamari. Padma Shamsher promulgated the Government of Nepal Act 1948 to ensure for the civil and fundamental rights, but could not get success. An outcome of the tripartite agreement among the King, Ranas, and NC, the Interim Government of Nepal Act 1951 legitimized political freedom and social justice for the first time in the history and established democracy. However, in 1960 King Mahendra banned all the political parties, imposed the non-party Panchayat system, and started to rule the country directly as an absolute monarch.

The people's movement in 1990 restored the multi-party democracy that made the people sovereign again and accommodated the king under the constitution. However, the then CPN (Mashal) and a few other communist parties did not support the constitution, as they were demanding for the election of constituent assembly. It is true that the Constitution of the Kingdom of Nepal 1990 was neither drafted nor approved by the people’s representatives. This constitution does not reflect the entire vision, needs, aspirations, and goals of the general people, as it had been drafted through the consent of some forefront political parties and the king himself, which is called the most traditional method of constitution-making process through a commission. The same CPN (Mashal) who were in favor of constituent assembly later formed CPN (Maoist) and started the People’s War.

Since the initiation of the People’s War, Nepalese people have faced many challenges on rights to life, liberty, security, and dignity as human rights violations and abuses intensify each passing day. Human rights situation of the country is at crossroads, as thousands of extrajudicial executions; hundreds of involuntary disappearances; thousands of arbitrary arrests and detentions; and thousands of cases of torture, cruel, inhumane and degrading treatment have been reported. Women are particularly vulnerable to sexual harassment and other forms of violence. One would say, “Women are molested as they are women!” Several females even below 14 years old have lost their lives and have suffered physically and psychologically after being gang-raped in a very pathetic condition that has caused severe trauma. Some of the rape cases have given birth to a child without the name and address of its father. Being a mother without a husband is a curse in the traditional Nepalese society. And a child cannot get citizenship by the name and caste of her mother alone. Both mother and child are deprived of their rights. Many females have been shot dead after being gang-raped whether in custody or while being brought to police post or transferred from one place to another. The security forces have raped dozens of females in front of their family members. The living standards of children, women, and aged people have significantly been affected in the absence of guardianship, as most of the energized youths are either voluntarily or involuntarily associated with the People’s War or have migrated toward urban centers seeking security.

The number of patients with mental trauma is on the rise due to nightmarish casualties of mind. Mental depression causes yet more helplessness, fear, anxiety,
etc. Those children and women are particularly vulnerable whose close family members were killed in front of them. Civilians arrested in front of the court or in public places have disappeared immediately despite the concern of human rights organizations and civil society. In response to an enquiry from a civil society representative, the then PM Krishna Prasad Bhattarai stated, „...disappeared people are already killed.“

Hundreds of Nepali people have been handicapped. Many are living in extreme pain and some have become victims of diseases. There is no count of arbitrary arrests and detentions. Most of those in custody and jail are kept without warrants. Human rights activist Mandira Sharma said, „...90 percent people who have been kept in custody or jail are arrested or detained without a paper of warrant, nor they have been given an opportunity to meet with their private lawyers“ (Personal conservation: September 4, 2002). As detainees do not get a paper of warrant, they are also deprived to have *sida chamal* (food allowances and other facilities).

When the state embarked upon indiscriminate killing of commoners who sympathized with the CPN (Maoist) cause, the Maoists retaliated by killing state security forces and political workers, especially ruling party cadres, social workers, teachers, etc. alleging them as informers or *surakis* and the process has intensified by each day. Similarly, hundreds of civilians have been abducted and disappeared. A few cases of rape have been reported on the part of Maoists. Dozens of civilians have been kept in the Maoists’ custody and thousands have arbitrarily been tortured. Marginal people who tried to resist the operations of both the state and the Maoists have become actually vulnerable. Fearing both the actors, urban places are saturated with the influx of internally migrated people. Most of the children, women, and old age people have been left behind and are deprived from guardianship and other social and economic benefits. After the imposition of SoE in November 2001, marginal people suffered a lot from the double curfew in district headquarters and other urban places by the state and in rural areas by the Maoists. Thus, the freedom to reside or move in any part of the country is restricted against the fundamental right provided in the constitution. Marx stresses, „...Freedom includes not only what my life is, but equally how I live; not only what I do, what is free, but also that I do it freely “ (http://marxists.org/archive/marx/works/1840/free-press/ch05.htm).

Freedom means unobstructed activity for every man, woman, and child to respect, protect, and fulfill the basic needs as basic rights for livelihood. In the traditional feudalistic mode of society, lower level people were crushed through the means of superstition and semblance and they could never raise their voices for freedom as they were deprived from knowledge, identity, resources, and opportunity. Freedom implies independence from all kinds of restrictions, barriers or obligations, and includes emancipation from poverty, hunger, disease, illiteracy, discrimination, exploitation, and so forth. Freedom is liberty of an individual whose sole interest is to be free from all kinds of injustices, bonds, barriers, obligations, and constraints. Freedom of press is a core aspect of a democratic society. It is the bridge of communication between political leaders and people and it incorpo-
rates freedom of thought, conscience, and personal liberty. However, many newspapers were banned and many journalists were kept in custody or jail especially after the initiation of the People's War. Marx states: „The absence of freedom of the press makes all the freedoms illusory. One form of freedom governs another just as one limb of the body helps another%. (http://marxists.org/archive/marx/works/1840/free-press/ch06.htm).

In a democratic society, equality is as important as freedom. Equality is used to ensure minimum standards of basic rights for people's livelihood. Unless an individual gets enough food, the rights to life, liberty, security, and dignity mean nothing. In Nepal, a poverty-stricken person earns US $276 per year, which is exclusively (about 80 percent of the income) used to buy food and fuel. Although relative wealth is visible in the capital and other urban cities, more than half of the population eats less than adequate quality of food and only one meal in a day, especially in rural areas. The countryside people who live in the epicenter of the Maoist People's War use rice paddy only as *achheta* (the rice offered in worship to put *tika* on forehead) and not for eating. Ram Sharma who came to Kathmandu from Rukum to study Bachelor in Arts said, „Rice paddy is not for eating, but for *achheta* in our area% (Personal conservation: September 1, 2002).

In recent years, the scarcity of food has increased in hills and mountain districts of the western Nepal and many people have died of hunger. On the one hand, population growth has overshadowed food production and on the other, the policy of economic liberalization (globalization and privatization) has forced closure of many industries and created job lay-offs both in agriculture and industrial sectors. The economic liberalization policy has increased the gap between the rich and the poor. Simultaneously, the social structure has polarized along the lines of caste, ethnicity, and religion. Poor and marginalized people have been obliged to struggle against poverty. And, most of the cultivated lands are now *banjho* (barren), due to the absence of youth in the rural areas. However, Nepal is obliged to respect ICESCR as she had ratified it immediately after the restoration of democracy in 1990. The right to adequate standard of living, the right to adequate food, the right to adequate housing (Art.11.1) and the right to freedom from hunger (Art.11.2) have been ensured in ICESCR. In terms of employment, the huge majority of 81 percent people follow subsistence farming and more than half of the population is without food for nine months in a year, as the produce primarily goes to the landlord's house. As the Maoists raise the slogan against the landlords and to provide land to the tillers, poor people are primarily attracted towards the People's War in the hope that it is a war of emancipation.

Unemployment and underemployment are major economic burdens of Nepal that directly and indirectly help in fuelling the People's War. Moreover, the nationalities or *janajatis* and *dalits* are more vulnerable to find jobs in civil service and other kinds of justice in the absence of power, politics, property, and knowledge. However, the ICESCR ensures for „the right to work to earn one's living and right to freely choose or accept work (Art.6), the right to just and favorable conditions of work (Art.7); the right to a decent remuneration; the right to form and join trade unions (Art.8); and the right to strike (Art. 8.1d).% However, these commit-
ments are yet to be incorporated in the country. As a result, poor, vulnerable, and discriminated unemployed youths are directly and/or indirectly fuelling the People's War.

Regarding the question of equality, the United Nations General Assembly held in Teheran in 1968 had proclaimed, "The full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible; the achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development." Equality insists for equal rights. No perfect equality is possible in the present day world like that in an utopian age. Engels states: "Two people such as a man and a woman may never be entirely equal mentally and are unequal in sex; still their union is the simplest and first form of association for the purpose of production" (http://marxists.org/archive/marx/works/1877-ad/p1.htm).

In this study, equality is supposed to have ensured for adequate quantity and quality of food particularly and also other basic needs such as housing, clothing, basic education, primary healthcare, etc. to all. Equal rights are constant features against slavery, political absolutism, social discrimination and exploitation, economic hardship, and cultural intolerance. If equality had been ensured by all the states, there would neither be any contradiction among the people, nor would they have to suffer from such revolutions as civil or ethnic wars. Equality is a pragmatic principle of justice. Equality is a garden of flowers. Equality is a heart and soul of man. Man is great by soul, not by wealth and power.

Civil and political rights as well as economic, social and cultural rights are indispensable and inseparable. Freedom and equality are the two sides of the same coin. Freedom tends towards political freedom and equality bestows economic and social rights. The economic and social rights ensure equal access to distribution of resources and opportunities to all. Equality for resources and opportunities should guarantee basic rights such as freedom from hunger, freedom from homelessness, freedom from diseases, freedom from illiteracy, freedom from discrimination and inttoleration, and freedom from injustices, etc. Freedom is self-knowledge which, in turn, is the consciousness received only after accomplishment of equality. Freedom and equality are necessary for the achievement of egalitarian society. However, Nepalese government has highly prioritized political rights adopting British and American models of constitution, giving little importance to economic and social rights. The lip service paid for economic and social transformation has given rise to an elite class of people, called neo feudals, or new barons who are perhaps the most corrupt people in a juvenile democracy like ours. The democracy of Nepal has distinctly divided the people into two layers: the rich who have become richer and the poor getting more and more poorer. Consequently, frustrated and alienated unemployed youths have intensified the People's War across the nation within a short period of time.

Besides adhering to various international human rights instruments, Nepal has formed National Human Rights Commission, Dalits' Commission, and Women's Commission to respect inalienable, inherent, and non-derogatory individual rights that ultimately protect the right to life, liberty, security, and dignity. The constitu-
tion of 1990 has guaranteed many fundamental rights for freedom. Nepal has also ratified 16 international human rights instruments, but their implementation is very weak. Ratification of international human rights treaties, construction of constitution and formation of human rights institutions are not enough; their compliance is necessary.

Article 12 on the right to freedom states that no one shall be deprived of liberty and no one shall undergo capital punishment. However, hundreds of Nepali people have been killed extrajudicially in alleged encounters on the suspicion of being the members of CPN (Maoist), its supporters and/or sympathizers. Similarly, the Maoists have retaliated the security forces and have eliminated alleged surakis and reactionaries. Such cases must be subjected to independent investigation. The limited existing legal provisions for the so-called encounters and surakis are inadequate to end the ongoing situation of impunity. The fundamental difference between the Maoists and security forces is that the Maoists have been selective, but security forces have killed indiscriminately. However, the security forces have killed twice as many as Maoists have done.

Article 11 on the right to equality states that all citizens shall be equal before and under the law, but none of the articles advocate for minimum standards of basic rights, for example right to food for hungry and famine affected people. In any democratic society, the state has a principal duty to respect and protect the human lives from hunger and famine.

In Nepal, only a small number of people are really enjoying democracy and human rights. The great majority of impoverished and marginalized people have neither received any fruits of democracy nor the authorities have heard their voices. What would be the outcome of the democracy that we have? The constitution has guaranteed many fundamental rights and freedoms even before the initiation of the process for social change. But, where is the freedom for the poor and rural folks? What would be the meaning of democracy for the great majority of people who keep suffering from hunger and famine? What would be the enjoyment of democracy if liberty is ensured to an empty stomach or when liberty is provided without ensuring for life? What comes first - life or liberty? If there is no life, what would be the meaning of liberty? If poor people become poorer and rich still richer, why is democracy needed? The answer is easy. Nepalese people have got ’pseudo democracy’ and ’bogus constitutional rights’. The definition of democracy in the case of Nepal has become a state of demon and crazy.

Despite some negative consequences, the People’s War has so far succeeded to: (a) establish that the Maoist issue is a political one; (b) show that access to, control of, and benefits from resources are crucial matters for the nation and people; (c) try to eliminate all forms of caste-based discrimination including untouchability; (d) raise awareness for the fundamentals of socio-cultural, economic, political, and religious issues; (e) increase the capacity building on knowledge, skills, and information; (f) establish liberation fronts; (g) compel to change the state attitude and policies toward janajatis and dalits; (h) raise the voices in an organized form; (i) realize the necessity of gender equality; (j) increase women’s participation in political, socio-cultural, and economic dimensions; (k) review the
traditional security policies; (l) realize the necessity of judicial reforms; (m) have
a new constitution through constituent assembly; (n) increase the interest of in-
ternational communities for the country; (o) bring on surface the latent conflicts;
(p) increase conflict studies; (q) free kamaiyas (bonded labor); (r) intensify social
mobilization; (s) make efforts for unity among the oppressed and discriminated
communities; and (t) raise voices against the conventional king and his unconsti-
tutional activities.

The mobilization of security forces is not a solution for the People’s War, as
they have largely been fighting a losing battle. Calling international community
both for material and moral support cannot be tolerated for a long time in a sover-
eign state of Nepal. The Integrated Security Development Programs, including
other humanitarian relief, are no solution, as it is too late now for such cosmetics.
Similarly, the amendment or reform of the constitution is not a solution either, as
it cannot change the status of monarch.

As the device of constitutional commission has been tested and the parliament
is dissolved, only one option for political solution is left which is a meaningful
dialogue with the Maoists for holding an election for a constituent assembly (CA)
in Nepal. CA is not only their demand but also the aspiration of the commoner, as
NC and the communist factions had been constantly agitating for it from 1950
until 1990 when multiparty democracy was restored. In recent days, the issue of
CA has again come up to solve the political crisis permanently. Indeed, CA should
provide legitimacy to the method of making a constitution. It is rights-based and
has participatory approaches. It is the most democratic and worthy process. The
election for CA is essential for various reasons:

- CA is the most democratic constitution making process. It is neither opportunity-
based nor need-based, but it is a participatory approach.
- The CA process would start with a clean slate. Its legitimacy is beyond dispute and
contradiction.
- Unlike in the parliamentary process which often imposes limits while amending and/
or making a constitution, all issues can be seen afresh.
- CA is now essential to make a new constitution. It shall open the issues of the
constitutional monarchy and other similar issues. The Nepalese constitution of 1990
has given special privileges to the monarchy. Before going for the CA, a political
agreement may be reached among the tripartite (the Maoists, the King and the politi-
cal parties) on the following points:
  1. Parliamentary monarchy (monarchy under parliamentary supremacy)
  2. Parliamentary system for government
  3. Multiparty democracy and
  4. Human and civil rights.
- CA shall focus on national and regional diversities (caste/ethnicity, gender, religion,
etc.) with proportional and wider representation.
- CA shall give equal priority to both political and socioeconomic issues (The present
constitution has emphasized on political issues alone. Moreover, the compliance is
very poor).
- CA shall not entertain the culture of impunity. The past has been a witness that no
action was initiated against the elite class people, with few exceptions.
- A new constitution would strengthen the position of Commission for Investigation
of Abuse of Authority (CIAA) and those who have amassed property in illegal manner
Politics of People's War and Human Rights in Nepal

shall be penalized impartially.

• A new constitution would address the issues of youth and unemployed.
• The mainstream political parties, such as NC, UML and RPP, have now opened the issue of CA. Thus, the issue of CA has now become a common agenda.
• Public opinion may be sought before the preparation of draft constitution as it was done in South Africa, Kenya, Uganda, Ethiopia, etc.
• All interested groups/communities may participate in the constitution making process through civic education, lobbying, dissemination of information, research and litigation. Such groups reflect a true national impact or homogeneity.
• The adoption of constitution through CA shall be all inclusive, bringing together the political, religious, and professional and gender issues and ethnoregional and *dalit* groups. It will create national consensus on the issues of caste/ethnicity, language, religion, etc. Even school children will become familiar with debate and other procedures of democratic process.
• People will become familiar with the principles and constitution making process and will learn not only about their rights but also how to mobilize and invoke the rights.
• People themselves will get involved to facilitate the protection of the constitution and
• CA shall legitimize the constitution and re-vitalize the state organs.

But it would be important to note that it is the weapon manufacturers, traffickers, and feudals who are against the talks as they would lose the market, profits, and huge commissions respectively. The king, royal family, and their surrounding fellows primarily represent the feudals in Nepal.

The basic elements of genuine democracy are dialogue and individual voting rights. In other words, people's mandate is the highest form of exercise in democracy. Besides, the identity and resource-based factors are to be addressed by the people's demand-driven and comprehensive socioeconomic transformation. If the Maoists are seated in power but cannot fulfill the basic needs, interests, and demands of the commoners as basic rights, yet another insurgency would be inevitable. That would be even more explosive than the present People's War and the country would turn into a war-torn society embroiled in a number of ethnic wars. In one word, hungry bellies are the breeding grounds of the People's War in Nepal. So long there are hungry bellies, conflict will continue to transform from one form to another and permanent peace will never be attained.

To overcome such difficult circumstances, the peace talks should succeed in putting the people's voice first. If a long-lasting or sustainable peace is to be achieved, all the people including the mainstream political parties have to be in favor of holding an election for a constituent assembly for a new beginning. Nepali people are hurt when their brothers and sisters are killed. Let's stop killing and getting killed. Let's respect, protect, promote and fulfill the right of all for peaceful life, liberty, security, and dignity. Otherwise, should communal violence ever occur, Nepalese will wipe each other out.

Peace has neither left nor right wings. It is in the interests of all · Nepali and others. In a country where Buddha · the apostle of peace · was born, the desire for peace among the people is greater than their obligatory support for those who have lust for power, chaos, and bloodshed. Neither side is going to win in the foreseeable future. And the Nepali people and nation will have to bear irreparable losses.

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It is a political war. Let’s mould it for peace, a peace to consolidate people’s rights for a dignified life. That is why the peace talks must be resumed and the major issues of public importance must be settled in a political agreement.

Last, but not the least, the state, political parties, and civic organizations may finally attain the fruits of their endeavor if they initiate their efforts and undertake their respective assignments by putting the people first. For that to achieve, let us all resolve to:

- Go to the people
- Listen to the people
- Participate with the people and
- Work for the people
- Work for the justice

Endnotes

1 Some leaders of RPP, individuals, and feudals had supported King Mahendra to end the then 10-year-old democracy in 1961 and to rule the people for 30 years banning all democratic forces in the name of the Panchayat system. Also, since the October 4, 2002 move of the King, the same set of RPP leaders are ruling Nepal and emboldening the king to rule directly.

2 However, NC, UML, RPP, etc. have labeled them “extreme left.”

3 25(1) It shall be the chief objective of the State to promote conditions of welfare on the basis of the principles of an open society by establishing a just system in all aspects of national life, including social, economic and political life, while at the same time protecting the lives, property, and liberty of the people. (2) The fundamental economic objective of the State shall be to transform the national economy into an independent and self-reliant system by preventing the available means and resources of the country from being concentrated within a limited section of society, by making arrangements for the equitable distribution of economic gains on the basis of social justice, by making such provisions as will prevent economic exploitation of any class or individual, and by giving preferential treatment and encouragement to national enterprises, both private and public. (3) The social objective of the State shall be to establish and develop, on the foundation of justice and morality, a healthy social life by eliminating all types of economic and social inequalities and by establishing harmony amongst various castes, tribes, religions, languages, races, and communities. (4) It shall be the chief responsibility of the State to maintain conditions suitable to the enjoyment of the fruits of democracy through wider participation of the people in the governance of the country and by way of decentralization, and to promote general welfare by making provisions for the protection and promotion of human rights, by maintaining tranquility and order in society. (5) The State, in its international relations, shall be guided by the objective of enhancing the dignity of the nation in the international arena by maintaining sovereignty, integrity, and independence of the country.

26. State Policies: (1) The State shall pursue a policy of raising the standard of living of the general public through the development of infrastructure such as education, health, housing and employment of the people of all regions by equitably distributing investment of economic resources for balanced development in the various geographical regions of the country. (2) The State shall, while maintaining the cultural diversity of the country, pursue a policy of strengthening the national unity by promoting healthy and cordial social relations amongst the various religions, castes, tribes, communities, and linguistic groups, and by helping in the promotion of their languages, literatures, scripts, arts, and cultures. (3) The State shall pursue a policy of mobilizing the natural resources and heritage of the country in a manner which might be useful and beneficial to the interest of the nation. (5) The State shall create conditions for economic progress of the majority of the people, who are dependent on agriculture, by introducing measures which will help in raising productivity in the agricultural sector and develop the agricultural
sector on the principles of industrial growth by launching land reform programs. (6) The State shall pursue a policy of increasing the participation of the labor force, the chief socio-economic force of the country, in the management of enterprises by gradually securing employment opportunities to it, ensuring the right to work, and thus protecting its rights and interests. (7) The State shall pursue a policy of making the female population participate, to a greater extent, in the task of national development by making special provisions for their education, health, and employment. (8) The State shall make necessary arrangements to safeguard the rights and interests of children and shall ensure that they are not exploited, and shall make gradual arrangements for free education. (9) The State shall pursue such policies in matters of education, health, and social security of orphans, helpless women, the aged, the disabled, and incapacitated persons so as to ensure their protection and welfare. (10) The State shall pursue a policy, which will help promote the interests of the economically and socially backward groups and communities by making special provisions with regard to their education, health, and employment. (11) The State shall, with a view to bringing about prosperity in the country, pursue a policy of giving priority to the development of science and technology and shall also give due consideration to the development of local technology. (13) The State shall pursue a policy of creating conditions for acceleration of the speed of rural development, keeping in view the welfare of the majority of the rural population. (14) The State shall, in order to secure justice for all, pursue a policy of providing free legal aid to indigent persons for their legal representation in keeping with the principle of the Rule of Law.

4 At the end of December 2000, the senior leader KR Malkani of the ruling party (BJP) astounded all by saying that India's founding Prime Minister Jawaharlal Nehru should have accepted the accession of Nepal to India in the 1950s when King Tribhuvan offered it. It means India is keeping friendship with some vested interest which is likely to make Nepal another Sikkim.

5 Here the word "man" denotes men, women, and children.
Full Support for the People’s War in Nepal

The Nepalese King Gyanendra, who was installed as king after a coup following the massacre of the former king and his family in the beginning of June, has now declared Nepal in a state of emergency, and, contrary to the Nepalese constitution, ordered the army to be brought into action against the People’s Liberation Army, the Communist Party of Nepal (Maoist) and all others supporting the revolutionary People’s War.

Nepal is the poorest country in the world, with an impoverished rural population of millions of poor people, widespread illiteracy, illnesses, political corruption, and an illegitimate royal house, which has seized power following a bloody coup. The extreme exploitation and repression necessarily leads to revolution - a revolution which according to the Communist Party of Nepal (Maoist) is intended to establish a republic and a new democracy based on real popular power.

After four months of peace negotiations, which did not lead to anything because of the manoeuvres of imperialism and Nepalese reaction, the People’s War has now been resumed. In the royal decree on the state of emergency, the Nepalese government declares the Communist Party of Nepal (Maoist), its sister organizations and any organization and individuals that support the Maoist party and its activities as terrorists.

This is a statement having resemblance to the ban on the Danish communists in 1941, and it expresses very clearly that the so-called “global war against terrorism”, headed by the US and supported by all the world’s reactionaries, is a war against the struggle of the workers and the people for democracy and social progress.

The US has condemned the resumption of the People’s War. The EU has “deplored” the attacks, and UN Secretary General Kofi Annan has expressed concern. They are all urging the resumption of “peace talks”. With these statements, they are putting up a smokescreen with the purpose of hiding their support for the reactionary Nepalese government and the bloodstained royal house. The whole international reaction headed by the US and India, which has ambitions to control Nepal, will support the Nepalese counter-revolution - if necessary with rearmament, intelligence, money and troops.

But the Nepalese people are trying to take their destiny and future in their own hands - to become free of the tyranny of reaction and imperialist interference. Therefore, the working class and the people all over the world support the People’s War and the struggle of the Nepalese people, because the so-called “terrorists” are freedom fighters and the king and the Deuba government leading the armed counter-revolution are the real terrorists.

The just struggle of the people will prevail!
The epilogue of this study incorporates the latest information till the end of 2004 and subsequent analysis of the events and developments in the People’s War. It attempts to elucidate the trends in which the war has intensified and proliferated across the country and affected the rights of life, liberty, security, and dignity of the people. Besides, the People’s War has created a hot debate on its legitimacy among the academia and civil society within and outside the country. People are bewildered how to deal with two opposing governments – ‘old’ and ‘new’. At present, Nepalese people have to face two executives, two laws, two judiciaries, two armed forces, and two local bodies. The ‘old’ government rules at the urban centers, including Kathmandu, and the ‘new’ in the rural areas. About one-fourth of the land is occupied by the ‘old state’ and three-fourth by the ‘new’ one.

Dissolution of the House of Representatives, absence of elected local bodies, prolonged imposition of the state of emergency, deployment of RNA, promulgation of TADA and Red Corner Notice, and declaring Maoists as terrorists has propelled Nepal to develop into assertive monarchy and undeclared military rule. Human rights violations by Unified Security Forces (USF) and human rights abuses by the PLA have escalated in huge proportions by each passing day.

Table no. EI.1 shows that a total of 10,888 individuals have extrajudicially been killed in the nine years of People’s War comprising 65 percent by the State and 35 by the Maoists. The trend of extrajudicial killings proliferated and intensified after the imposition of SoE. The greatest number, 32.5 percent, of individuals...
were killed in 9 months from November 26, 2001 to August 28, 2002, when 13 persons were killed each day during the prolonged SoE. And the Royalist Government is responsible for 73 percent of the killings. The least number, 16.5 percent, of the people were killed before the imposition of SoE. However, the number of killings might be more by 25 percent than what the security forces have claimed. CWIN has stated that a total of 347 children have also been killed till August 2004.

Case EI.1: Suicide or conspiracy?

Sadhu Ram Devkota, pseudonym Comrade Prashant, Kathmandu Valley In-charge of the CPN (Maoist) was taken into custody by the security forces. 29-year old Prashant, a permanent resident of Bhujel VDC-4, Gorkha District was arrested from a rented room at Lagan on November 4, 2004 and was kept incommunicado detention in a military barrack, Balaju, thereafter.

At a press briefing on December 19, 2004, Lt. Colonel Dhruba Kumar Shah told the reporters that Prashant committed suicide by hanging himself with shoelaces. He said, “He looked frustrated and criticized the party’s apathy toward him. He was cooperating and was regretting for his past life.” The electronic media telecast Devkota’s body lying on the floor clad in an underwear. It is mysterious whether it was a case of suicide or he was conspiratorially killed in the barrack?
The People’s War has spread across Nepal from east to west and from north to south as a wildfire (Table no. EI.2). Only two districts, namely Manang and Mustang, have been spared from extrajudicial and arbitrary killings so far. One-fourth of the victims were from Rapti Zone alone, where Rukum accounted for 7.4 percent, Rolpa 6.6, and Dang 5.9 percent of the total killings.

Case EI.2: Security force raped and killed innocent girl
At mid-night on February 12, 2004, 10 security personnel in plain clothes forcefully entered into the house of Karna Bahadur Rasaili of Pokhari Chauri Village, Kavrepalanchowk and asked about the people who were residing in. They searched all the beds and arrested his 18-year old daughter Reena Rasaili and her sister Sunu Rasaili. Reena told them that she was a student at local Jagriti Secondary School and also a social worker at Rural Energy Development Center of Kavre. Despite her frequent requests, some security men took her to the nearby cowshed while others stood to guard the family members. The entire family members were forced to listen Reena’s painful yelling and crying for five hours while she was brutally being raped and inhumanely tortured. Next morning, at 5 AM, the family members heard three rounds of firing and security forces left the place. Her naked body was found lying near the house with profuse bleeding and injuries (Source: An Investigation Report of Advocacy Forum:February 20, 2004). The press statement of the royalist security forces, however, stated that she was killed during an exchange of gunfire.
Nearly 50 percent of the political cadres were extrajudicially killed by the State and 10 percent by the Maoists in nine years of the People’s War (Table no. EI.3). The second highest number of killings by the State pertained to the farmers which comprised 15 percent of the total. Among the Maoist victims of 3,775, fifty percent belonged to the security forces.

Of the total killings by the State, nearly one-fifth belonged to upper castes - bahun, chhetri, and Thakuri. Similarly, nearly half (46.7%) of all those killed by the Maoists were from the same upper caste groups. The reason behind this is that these upper caste people have occupied evergreen power, politics, property, and privileges since the inception of Nepal; so they were the prime targets of the Maoists (Table no. EI.4). More than half of the individuals killed by the State remain unidentified. As security forces count heads in bogus and real confrontation, name and address and caste/ethnic group of the victims could not be identified.
The elite power structure has remained unchanged even after the introduction of democracy in 1951 and restoration of democracy in 1990. The elite *bahun*, *chhetri*, and Newars (BCN) have all ruled Nepal till date to a large extent. They monopolize economic, social, cultural, and political structure such as land, education, business, organizations, institutions, executive, judiciary, and parliament. Top level posts like that of secretary, additional secretary, joint secretary, and others are almost occupied by BCN. In the caste/ethnic composition of two mainstream political parties of Nepal, namely the NC and UML, the BCN occupy the superior most position in the central committee. More than half belong to *bahun* alone.

The composition of caste/ethnicity seems balanced to some extent in CPN (Maoist), compared to other parties. The plenum of the central committee of the Maoists which was held in late August 2004 decided to go for an offensive war against the old state. The same plenum meeting enlarged the number of central committee members upto 97 (Table no. EI.5) which includes seven women of whom 43 percent are *bahun*, 29 percent Newar, and 14 percent each are Bhujel and Tamang. There are five members in the Standing Committee comprising 40 percent *bahun* and 20 percent each from *chhetri*, Newar, and Magar (see Chapter-V). The 27-member politburo also includes 40 percent *bahun*, 19 percent *chhetri*, 15 percent Newar, and 11 percent Magar and others. Greater number of men and women from lower caste/ethnicity (poor, disadvantaged, marginalized, and vul-
nerable groups) are involved in the People’s War, taking initiatives of their own for the war for liberation at lower levels. Thus, the CPN (Maoist) has given them top priority. A total of four dalits are selected as central committee members of whom three are from hills (Khadka Bahadur Biswokarma, Tilak Pariyar, and Thaman Pariyar) and one Mahendra Paswan is a tarai dalit.

Of the total number of killings 10,888, Sher Bahadur Deuba is responsible for 50 percent. A total of 5,454 individuals were killed in his reign of 3 years 3 months and 16 days (Table no. EL.6) till the end of 2004. Similarly, Maoists have killed many civilians who were members of the retaliation committees formed against them and have wounded dozens in Dailekh, Nawalparasi, Baglung, and Lamjung districts.

The local retaliation committee at Khalibarsa of Khairawata, Nawalparasi district killed four Maoists namely Ram Prasad Harijan, Manoj Harijan, Bhola Chaudhari, and Laxmi Khanal. They were killed when locals tried to free Insaf Ansari of Suryapura VDC-5 abducted by the Maoists in December 2004. They attacked the Maoists with homemade guns, sticks, woods, stones, etc.

The forced disappearances had started immediately after the establishment of democracy in 1950. When some people protested against the Delhi Agreement in 1951, Ram Prasad Rai was arrested and disappeared for ever. During the 30 years of Panchayat era, a total of 56 people were arrested and disappeared by the State. Of them, 5 people were killed extrajudicially. Even after the restoration of democracy, involuntary disappearances did not stop. Two persons namely Bhuvan Lal Thapa in 1992 and Prabhakar Subedi in 1993 were arrested by the security...
forces from Ramechhap and Kathmandu respectively. Their whereabouts are still unknown.

Since the outbreak of People’s War in 1996, the trends of arbitrary arrests and forced disappearances have intensified. A total of 1,011 individuals have been involuntarily disappeared by the state security forces (Table no. El.7), of whom the whereabouts of 700 people are still unknown. Among them, many are detained incommunicado in the military barracks against the national and international human rights mechanisms. Solitary confinement is widespread which takes place in army barracks or camps, police stations, police clubs, unidentified police custody, Maoist custody, and shram sibir (labor camps). According to INSEC, on an average one individual was disappeared everyday by the State in 2003 and two individuals in every three days in 2002. The NHRC has stated that 1,659 cases of forced disappearances were recorded during the period of 1997 to 2004 by both the conflicting parties, although fewer individuals have been disappeared by the Maoists in comparison to the State. In 2002 and 2003, Nepal recorded the highest number of involuntary disappearances among all the countries of the world. Altogether, 22,493 individuals were taken under control by the Maoists. Most of them were released within 2-3 days of attending the mass meetings and physical and ideological training programs. A few were sent to shram sibirs, dozens were killed, and some are still in their custody.

Without setting any preconditions two weeks after being taken into Maoists’ control, 37 hostages were freed including CDO Sagar Mani Parajuli and DSP Rana Bahadur Gautam on April 6, 2004. They were handed over to the International Committee of Red Cross (ICRC) at Thawang, Rolpa. They all were taken into the Maoist control when the headquarters of Gulmi district were completely destroyed on March 20, 2004.

A total of 14 journalists were extrajudicially killed of whom 64 percent were killed by the State and remaining 36 percent by the Maoists. Out of 9, seven journalists were killed in 2002 after the imposition of the SoE and deployment of
RNA. Krishna Sen, the editor of *Janadesh* weekly, was killed after severe torture in custody on May 20, 2002. Similarly, Dev Kumar Acharya (D Kaudinya) of *Janadesh* weekly in Jhapa district, Ishwor Budhathoki (Kanchan Priyadarshi) in Sindhupalchowk, and Jar Kumar K.C., the district representative of Rastriya Samachar Samiti in Ramechhap were killed on the charge of being Maoists.

Nava Raj Sharma of *Karnali Sandesh* and *Kadam* weekly, Kalikot district was executed by the Maoists on June 12, 2002. Following the killing of Dekendra Thapa, reporter of Radio Nepal in Dailekh district on August 11, 2004, the Maoists issued death threats to nine more journalists. The local Maoists said that it was the verdict of their people’s court to eliminate local journalists (Kathmandu Post: August 17, 2004). However, Maoist spokesperson Krishna Bahadur Mahara said that the CPN (Maoist) is committed to ensure for free press and freedom of expression and directed his subordinates not to issue death threats to any journalists. And he called upon the journalists to get letters of permission from the concerned people’s government prior to visiting the place. The press statement came in public on September 11, 2004 after the FNJ started boycotting the news concerning Maoists. The statement said, „The party will investigate the killing of Dekendra Thapa,‰ but the report is yet to be published. Both national and international human rights organizations and media repeatedly condemned such killings by both the conflicting parties.

The Maoists who have surrendered to the government in different dates and places are kept in Dhakaltar Rehabilitation Center. They have complained that they are not treated well. „Allow us to return home,“ is their prime demand. Among 98 persons kept at the center, Anita Bali of Chaukhabang, Rukum district even attempted to commit suicide with a piece of broken glass in front of CDO Govinda Mani Bhurtel on December 27, 2004. She was demanding to go back home. The center is not different from a jail. These former Maoists are treated like prisoners rather than being sheltered in a cell and have been debarred from receiving the monthly allowance of Rs. 200 (US $ 2.78) and other facilities. On the other hand, they have also charged that the officials at the center are involved in financial irregularities.

Table no. EI.8 shows the trend in budget allocation for the Royal Palace, RNA, Police, and Parliament. His Royal Highness Gyanendra became the king of Nepal in June 2001 after the Royal Palace Massacre and the expenditure of the palace increased by 335 percent in the fiscal year 2059/60 and by 175 percent in 2060/61. Besides, a huge sum is allocated each year under the heading of miscellaneous for various recreations, luxuries, and petty expenses in the Palace whereas the conflict victims keep suffering with hungry bellies. It is mysterious to civil society for what purposes the allocated amounts have been spent for. On the other hand, the family size of the palace has now steadily downsized by half from 19. Similarly, the amount allocated for weapons and mobilization of security forces has increased substantially since the deployment of RNA.
The RNA is now engaged in media warfare following the strategy of Maoists. The army announces the name, caste/ethnic group, and address of those who get killed in operations. These operations are purposely aimed at encircling the areas, searching for Maoists, and killing them silently; usually after interrogation. However, the RNA claims through press that the incidents were encounters, foiled escape attempts of Maoists or acts of self-defense when the Maoists threw grenades and socket bombs at the security forces. Anyone who is killed by security forces is labeled a Maoist which is simply not correct. Investigations in most of the cases of deaths have revealed that individuals were killed after being taken into custody by the security forces in total disregard to the Geneva Convention and other international humanitarian laws.

At the beginning of the SoE and subsequent mobilization of RNA on November 26, 2001, the Maoists seemed weaker than the security forces. But during the three years of armed struggle, the RNA did limit its mobility gradually and strengthened its forces in urban places, highways, and district headquarters and so the Maoists started to target them accordingly. And the security forces had to face defeats both in terms of terrestrial and psychological warfare. Consequently, they turned to aerial warfare with sophisticated weapons. In the event of a decisive war for the finale, there is a high probability of using human bombs or suicide bombs which would be a serious challenge to all the Nepalese people.

The increasing security needs of arms, ammunition, and training are met from the friendly forces particularly US, India, and UK. In the fiscal year 2002/03, US had committed for $17 million (Rs.1.33 billion), UK provided Sterling Pound 6.5 million (Rs.3.2 billion) for defense and security related expenses and India provided INR 2 billion (3.2 billion) worth of military hardware and equipment with a promise of INR 1 billion (Rs.1.6 billion) worth of further arms assistance (Kumar:2003:182).

Realizing the shared security threat from the People’s War, India promised to more military equipment and hardware grant to Nepal to fight against the Maoists.
during the visit of PM Sher Bahadur Deuba to India in September 2004. India agreed to provide three Advanced Light Helicopters (ALHs), 20,000 INSAS rifles, 15,000 7.62 mm Self-Loading Rifles (SLRs), 5,000 machine guns of different calibers, 800 trucks and jeeps, 100 Mine Protected Vehicles (MPVs), bullet proof jackets, helmets, mines, and barbed wires to RNA (Himalayan Times: September 10, 2004) and did supply two ALHs to RNA on June 12, 2004. Prior to that, India had supplied two Cheetah helicopters and two Lancer helicopters to RNA at a 70:30 ratio of the cost price. Besides, RNA boasts of having aircrafts like MI-17, M28 Sky truck, Avro and Puma (Kathmandu Post: November 21, 2004).

UK provided two archaic MI-17s, two Vertical Take-off Jets, bomb disposal equipments, and wireless instruments. Among them, MI-17 created a hot debate in civil society as well as diplomatic missions whether the two things, namely respect to human rights or negotiated conflict settlement for peace and fighters can go together at once. Moreover, the British Government appointed Sir Jeffrey James as special envoy to facilitate the peace process, but the civil society could not understand its importance.

The government, on the other side, imported 5,000 units of M-16 A2 rifles from US along with 5,500 units of Belgium guns for RNA as the first installment of supplies (Kumar: 2003: 182). USA has also provided training to Nepalese soldiers in Nepal as well as in USA.

The annual review on human rights practice in its report by 2005 of the US-based Human Rights Watch has severely condemned the gross violations and abuses of human rights in Nepal. Discarding the claim of the National Human Rights Commission, the report has stated that the state security forces are responsible for approximately 2,000 killings in 2004. It further states, „When people are killed during operations, state security forces almost always issue a statement identifying the dead as Maoists killed during exchange of gunfire, but, investigation into the circumstances of deaths has often revealed that many individuals were killed in the custody of the armed forces at the time they were killed.‰ The report also condemns the practice of child recruitment by the Maoists and their extrajudicial killings of civilians in front of the villagers and family members.

Observing serious threat to ordinary civilians, the Human Rights Watch (HRW) has recommended to the US Congress not to provide any military assistance to the Nepalese government unless it improves the records of human rights. The Watch believes that the military aid widens the gap between the two tasks: to hold peace talks and to safeguard the right to life, liberty, security, peace, and dignity. Following the recommendation, the US Congress passed the Foreign Operations Appropriations Bill at the end of November 2004 which has tied military assistance to the improvement of human rights record in Nepal for fiscal year 2005. The text of Section 590C of the Consolidated Appropriations Act, 2005, as enrolled by both the House and the Senate for Nepal is given below:

1. The Congress deplores and condemns the Maoist insurgency in Nepal which has engaged in widespread atrocities against civilians and Nepalese security forces, and calls on other nations to denounce these vicious acts.
2. Funds appropriated under the heading „Foreign Military Financing Program„ may
be made available for assistance for Nepal if the Secretary of State reports to the Committees on Appropriations that the Government of Nepal:

a. has determined the number of and is making substantial progress in complying with habeas corpus orders issued by the Supreme Court of Nepal, including all outstanding orders;
b. is cooperating with the National Human Rights Commission of Nepal to identify and resolve all security related cases involving individuals in government custody;
c. is granting the National Human Rights Commission of Nepal unimpeded access to all places of detention; and
d. is taking effective steps to end torture by security forces and to prosecute members of such forces who are responsible for gross violations of human rights.

3. The Secretary of State may waive the requirements of paragraph (2) if he determines and reports to the Committees on Appropriations that to do so is in the national security interests of the United States.

Till the end of 2003, diplomatic missions and donor countries had highly prioritized the issue of poverty reduction. As the development budget could not be implemented properly due to insecurity and since the foreign aid was diverted to buying helicopters, arms and ammunition, and for the mobilization of security forces, the donor communities raised issues to uphold respect for human rights and adherence to international law.

The 60th Human Rights Commission meeting in Geneva last March had obliged the government to issue a 25-point human rights commitment by signing a Memorandum of Understanding (MoU) with the Office of the Commissioner for Human Rights (OHCHR). The MoU allows for appointment of an international expert as Special Rapporteur to visit Nepal to investigate into the violations and abuses of human rights in the country. The Special Rapporteur is an independent expert appointed for fact-finding mission. In Asia, Myanmar and North Korea have Special Rapporteurs who recommend how to improve human rights situation in the country. In the case of Nepal, the 53-nation meeting of OHCHR to be held at Geneva in March 2005 will decide to appoint Special Rapporteur Nepal.

Nicholas Howen, Secretary-General of International Commission of Jurists (ICJ) has called upon the government and the RNA to take urgent steps to improve human rights situation if the government wants to avoid the strictures during the next Geneva meet. He has also stressed upon both the conflicting parties to sign the Human Rights Accord prepared by the NHRC.

Similarly, the German parliamentarians who visited Nepal in February 2004 had strongly expressed their concern over the increasing trend of violence and disregard of basic human rights by both the security forces and the Maoists.

The RNA has repeatedly misinformed the Supreme Court (SC) and disregarded its SC habeas corpus orders and important legal protections against the disappearances. In response to a habeas corpus writ petition, the single bench of Justice Balaram KC ordered the Prime Minister’s Office (PMO) and Defense Ministry including the RNA to clarify the incommunicado detention of the Maoist leaders Matrika Yadav and Suresh Ale Magar. The secretaries of the PMO and Defense Ministry Umesh Mainali and Bishnu Dutta Uprety stated that the said leaders were not taken into custody and urged the Court to annul the writ. In fact,
both Yadav and Ale Magar had been arrested by the Indian authorities in Lucknow and deported to Nepal in February 2003. Following intense criticisms from all quarters, the PMO backtracked on its earlier stance and wrote another letter to SC on November 1, 2004 that they were indeed under preventive detention. Both detainees received the warrants to keep them under custody only then. This is just one of numerous such examples. Dr. Ram Krishna Timilsina, the SC spokesperson, said that the Bhairavnath Battalion of RNA at Maharajganj had refused to acknowledge the show cause notice on a writ of habeas corpus regarding the arrest of lawyer Basu Dev Sigdel (Kathmandu Post: March 11, 2004).

Along with the heightening of the People’s War, the number of threats to human rights activists has increased, and international communities have reacted heavily upon deteriorating human rights situation with growing alarm. Not only the members of CPN (Maoist), but civilians, journalists, and rights activists also face ever-growing threats pertaining to abduction, detention, or even death from the security forces. On December 19, 2003, a joint press statement revealed that a number of human rights defenders, including journalists, lawyers, NHRC staff, and local human rights activists, had faced severe harassment. The statement further said, „Human rights defenders have been killed, detained under anti-terrorist legislation, abducted, tortured, and threatened”. The press statement was jointly issued by three prominent international human rights organizations, namely AI, HRW, and the ICJ.

In a separate press statement issued on December 17, 2004, Asian Human Rights Commission (AHRC) called upon all concerned to respect human rights, rule of law, and democracy norms. It also condemned the role of India and said, „RNA is operating with absolute impunity, breach all human rights and humanitarian norms in alarming proportions; the support given by India amounts to aid for the commission of crimes against humanity”.

The Chief of Department for Asia and Oceania, European Union, Robert Milders while visiting Nepal on December 13-15, 2004 said that international mediation would be possible if Maoists stop violence and agree to hold dialogue with the State. EU also condemned the TADO and agreed to open EC Humanitarian Office (ECHO) in Nepal and promised to review the HR situation in Geneva in March-April 2005. The involvement of UN/EU as mediator would certainly uphold the principles of multi-party democracy and parliamentary system of government, safeguard and respect for human rights, and compliance to international mechanism.

It is surprising that Nepalese state keeps declining external assistance for peace-making process, but heartily accepts external military aid for helicopters, arms and ammunition. So, the question arises whether the state duty-holders are putting off peace in exchange for huge sums of commission received from the procurement of military hardware.

Secretary General of the United Nations Kofi Annan has expressed deep concerns for the escalation of fighting and grave human rights violations. He called for an immediate cessation of fighting and initiation of peace talks between the conflicting parties with the participation of political and civil forces. He said, „I
stand ready to assist such a national effort" (Appeal: December 24, 2004). He also urged that National Human Rights Commission and all human rights activists be able to carry out their essential works and their safety should be guaranteed.

After the publication of the report by NHRC on September 24, 2004, altogether fifteen embassies and donor agencies expressed deep concern on human rights violations. The signatories included British, Canadian and US embassies, EU, UN, and Swiss Agency for Development and Cooperation. The statement noted that the situation in Nepal portrays a climate in which no one is free from fear and insecurity. Urging both the conflicting parties to sign the Human Rights Accord, the statement criticized the blatant disregard for the civilians' rights despite their commitment to human rights standards and international humanitarian laws including the Geneva Convention.

On December 27, 2004, tens of thousands of people of various disciplines took to the streets of Kathmandu to pressure both the warring parties – the government and the Maoists – to initiate peace talks. The mass rally was organized by All Nepal National Free Students Union (ANNFSU) with the support of Civic Solidarity for Peace. Students, members of civil and professional organizations chanted slogans of Let the students study in peace, Declare educational institutions as zones of peace, We want new constitution, Long live civic solidarity for peace, We don't need weapons, give us Pentium IV etc. The mass really called for an end to nine years of armed insurgency and urged all the concerned to put the peace agenda first.

The government in August 2004 established a peace secretariat comprising a five-member High Level Peace Committee (HLPC) to initiate dialogue with the Maoists. The government also set up a sub-committee to peace secretariat. However, peace turned out to be more elusive than ever due to the lack of confidence, facilitation, mediation, and vested interests of political parties.

When HLPC could not succeed to hold dialogue with the Maoists, Maoist Supremo Prachanda asked a barrage of questions on September 24, 2004 to the 'old regime' in response to civil society's pressure for peace parleys. The questions put forward through a press statement were: (i) Is the old regime able to restore pre-October 4, 2002 situation? (ii) Can it create conducive environment against the interests of the Palace and Army on behalf of all the political forces? (iii) Is it really committed in making the people sovereign through constituent assembly? (iv) Is it ready to involve the UN/EU mediator in the peace talks instead of beginning military assistance from abroad? (v) Can it prove that the RNA is under civilian control?

Without consulting his cabinet partners, Deuba officially invited the Maoists for talks, but set a deadline of January 13, 2005. Addressing media persons in Kathmandu, Deuba said that if the Maoists do not show their readiness to come for talks in search of a solution to the problem in a peaceful manner even during the period, it will not be possible for the government to keep waiting for long (Himalayan Times: November 25, 2004). Deuba assured that the talks would be held in a secret place, the government is ready to discuss any subject and to withdraw the terrorist tags of the Maoists' talks team, but if the offer is snubbed, the government will go to the polls. However, Deuba did not address the issues of
round table conference, constituent assembly, and international mediation nor did he answer the questions put forward by the Maoists. On the other hand, he indirectly suggested the Maoists to participate in the polls even if they did not come for talks. The alternative offer of participation in the election to parliament is meaningless, as the Maoists have been boycotting all sorts of polls under this pseudo-democratic government since 1994.

In response to Deuba’s official invitation for talks, Maoist Supremo Prachanda stated that setting a deadline for peace talks by the old regime was abstract and full of threats. In the press statement of November 27, 2004, he did not completely rule out the possibility of peace talks and reiterated his party’s earlier standing for round table conference, interim government, election to constituent assembly, and international mediation. It also stated that an election for the parliament would only deepen the crisis. And he appealed to all the pro-people forces to reach a consensus to end the mess. Frequent calls by Maoists for international mediation, especially that of UN, shows that they are serious for dialogue and national consensus to reach a negotiated settlement by peaceful means (for details see Annex-E.I.I and Annex-E.I.II), but the government does not seem keen to resolve the crisis. Mere lip service for peace talks tantamounts in practice to stabbing in the back.

The negotiators representing the conflicting parties must be people-centered and masters of diplomacy. Besides, they must have neutral image and executive authority and they should maintain low profile and secrecy. Except for diplomacy, Deuba government cannot claim for more attributes to initiate dialogue. When Deuba is unable to obtain common consensus in his cabinet on a small issue of recruitment, how can the Maoists and others be convinced that the government is capable to deal with the spirited issue of decade old People’s War? If the government is unable to answer the questions put forward by the Maoists, how can they trust that it has the full authority to deal with all the existing problems? It is well known that Deuba was responsible for the following acts in the past:

- He formed the largest cabinet for the first time in Nepal
- He got ratified the most controversial Integrated Mahakali Treaty.
- People’s War had initiated in his reign.
- He devalued the role of people’s representatives.
- He ushered Pajero culture among parliamentarians and top level bureaucrats.
- He had sent ministers abroad fearing that they would otherwise cast their votes against his government in the no-confidence motion.
- He had imposed the State of Emergency.
- He declared the Maoists as terrorists.
- He fixed price-tags on Maoists’ heads.
- He issued the red corner notice.
- He brought TADA.
- He dissolved the elected House of Representatives.
- He was the only prime minister in the history of Nepal to have been declared as incompetent by the king.

The political conflict of Nepal is triangular in nature: between the CPN (Maoist) and the monarchy, between the CPN (Maoist) and political parties, and between...
the political parties and the monarchy. In terms of power equation, no single actor totally dominates the other. Nor can coalition of two actors sideline the third one. Two of the forces with military nature have marginalized the role of civil society. But, the political forces that do not rely on arms have failed to reach a consensus on common mission, goal, and destination. The recurrent antagonism among the political forces has benefited both the Maoists and the monarchy.

The controversial speeches of the King in the recent past amply show that he wants to revive an authoritarian regime rather than having a liberal democratic one. He is not satisfied with the role and activities of the mainstream political parties. Giving an interview with Delhi Times of The Times of India on December 15, 2004, he said, ,It is for political parties to be popular and adopt populist slogans. I do not have to prove that I am a king. It is up to my subjects to believe and accept that fact.% He said that he cannot be only seen and heard; he needs to interact with the masses. The monarchy has to have mass participation. He further stated that a king in today’s time has to be dynamic, skilled in technical and adoptive leadership, communicative and yet remain a father figure that everyone can turn to. His words in the interview when he says, Âdo not treat me as a pendulum, clearly shows his ambition to become an active monarch as in Panchayat Era. Another example is the central convention of the Rajparishad, the king’s own institution, which requested its master to become active and empower himself as a constructive monarch rather than constitutional one for the betterment of the people.

The King wants to undertake an official visit to India during a period when the country is facing serious challenges as the Maoists have announced the start of Phase-I of strategic offensive for a decisive war since November 16, 2004. In fact, the king needs to talk with his own people in homeland. It is a home-grown problem and it needs a home-grown dialogue, consensus, and negotiated settlement. A wise and patriotic king bows to his people instead to the outside powers, for instance, India. But, it is also true that the king is ready to bow down to foreign power to satiate the vested interests of the few elite people. The prime duty of the king is to ensure basic needs and security for all Nepali people, particularly, by putting the last first.

As the RNA chief has not shown any interest to discuss human rights violations by the security forces, the NHRC heavily poured upon them. It warned that it will take the cases of human rights violations to the international human rights fora if the government does not respect national and international standards of human rights. In response, Director of the RNA’s Directorate of Public Relations Brig. Gen. Dipak Kumar Gurung threatened human rights activists not to make unnecessary comments against the security personnel on being carried away by the Maoist propaganda. Although he reassured that the security forces will not threaten the rights activists in future, the army arrested several human rights activists, namely Kailash Thakur, Narsulla Ansari, and Dhan Sharma, in Nawalparasi in December 2004.

The Plenum of the Central Committee meeting held in Mid-Western Region and the subsequent meeting of the Maoists’ Standing Committee held in October 2004 concluded that they had achieved grand success in the strategic stalemate
period and so they should go for the decisive strategic offensive. They got engaged themselves in a trench/bunker-digging campaign in each house, school, and health centers as a part of the final push against any intervention by Indian expansionism. The first phase of the strategic offensive activities was initiated on November 16, 2004 when they furiously attacked the RNA in Krishna Bhir of Dhading, Pahalmanpur of Kailali, Mahendranagar of Dhanusa, and so forth.

The Maoists lifted the indefinite blockade imposed in the capital and in nine districts, namely Makawanpur, Dhading, Rasuwa, Nuwakot, Ramechhap, Sindhuli, Dolakha, Kavrepalanchowk, and Sindhupalchowk where they formed Regional People's Government of Tamangs. Kumari Moktan, the Deputy Chief of Tamang Autonomous Province issued a press statement to lift the highway blockade on December 29, 2004, which was in force since December 24, 2004. The statement further warned that they would be forced to impose blockade again after three months if the government did not listen to their voices and continued suppressing them. Such blockades and bandas do paralyze the normal life of people nationwide. Nepal faces acute shortage of essential commodities and petroleum products, and prices of daily commodities have skyrocketed.

For the first time, the Maoists had blocked Kathmandu for two days in August 2004. The national as well as international media made a lot of propaganda. Newspapers sensationalized the events through such headlines: „Maoist rebels cut off routes to Kathmandu“ (Times of India: August 19), „Rebels scare away road traffic to Kathmandu“ (Himalayan Times: August 19), „Maoists capture two highways leading to Kathmandu“ (Star News, India: August 20), „On Kathmandu's food stocks“ (CNN: August 20), „Indian food support to Nepal“ (NDTV with PTI: August 23), and „Supplies roll into Kathmandu after Delhi-backed plan“. (Indian Express: August 23), etc.

Based on the party's policy, the Maoists have been able to form five ethnic and two regional autonomous people's governments of federal structure in the past nine years' period. These are: (i) Kirant Autonomous Regional People's Government (under the leadership of Gopal Khambu alias Shaila), (ii) Madesh Autonomous Regional People's Government (under Matrika Yadav alias Ram Singh), (iii) Tamang Autonomous Regional People's Government (under Hit Bahadur Tamang alias Shamsher), (iv) Tamuwan Autonomous Regional People's Government (under Dev Gurung alias Kanchha Bahadur), (v) Magarat Autonomous Regional People's Government (under Santosh Buda Magar alias Bhruna), (vi) Tharuwan Autonomous Regional People's Government (under R. C. Chaudhary), (vii) Bheri-Karnali Autonomous Regional People's Government (under Khadga Bahadur Biswokarma alias Prakanda). Seti-Mahakali Autonomous Regional People's Government and Newar Autonomous Regional People's Government (Kathmandu Valley) are yet to be materialized. The above autonomous federal structure governments show no favoritism for bahun, chhetri, or Thakuri in power structure that should invite communal violence. All the autonomous governments shall exercise the laws and regulations independently except in the matters concerning the People's Army, foreign relations, finance, currency, measurements, communication, international trade, large basic industries, and large hydel projects for which they
Politics of People's War and Human Rights in Nepal

will be guided by the central government or the URPC.

By the end of 2004, the PLA had formed three divisions in eastern, mid, and western regions comprised of 9 brigades and 31 battalions. The brigades are: (i) Mangalsen, (ii) Satbaria, (iii) Lisnegam, (iv) Bashusmriti, (v) Bethansmriti, (vi) Solu-Salleri, (vii) Mechi-Koshi, (viii) Bahubiryoddha, and (ix) Paribartansmriti.

Each division is comprised of three brigades. Eastern division includes Bethansmriti, Solu-Salleri, and Mechi-Koshi brigades. Mid consists of Mangalsen, Bashusmriti, and Paribartansmriti. Rest three such as Satbaria, Lisnegam, and Bahubiryoddha lie in western division. One-third of the brigades have been named after the martyrs. Eastern division is commissioned by Ram Bahadur Thapa alias Badal, mid by Dr. Baburam Bhattarai alias Laldhoj, and western by Post Bahadur Bogati alias Diwakar as commissar. Besides, each division has a commander and an assistant commander.

For a decisive war, the Maoists have changed their style and have modified policies, priorities and processes. For example, the party need not be governed by the command of gunÊ, it has adopted a satasat (exchange) ratio of 2:3, according to which 40 percent of the militia are transformed into political activists and 60 percent political activists are turned into militia. Both militia and political activists must observe strict discipline or face severe action in which one may get suspended or dispatched to shram sibir (labor camp) or even sentenced to death if found deviating from duties and responsibilities.

The PeopleÊs War has led to the breakdown of education system, closure of dozens of business enterprises, and weakening of agriculture-based subsistence economy. The fragile security situation has caused the withdrawal of many foreign aided development projects and migration of rural population to cities or even aboard. On the other hand, larger proportion of development projects expenditure is spent in the metropolis at the cost of peripheral areas, although development cooperation must protect and uplift the rural poor, disadvantaged, marginalized, and vulnerable people.

Presently, the foreign aided development organizations/institutions encounter several obstacles. On January 29, 2003, the CPN (Maoist) declared the formation of Tharuwan National Liberation Front (TNLF) comprising western tarai areas from Rapti to Mahakali zones, excluding Dang district. The Maoist-aligned Tharuwan Autonomous Province of TNLF put forward 10-point directives for the international development institutions and organizations (I/NGOs) as follows:

- I/NGOs working in the autonomous province shall register and renew their membership by paying the annual fee of Rs. 300.
- I/NGOs shall submit all the details of their programs, policies, and plans with the Janaparishad (PeopleÊs Council). The program shall be periodically reviewed and monitored.
- All those of the staff drawing more than Rs. 10,000 per month shall pay 10 percent of their salary to Janaparishad as tax.
- I/NGOs must bear clean image and their budget must be utilized in proper manner.
- I/NGOs must consult the Maoists in the process of new recruitment. All the new appointees must have clean image and must not act against the policies and activities of the Maoists. The curriculum vitae of all the employees must be
submitted to the *Janaparishad*.  
- Local NGOs should be given priority for partnership. Programs should be chiefly undertaken in the priority areas of the Tharuwan Regional Province (TRP) or in remote and virgin areas devoid of development activities and programs so as to identify the Â‘pressing needs programs' of the communities. TNLF discourages the system of commission while implementing the programs.  
- No program shall be duplicated as representing the State, for instance the Â‘poverty reduction' program.  
- All the programs and activities shall be held in coordination with the *Janaparishad*. Considering the property of NGOs as public one, NGOs shall submit, on their own initiative, all the properties to the *Janaparishad* after the closure of their organization.  
- I/NGOs shall conduct their training/meeting in the villages instead of at expensive and big hotels in urban centers.  
- NGOs shall maintain transparency by conducting public audit/hearing and pasting their forthcoming programs on notice board at the project site.

The above mentioned policy has been in force since July 16, 2004 (the first day of the fiscal year 2061/2062 BS). Development agencies have slashed their development programs. For instance, DFID has downsized its activities from 24 to 16 districts since the imposition of registration policy.

Maoists do not have a consistent policy for NGO registration. It varies from place to place. In Central Nepal, they have adopted a flexible policy and strategy toward the I/NGOs. The policy is flexible where they have not yet formed their regional autonomous government. In such places, they would often say: „You go ahead until our new policy or government is formed."

After the break-down of the second peace talks, the Maoists refined their policy. Except for the I/NGOs directly financed by USA, the Maoists have adopted soft corner and soft policy for neutral countries which are those not hostile against the People’s War, like the European Union and others.

Indeed, in present day Nepal, development agencies are confused as they find two mutually juxtaposed or parallel governments: one leads at urban centers and another at the countryside.

Adopting the policy of Â‘shared challenge,' the Indian government arrested about a dozen of Maoist leaders, including one standing committee member, Mohan Baidhya alias Kiran, in Siliguri in April 2004. The arrest of their leaders and activists in India has brought a major political shift in the Maoists' policy toward India, which is now more aggressive. The Maoists have accused Indian expansionism as the main hindrance to forward looking political outlet in Nepal. The past has been witness that India is trying to *Sikkimize* and *Bhutanize* Nepal in line with Nehru’s policy that the Â‘Himalayas of Nepal constitute the northern border of India'. Rejecting the Indian policy of expansionism and neo-colonization in its periphery, the Maoists have put forward the tunnel war strategy to fight against India.

It is wrong to blame the CPN (Maoist) alone for getting inspired by Maoism and for conducting a protracted People's War. Multiple economic, ideological, social, geo-political, constitutional, and cultural factors play crucial role for the
eventual initiation of an armed insurgency. The Maoists have only completed the march from Rukum-Rolpa to Bhojpur for an assault on district headquarters as Mao did during the Long March in China.

Despite this, the Maoists have not rejected the ideas of talks and a negotiated settlement, but they have put forward certain conditions in priority, process, and policy for talks which are quite natural. They want a people’s democratic republic and the political parties yearn for multiparty parliamentary democracy. Similarly, the adherents of status-quo and courtiers want to have an active role for the monarch instead of constitutional monarchy. The King can play a pivotal role to transform the zero-sum talks into a positive settlement for sustainable peace. The involvement of monarch in talks would mean sidelining the opposing forces in the peace process such as courtiers and RNA, and minimizing the roles of India and USA in Nepali politics. That is why the Maoists have put forward the concept of direct talks with the monarch instead of having futile exercises with a powerless, incompetent, and unpopular government.

Making a new constitution through the process of constituent assembly is the best process to establish sovereign rights and integrity of people in selecting and conducting political system. It falls under the purview of genuine democracy. People will have sovereign power in a genuine democracy, not the king nor political parties. Accepting the consent of sovereign people is the duty of the king, civil society, and political parties.

Whether the current war is for politics, or whether we are bearing the politics of war, the fact remains that this is a political war. The outcome of a war is unpredictable. However, it would be ultimately considered good for all of us, if the war is for peace, and the peace is for genuine democracy and democracy is for people’s rights – the dignified rights of life and liberty and right to adequate food.

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Endnotes

2 Nepal was required to pay 30 percent of the total cost price.
H.E. Kofì Annan  
Secretary General,  
UNO.

Your Excellency,

We highly appreciate the deep concern expressed by you on behalf of the august international body, the UNO, about the breakdown of peace talks between the old monarchical regime and the revolutionary democratic forces led by our Party in Nepal. We have also noted with a high sense of responsibility your call for the solution of all outstanding problems through dialogue and peaceful means in future.

As the entire international community knows, the fratricidal and regicidal King Gyanendra has systematically usurped all democratic and civic rights of the Nepalese people, including the fragile parliamentary institutions since October 4 last, and imposed a royal military dictatorship through his traditional hold over the mercenary Royal Nepal Army (RNA). Our Party, along with other parliamentary and non-parliamentary democratic forces, has been leading a powerful resistance movement in the country against this royal dictatorship, and the autocratic monarchy totally isolated from the people has been surviving merely on brute military force increasingly backed by some foreign powers.

However, taking into consideration the state of strategic equilibrium between the two armed forces and the sensitive geo-strategic positioning of the country, our Party opted for a ceasefire on January 29 last and entered into a negotiation process with the monarchical regime to find a forward-looking political solution to the problem. In the very first round of the peace talks on April 27 we proposed a three-point compromise formula of a round-table conference, an interim government and election to a Constituent Assembly to end the half century old contention between monarchy and democracy in a peaceful manner. But after much dilly-dallying the monarchical regime rejected the said proposal enjoying overwhelming support of every section of the people in the country and instead produced a very regressive political agenda to consolidate and continue with the hated monarchy and its RNA dictatorship in the third round of talks on August 17-19. A cursory glance at the so-called Concept Paper produced by the monarchical regime during the talks would suffice to expose its arch reactionary and anti-democratic essence to perpetuate the autocratic monarchy, which has been rightly rejected even by the parliamentary political parties agitating for minor reforms within the present set-up. This obstinate stand of monarchy and its principal support base, the RNA, against a forward-looking political solution through democratic means in the form of an elected Constituent Assembly objectively sealed the fate of peace talks, which were formally broken on August 27.

Apart from this, whereas our Party and the People's Liberation Army (PLA) strictly

Annex

Annex-El.I

September 1, 2003
observed the ceasefire throughout, the RNA provocatively flouted it all along killing dozens, the most blatant case being the brutal gunning down of 19 unarmed cadres and general masses on the eve of third round of talks on August 17 in Dorambha (Ramechhap), eastern Nepal. To camouflage its essential anti-democratic and militarist character and objective termination of peace talks through denial of progressive political solutions, the monarchical regime has now unabashedly launched Goebbels-style disinformation campaign against the revolutionary democratic forces, which deserves to be exposed by one and all.

We hope the international community would appreciate the complexities of life and death struggle between feudal monarchical forces and progressive democratic forces currently going on in Nepal. In this context we would once again reiterate our commitment to find a forward-looking political solution through dialogue and peaceful means at an appropriate moment, but would feel duty-bound to resist armed onslaughts of the monarchical regime against the people fighting for their genuine democratic rights. Finally, we would appeal to the international community in general, and the UNO in particular, to do everything in their might to stop all foreign armed and otherwise interventions in Nepal and let the Nepalese people decide their own future themselves.

Looking forward to cordial and mutually beneficial relations,

Prachanda
Chairman
CPN (Maoist)
Press Statement of CPN (Maoist) Central Committee

On the specific situation of power balance of civil war and having seriously and responsively thought on the people’s wishes of peaceful political outlet, it is crystal clear that our party is involved in the process of peaceful negotiation with the old state along with the declaration of ceasefire. As seriously and enthusiastically had our party announced the ceasefire to find forward-going political solution through negotiation, naturally we had expected the same from the old state’s side. While from the very beginning as the people’s liberation army under our leadership had thoroughly complied the letter and spirit of the ceasefire and code of conduct, the Royal Army of the old state continued to violate it. Even after the declaration of the ceasefire, the Royal Army not only mounted unnecessary checks and arrests, but also continued the killing in cool blood of our cadres in Darchula, Makawanpur, Bhojpur, and in different parts of the country including besieging a contingent of People’s Liberation Army stationed peacefully in Kanchanpur and arresting them with arms. These kinds of activities of the Royal Army, seen in the initial stage of declaration of ceasefire had contributed in stumbling seriously our wishes and enthusiasm as well as the hopes of the broad masses of people toward peaceful political outlet.

Despite that, with a sense of grave responsibility toward the country and the people, the party patiently continued its efforts not to let the atmosphere for formal dialogue be muddled. Finally, the first round, negotiation commenced, and our party presented a draft of minimum political proposals at the first meeting. In order to continue the negotiation process by strengthening the application aspect of the ceasefire and code of conduct, which was weakened due to the undesirable activities of the Royal army, an agreement was reached to limit the Royal Army within a perimeter of five kilometres from its barracks. The Royal Army not only outright rejected this agreement reached in the second round of negotiation; the government was also changed on its pressure. The negotiation process itself became philistine through this activity and a serious crisis developed on the faith of the possibility of peaceful and forward going political outlet. After a series of communication through letters by the new negotiation team of the old state after a long gap, and in view of the release of our imprisoned Central Committee members and the agreement by the old state to theoretically discuss the political issues including keeping the Royal Army disciplined, our party again with new hope guided its negotiation team to participate in the third round of negotiation.

In the third round of negotiation, the concept paper that the old state presented had not only failed to address the basic problems facing the country, but only proved their conspiracy of strengthening the feudal retrogression of 4 October with the reformist sugar coating. The “concept paper” failed to even address the demands for a constitutional monarchy and multiparty democracy of the main parliamentarian parties, and objectively put an end to the relevance of dialogue, urging us to politically capitulate by handing over our weapons. Our negotiation team thoroughly and seriously rejected that demand and clearly stated that the fourth round of negotiation would be possible only if the old state comes up with a new proposal to advance toward constituent
assembly, otherwise the relevance of the negotiation would be finished. While the debate was going on at the negotiation table, the very moment the Royal Army killed 17 unarmed cadres of our party involved in an area committee meeting and killed two ordinary people in cool blood one by one after taking into custody, with their hands tied behind their back, at Doramba of Ramechhap district. Hence, objectively, both the “concept paper” of the old state presented at the third round of negotiation politically, and the massacre of 19 people in Doramba by the Royal Army militarily, have declared the calling off of the negotiation process. Now shedding a crocodile’s tear through unclear harping of being committed to the peace negotiation is only a serious dishonesty and stupidity of the old state as an attempt to confuse the people and the country.

It is obvious to all that our Party is a revolutionary party fighting for a people’s republic. In order to stop the rising danger against national sovereignty of Nepal by foreign activities and interventions mounted through old state, and to fulfill the wishes of the masses of people, we, having suspended the People’s Republic as an immediate slogan from the table of dialogue, came to the universal method of solving problems through constituent assembly. The slogan of constituent assembly is not any communist revolutionary slogan. We do not see any reason to be stumbled to go into the constituent assembly for whoever those believing that the people are the sovereign power. The protest of constituent assembly and urge to put unchanging basis in the constitution simply prove the fact that the old state has no faith over people. The meaning of our stand on the constituent assembly is to establish the sovereign right of the people in selecting and handling political system and not to let it be belittled in any condition. In the present situation while there is a triangular power struggle going on, and because of that, as the danger over national independence is being mounted, no other means could be in utmost favor of the country and most scientific than to give total rights to the people to decide for themselves. The paradox is, they would rather see the country ruined than make the people sovereign through election of the constituent assembly. The old state is ready to bow down to the foreign powers and ready to drench themselves in the people’s blood on their backing, but is not ready to accept the people as sovereign.

In this context, it becomes clear that there is no other alternative than for the Nepalese people to resist the country-selling, anti-people and autocratic activities of the old state, and to continue struggle for national independence and for their own sovereign right. Therefore, because the old state has ended the possibility of forward going solution through the present ceasefire and dialogue in the style of giving lip-service for peace and backstabbing in practice, our party, for immediate period wants to clarify that the relevance of ceasefire, code of conduct and negotiation process have become irrelevant and finished. Our party wants to thank and offer gratitude to all the mediators of the negotiation, many political parties of the country, human rights organizations and institutions, intellectuals, and broad masses of people or many friends outside the country, who were striving to solve problems through peace process, and expresses their commitment to extend constant interactions and advance mutual relations. We will not close the doors of negotiation from our side. On the condition to establish people’s sovereign rights and basic interests, we will again sit for negotiation. Our party makes humble appeal to all pro people forces and communities within and outside of the country to help in creating such situation and atmosphere.

Prachanda
Chairman
CPN (Maoist)
Central Committee

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Epilogue Two

Hundred Days after the Coup

On February 1, 2005 at 10 AM, the historic Royal Proclamation (RP) was broadcast to the nation. King Gyanendra read the 32-minute long proclamation through a teleprompter in a special studio specially set up for the purpose inside the Narayanhiti Royal Palace. He was standing between the national flag and royal standard and his black cap was just touching the royal seal. A well built backdrop studio itself was an example of the long preparation that went for the royal takeover. It introduced the authoritarian regime suspending constitutional fundamental rights and rule of law.

Through the proclamation, the King sacked the 7-month old council of ministers headed by Sher Bahadur Deuba as being termed incapable and insincere once again to restore peace and security and to hold parliamentary election in the country. The King assumed the executive powers, declared a state of emergency, and announced that a new council of ministers would be formed under his chairmanship to fulfill the people’s desire for the restoration of peace, stability, and progress and to activate the democratic dispensation within a three-year time frame. He formed a 10-member council of ministers the following day and soon he expanded it with two vice-chairmen, one of whom had voluntarily left the country 20 years ago.

Despite the acute needs of the country and people’s aspirations, the King included outtuned and detested politicians and bureaucrats in his royal government. Most of the appointees in the cabinet are more than 60 years old. Both the vice-chairmen are in 80s and had worked under the late King Mahendra. The incumbent royalist government constitutes a ‘rule of septuagenarians’ or ‘rule of technically dead-men’. They naturally lack clear-cut vision, priority, policy, and process. Except a few, all of them have deep-rooted feudal character rather than having a make up for functional democracy and institutional politics. What distinguishes the action of the late king is that he utilized the services of most dynamic and talented young people then in the aftermath of the royal coup d’état against the first ever parliament on December 15, 1960, whereas the present king has to depend upon the artisans of outdated statecraft. Normally, an individual above 60 would cherish to live in the past and recall his experiences and activities, whereas the crisis overwhelms those between the age of 16 and 50 who account for more than 50 percent of the population and are being enthused for the sake of Republican State of Nepal. They are beginning to think that they would receive the basic needs as basic rights only in a republic. Now the question arises, how can the King’s government fulfill the needs and aspirations of the youths. Ignoring them will only mean preparing the ground for an early abolition of monarchy before 2011.
King's proclamation making himself an absolute decision maker has, in effect, derailed the Constitution 1990. The present royal government, which is widely considered as the government of draconian ordinances, neither itself is constitutional nor there is a constitutional provision for a chairman or vice-chairmen to assume the executive authority.

The announcement of SoE has suspended all constitutional fundamental rights and civil liberties (For more see Chapter-VIII). The absolutism allows to arrest anybody or keep her/him under incommunicado detention. According to the TADO, an arrested person may be detained in prison for 180 days without interrogation and the period may be extended to 180 days more with the endorsement of the Home Ministry. The courts, including the apex court, are facing constitutional dilemma in dispersion of constitutional rights due to the king’s present status as chairman in the council of ministers. When King Gyanendra faced mounting pressures from all corners particularly by donor countries, he lifted the Emergency on April 30, 2005, precisely three months after its imposition. Even after the lifting of Emergency, the daunting challenges to get rid of insecurity and injustice remain unchanged. Anybody visiting a place outside Kathmandu valley and district headquarters can realize that the people there are living in another Nepal due to the absence of the government functionaries.

Prior to King’s proclamation, the security forces, who are loyal to the supreme feudal institution of monarchy as against the sovereign people, had rounded up prominent members of the civil society and constitutional forces. All the members of council of ministers had either been kept under house arrest or in incommunicado detention contrary to the institutional values of constitution and genuine democracy.

The proclamation claimed that the performance of political parties for the type of governance they did negated the aim of people’s representation and that it was against the norms, letter and spirit of the constitution and multiparty democracy. It did not ban the political parties, but it restricted the people’s movement, mass demonstration, procession, and even organizing a press conference. Also, it censored the media. However, the few who were devoted toward the king’s coup were freely launching demonstrations. Gradually, the government freed the prominent leaders, at times on the writ of habeas corpus. But, vibrant student leaders and party professionals were re-arrested immediately after their release by the order of the courts. And, the security forces keep arresting dozens of demonstrators each day who protest against the direct rule of the monarch.

In response to the royal address to the nation on the eve of the Nepali New Year on April 14 declaring to hold elections for nearly five dozen municipalities, all the political parties decided to boycott it due to the lack of credibility for free, fair and impartial elections. Nearly 10 percent of the total population of 23.4 million people live in such safe urban places. It is ironical that the king had removed three prime ministers for their inability to hold parliamentary election in a year's time. Now the question is raised, „Why has the king proclaimed for holding local municipal elections only?“ Does it mean that he is losing control in 4,200 villages? The king’s address itself lends credibility the Maoists claim, „Three-fourths of the
geo-political land of the countryside is in our control. The recognizes itself proves that Nepal has two governments, two legislatures, two judiciaries, and two security forces - one ruling at the urban centers and another in the countryside.

Political parties who had been opposing the royal regression since October 4, 2002 have now reached consensus on May 9, 2005 on one-point agenda for the revival of the dissolved House of Representatives (HoR) to resolve the ongoing political crisis and to rectify the derailment of constitution. The HoR was dissolved by the then PM Sher Bahadur Deuba on May 22, 2002. A bizarre alliance of seven parties [viz. Nepali Congress, Communist Party of Nepal (UML), Nepali Congress (D), United Left Front, Janamorcha Nepal, Nepal Workers' and Peasants' Party, and Nepal Sadbhawana Party (A)] has concluded that the royal coup took place in the absence of the Parliament. In order to resolve the issue of Maoist People's War, they have put forward a concept to exercise the people's sovereign rights to make the constitution by holding an election to the constituent assembly. The unconstitutional royal move and the atrocities of the king's government have compelled the political parties to unite on one platform ever since the restoration of democracy in 1990.

The governments of America, India and European Union have welcomed the seven-party 'common agreement and commitment' to address the challenges facing Nepal, although the Ministry of Foreign Affairs has warned the international community not to interfere in the internal matters of Nepal.

Under the 21-point charter, the royalist government has set up the Royal Commission for Corruption Control (RCCC) to take stern actions against the corrupt politicians and administrators. And it has been widely welcomed too. It has initiated its duties and responsibilities by arresting some of the leaders and bureaucrats on corruption charges. Some have boycotted it by raising the question of its legitimacy. There is no doubt that there are leaders and bureaucrats who are corrupt, but who would dare to investigate the cases of corruption in security forces? If the concerned authorities of the royal government want to wipe out corruption and to keep the system on right track, all without exception must be ready to stand in front of the mirror.

While the proclamation was still being aired, the all phone lines including cell phones went dead, the airport was closed, international flights were diverted, and the movement of public buses to and from the Kathmandu valley was prohibited. The RNA shut down the satellite links of all ISPs and media. USA urged its citizens to postpone their visit to Nepal. All the landline telephone services were resumed only after one week. Wireless communication services remained suspended for more than two months. Prepaid mobile services have not been allowed although post-paid mobile phones have been functioning. Over 30 internet service providers have been given directives to block all the Maoists websites.

Any interview, article, news story, notice, view or personal opinion that goes against the letter and spirit of RP and supports the Maoists directly or indirectly has been banned for six months. The notice was produced by His Majesty's Government, Ministry of Information and Communication on February 3, 2005. The extreme measures of censorship in print and publication through security forces have obliged the
people to resort to century-old means to find out what is happening. One must visit the incident site to know the exact information related to the conflict and security. Even in case of heavy casualties suffered among Maoists or security forces, news and views are reported according to RNA's directions. Not a single media agency is quoting a source other than RNA. On the recent Maoists' attack in Siraha, RNA officials informed that only four security personnel were killed, although in one camp there were 200 plus security men, and only two had survived (www.insn.org). This is just an example. When they get victory, the RNA takes huge number of journalists at the incident site by chartering helicopters. But, in the case of Siraha, they did not dare to take newsmen although the place is quite accessible.

Both of the state-controlled print and electronic media have time and again reported that the security forces got major victory against the Maoists, whereas the fact is that the size and strength of the Maoists is increasing each day. The censorship on news, views, analysis, and opinion in newspapers, periodicals, and FM radio, and the arrest of journalists constitute gross violation of the right to information. The restriction on media has created job lay offs which could go up to 1,600 (IFJ: February 20, 2005).

Within the first hundred days of the coup, all the hoardings bearing quotes from King Prithvi Narayan Shah the Great to King Birendra were replaces by those of the present king.

The National Human Rights Commission (NHRC) has shown concern over the protection of human rights during the SoE. It has urged the government to respect the norms, values and spirit of human rights before any decision is taken. As Nepal is a member of United Nations and signatory of prominent international human rights accords, the incumbent regime is obliged to honor and uphold the human rights of citizens.

Since the royal takeover, the issue of Nepalese political situation is no more a national agenda alone. The international human rights community has severely criticized the king's move and has asked the international donors and financial institutions to suspend military assistance to Nepal until the king adheres to the rule of law, respects human rights, frees political detainees, and restores democratic dispensation as a way out to both violent and non-violent conflicts. Several human rights organizations, namely London-based Amnesty International, USA-based Human Rights Watch, Asian Human Rights Commission, International Commission for Jurists (ICJ), International Federation of Journalists (IFJ), etc. had visited Nepal to express solidarity for democracy. AIF's General Secretary, who held a press conference in New Delhi after visiting Nepal, called upon the donors not to provide military aid to Nepal unless the record of human rights is improved and fundamental rights are reactivated.

Nepal has been a country of massive human rights violations with one of the world's worst records of involuntary disappearances, custodial deaths, inhumane torture, extrajudicial killings and arbitrary arrests and detentions.

Due to the strong lobbying and networking of international and national human rights bodies, the 61st regular session of the Office of the High Commissioner on Human Rights (OHCHR), which was held from March 14 to April 22, 2005 in
Geneva, passed a resolution of Technical Cooperation and Advisory Services (TCAS) for Nepal under Item 19. On April 11, 2005, Minister for Foreign Affairs Ramesh Nath Pandey and United Nations High Commissioner for Human Rights Louise Arbour signed the 18-point Memorandum of Understanding to deploy an international human rights monitoring team in Nepal for two years. The agreement calls for OHCHR to establish its main office in Kathmandu and subsidiary offices at five regional centers in Nepal. The offices will monitor human rights violations and implementation of international humanitarian laws to ensure accountability of both the conflicting parties. The annual session of OHCHR had put Nepal on top priority.

On April 29, 2005, Louise Arbour appointed Ian Martin as head of the OHCHR in Nepal. He has 30 years of experience in the field of human rights both with non-government organizations and as a representative of the United Nations. His 12-member UN Human Rights Monitoring Team arrived in Nepal in the first week of May 2005 and it has already initiated the work. Since the UN intervention, the crisis of Nepal has become an issue of international concern. The establishment of a free-standing OHCHR in Nepal is an important step toward protecting human rights, as the civilians across the country have experienced gross human rights violations and abuses, terror and violence for many years. The principal duty of the UN office is to protect the civilians from both the conflicting parties.

The establishment of UN office in Nepal would compel both the security forces and the Maoists to honor and uphold right to life, security and dignity of the civilians. If the records of human rights violations and abuses could not be improved, the violators shall have to face the International Criminal Court (ICC) even after the conflict is over.

Opposing the royal take-over, India pulled out from the summit of seven South Asian nations – South Asian Association for Regional Cooperation (SAARC) once again, citing the deteriorating security situation. The SAARC summit was scheduled to be held on February 6-7, 2005 in Dhaka. India had taken similar step earlier in 2000 when Pervez Musharraf had taken over power in Pakistan in a bloodless coup.

India also suspended the military assistance to Nepal and declared a strong commitment for multiparty democracy and constitutional monarchy in Nepal. However, it resumed supplying non-lethal arms on May 9, 2005 while US Assistant Secretary of State for South Asian Affairs Christian Rocca was visiting Nepal. The shift in Indian policy became public after King Gyanendra had 45-minute long secret talks with Prime Minister Dr. Manmohan Singh in India of April 23, 2005 in Jakarta. India invariably adopts a bizarre role in matters concerning Nepal. The history has been a witness that India capitalizes an opportunity unilaterally whenever Nepal seeks its support to come out from a crisis. However, the detail of secret understanding between King Gyanendra and Dr. Manmohan Singh is yet to be found out.

On February 23, the British Government formally announced suspension of military assistance to Nepal in the light of disturbing situation. British Foreign Secretary Jack Straw had said, „We are now considering with key international partners what our longer term policy for providing assistance to Nepal should be, including on assistance with a humanitarian purpose%.British government has urged the king to restore representative government and democratic freedom which
are essential steps toward sustainable peace. Due to the lack of strong commitment to have elected representatives' government and decentralization and the changed political situation, the World Bank cancelled Rs.5 billion of development assistance to Nepal. Similarly, the European Union members have reiterated on the restoration of multiparty democracy, fundamental rights, and constitutional monarchy. Denmark and Swedish governments have suspended their bilateral assistance and have urged for the restoration of democracy and human rights. However, Danish government has vowed to continue to work with the civil society and non-government institutions. As a rebuff against the king's democracy, the country scaled down the foreign aid for the fiscal year 2004/05 by 37.5 percent to Rs.12 billion which includes both loans and grants (Kathmandu Post:April 21, 2005).

The role of USA was similar to Britain's, but it formally announced the suspension of military assistance on May 11, 2005. Christian Rocca said that the assistance remains under constant review. USA and UK want India to play a leading role to restore democracy and fundamental rights and to bring the warring parties to a dialogue table. Before taking a decision on military assistance to Nepal on hold, both Jack Straw and Christian Rocca had visited India and consulted with the Indian government and leaders. Indian ambassador Shiva Shankar Mukherjee, British ambassador Keith Bloomfield, and Britain's special envoy to Nepal Jeffrey James also held consultations with senior Indian officials about Nepal.

The royal security forces are in dilemma: (i) They want to show the international community that they are capable to fight out the Maoists. They claim that the Maoists are being defeated both in terms of weapons and morale. (ii) If they are strong enough to fight against the Maoists, why do they need military assistance and support? On the other hand, the royal security forces visualize the gravity of the situation if the government removes the censorship on both print and electronic media.

The monarch, his council of ministers, his security forces and their secret agencies are gloating with their imagined unilateral successes ever since the royal takeover and keep telling the Nepalese people and international community that large numbers of Maoists have been killed that they are now psychologically depressed, and that they are going through internal confrontations, etc. But it is not true. The chief reason behind it is that the royal security forces have controlled the news and views related to Maoist People's War. In general, the security situation is too fluid and it is deteriorating everyday except in the Kathmandu valley. Media is a main pillar of democracy, but its freedom has been restricted. At the same time, the government brings about some regular cosmetic changes and considers it as a great achievement of the king's move.

The royal government has given birth to a new kind of counter revolutionary force called Maoist Retaliation Committee. These vigilant groups, mainly constituted of tarai-dwellers, are spreading terror among the hill-dwellers which is spinning out of control. If these groups could not be controlled in time, ethnic or communal violence is not far away.

In the proclamation, the King indirectly lambasted upon the Maoists for their
criminality and terrorism and urged them to return to the mainstream of national politics for peace, tranquility, and democracy. On the matter of national security, he said that no serious efforts were made to attenuate the real threat posed against democracy. In the entire proclamation, he did not speak directly about Nepal's pressing problem concerning the Maoists and the necessity of peace talks with them. He wants to drive away the Maoists or to minimize their strength by force, contrary to the desires and aspirations of people to resolve the crisis by peaceful means. Army spokesman Brigadier General Deepak Gurung has said that the Maoists must be forced through weapons to come to the negotiating table. To protest against the King's move, the Maoists had initiated nationwide cessation of transport services on the highways. The government, on the other hand, had imposed dusk to dawn curfew on highways and district headquarters which caused scarcity of goods and skyrocketed in prices.

Except the king, his followers in disguise, some outdated politicians and bureaucrats, and royal security forces, no one has been directly benefited from the royal coup de état. Impunity to the supporters and sympathizers; intimidation and harassment to opposing institutions and thoughts have become daily routine.

In the entire address the king put top priority to the ordinary citizens, although the actions benefit the feudal circle or elites. He wants to impose authoritarian rule in Nepal in the name of war against Maoists, corruption, and incompetent political leaders. The king has followed the same model in which the military dictator Pervez Musharraf has been using in Pakistan. The constant tussle between him and the democratic forces has proved that it is very hard for both democracy and monarchy to function together at the same time in Nepal. Frankly speaking, both democracy and monarchy cannot go together until and unless the king changes his autocratic mindset and comes out from his feudal circle. The present royal democracy survives not because of popular will, but due to his stronghold on security forces. Against the king's belief on his supremacy, the citizens want institutional norms and values of functional democracy – to respect, protect, and promote sovereignty, social justice, and civil liberties. It is obvious that security forces work as a defender of elites who are empowered with money and muscle. The chief reason behind it is that most of the seniors in the security forces are from the same elite family. Indeed, the king's move is against the will and spirit of commoners and genuine democracy.

It is to be noted that in the past 237-year Shah Dynasty, 90 percent (212 years) of the period has been ruled by an absolute monarch against merely 10 percent (25 years) by the democrats. Since the assumption of executive powers from the elected government on October 4, 2002, the King has already tested three councils of ministers, but they all failed to maintain peace and tranquility and security and to hold election to parliament. The royal government is likely to end up imitating them.

**Endnotes**

1. The life expectancy of an individual is 58 for males and 57 for females. Beyond the said period a person may be considered as technically dead.
Technical cooperation and advisory services in Nepal · Item 19

The Commission on Human Rights,

Recalling that Nepal, having ratified six major human rights treaties, has freely accepted the obligation to protect the human rights of the people of Nepal,


Seriously concerned by the growing number of civilian victims of the ongoing conflict since the break-down of the cease-fire on 27 August 2003,

Deeply concerned about the situation of human rights in Nepal, including violations attributed to the security forces, in particular unlawful killings, all forms of sexual violence, forced displacement and disappearances, and attacks against physical integrity and safety of political leaders and party activists, human rights defenders, journalists and others and also deeply concerned about the prevailing situation of impunity,

Strongly condemning all acts of violence against civilians and other criminal acts such as attacks against life, physical integrity, personal liberty and safety, including unlawful killings, all forms of sexual violence and extortion, committed by members of the Communist Party of Nepal (Maoists),

Conscious of the fact that its appeals are mainly directed to His Majesty’s Government of Nepal as it is subject to international obligations; additionally gravely concerned at the serious breaches of humanitarian law committed by members of the Communist Party of Nepal (Maoists), which may constitute war crimes and crimes against humanity,

Recalling His Majesty’s Government’s „Commitment on the implementation of human rights and international humanitarian law“ of 26 March 2004,

Bearing in mind its „Chairperson statement on the human rights assistance to Nepal“ OHCHR/STM/CHR/04/3,

Taking note of the efforts of His Majesty’s Government of Nepal in establishing a Human Rights Promotion Centre at the Prime Minister’s Office and human rights cells within the security forces,

Taking note of the mission report on Nepal of its working group on enforced or involuntary disappearances since 28 January 2005 and the report of the Office of the High Commissioner for Human Rights on its activities in Nepal, including technical cooperation, since 31 January 2005,

Expressing its deep concern about the serious setback to multiparty democracy and the
weakening of rule of law through the Royal Proclamation and the declaration of a State of Emergency on 1 February 2005,

Deeply concerned about the arbitrary arrests and secret detentions, in particular of political leaders and activists, human rights defenders, journalists and others, and about continued enforced disappearances, as well as allegations of torture,

Welcoming the signing of the Agreement between His Majesty’s Government with the Office of the High Commissioner for Human Rights concerning the establishment of an office in Nepal, on 10 April 2005; while also taking into account actions taken by His Majesty’s Government in some cases of human rights violations,

Taking note of the present visit of the Special Representative of the Secretary-General on the human rights of internally displaced persons and the invitation extended to the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment,

OP 1 - Calls upon His Majesty’s Government of Nepal to urgently restore the multiparty democratic institutions enshrined in the Constitution of the Kingdom of Nepal and to respect the rule of law without exception,

OP 2 - Requests His Majesty’s Government of Nepal to bear in mind that, in accordance with Article 4 of the International Covenant on Civil and Political Rights, certain rights, in particular the right to life and the right to freedom from torture and other cruel, inhumane or degrading treatment or punishment, are recognized as non derogable in any circumstances and that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlining the exceptional and temporary nature of any such derogations, as stated in Human Rights Committee General Comment No. 29 (2001) on derogations to the Covenant during a state of public emergency, which threatens the life of a nation,

OP 3 - Calls upon His Majesty’s Government of Nepal to immediately reinstate all civil and political rights, to cease all State-of-Emergency-related and other arbitrary arrests, to lift the far-reaching censorship, to restore freedom of opinion, expression and the press as well as the freedom of association, to immediately release all the detained political leaders and activists, human rights defenders, journalists and others, to allow all citizens to enter and exit the country freely and to respect all international and national obligations as well as the 25 points of the commitment of 26 March 2004, as freely undertaken by Nepal,

OP 4 - Strongly condemns the repeated practice of the members of the Communist Party of Nepal (Maoist) of
   a) unlawful killings, rape, extortions, forced displacements, mass abductions, forced recruitment and labour targeted at civilians,
   b) persecution and attacks against life, integrity and safety of political leaders and party members, human rights defenders, journalists, peace activists and others,
   c) attempts to blockade Kathmandu and other urban areas with a view to cut off the supplies of food and other essential supplies to the civilian population,

OP 5 - Also firmly condemns the recruitment and use of a large number of children into Maoist forces and urges the members of the Communist Party of Nepal (Maoists) to stop the recruitment of children as well as to demobilize immediately those currently
participating in these groups as set out under Resolution S/1539 (2004) of the Security Council,

OP 6 - Strongly urges the members of the Communist Party of Nepal (Maoist) to comply with international the humanitarian laws and to respect the legitimate exercise of all human rights by the people of Nepal as well as to immediately and unconditionally cease and renounce violence, disarm, and enter into negotiations with the genuine intention of rejoining the political process, thereby helping to ensure that the people of Nepal are free to choose their own government,

OP 7 - Calls upon all parties to the conflict to respect human rights and international humanitarian laws, in particular Common Article 3 of the 1949 Geneva Conventions, as well as to act in conformity with all other relevant standards relating to the protection of civilians, particularly of women and children and to allow the safe and unhindered access of humanitarian organizations to those in need of assistance,

OP 8 - Urges His Majesty's Government of Nepal to

a) take all necessary measures to prevent and put an end to extrajudicial and summary killings, all forms of sexual violence, enforced disappearances, arbitrary arrests, illegal incommunicado detentions as well as torture and other cruel, inhumane or degrading treatment or punishment,

b) take all appropriate measures to clarify the fate of all cases of the alleged victims of enforced disappearances, including where appropriate, taking into account the work of the national committee and international expert bodies in this field,

c) ensure that all anti-terrorism and security laws and measures are in accordance with all relevant international norms and standards as well as the Constitution of the Kingdom of Nepal,

d) take appropriate measures to ensure the protection of civil and political rights of political leaders and activists, human rights defenders, journalists and others,

e) take appropriate measures to protect women and girls from gender-based violence, as emphasized by Security Council's Resolution 1325 (2000), and to prevent and prosecute trafficking of women and children,

f) take all necessary measures to protect and respect the human rights of refugees, including the principle of non-refoulement,

g) combat impunity by ensuring that all allegations of violations of human rights and international humanitarian laws are investigated promptly, independently and impartially and, as appropriate, prosecuted through the criminal justice system, in accordance with the Constitution of the Kingdom of Nepal and international standards of justice, fairness and due process of law,

h) begin urgently a national dialogue with political parties to restore peace, stability, the promotion and protection of human rights and to safeguard democracy,

i) request the technical assistance of the international community and the United Nations in planning for free and fair local body elections, following their announcement,

OP 9 - Calls upon His Majesty's Government of Nepal to provide urgent protection and assistance to internally displaced persons, accounting for the particular needs of women and children, to facilitate their safe return and reintegration and resettlement elsewhere in the country as appropriate, and to develop appropriate policies and legislation in this regard, utilizing the Guiding Principles on Internal Displacement,

OP 10 - Also calls upon His Majesty's Government of Nepal to ensure the indepen-
dence and effectiveness of the judiciary and therefore urges the Government to safeguard effective judicial remedies, in particular the respect of the writ of Habeas Corpus orders, and to comply fully and faithfully with all judicial orders,

OP 11 - Calls upon His Majesty's Government of Nepal to

a) ensure the continued independence, institutional continuity and stability of the National Human Rights Commission of Nepal in conformity with the United Nations Paris Principles and the Human Rights Commission Act, 2053 (1997),

b) ensure full and unimpeded access of the National Human Rights Commission of Nepal, the Office of the High Commissioner for Human Rights and the International Committee of the Red Cross, to all persons held in detention, and all places, including those of detention under the authority of the Royal Nepalese Army, without prior notice,

c) provide necessary support to the National Human Rights Commission of Nepal, including its regional offices, in carrying out its statutory mandate and to ensure the necessary protection by and cooperation of governmental entities including the security forces to enable the members of the National Human Rights Commission of Nepal to promote and protect human rights in Nepal,

d) to support the Office of the High Commissioner for Human Rights in its continued assistance to the National Human Rights Commission of Nepal,

OP 12 - Welcomes the efforts of His Majesty's Government to comply with the obligation to submit periodic reports to the respective treaty bodies, in particular under the International Covenant on Civil and Political Rights and urges the Government to implement their recommendations, particularly the recent recommendations of the Convention on Elimination of All Forms of Discrimination against Women of January 2004 and of the Convention on Elimination of All Forms of Racial Discrimination of March 2004,

OP 13 - Encourages His Majesty's Government of Nepal to extend invitations to the special procedures of the Commission to visit Nepal, to fully cooperate with them and implement their relevant recommendations, in particular the recent recommendations of the Working Group on Enforced or Involuntary Disappearances, specifically the recommendations to enforce a complete prohibition on incommunicado detention in military barracks,

OP 14 - Requests the High Commissioner for Human Rights, in accordance with the Agreement signed with His Majesty's Government of Nepal on 10 April 2005, to establish an office in Nepal with the mandate to assist the Nepalese authorities in developing policies and programs for the promotion and protection of human rights, to monitor the situation of human rights and observance of international humanitarian law including investigation and verification nationwide through the international human rights officers and the establishment of the field based offices staffed with international personnel and to report in accordance with the Agreement and to work in cooperation with other United Nations and other international organizations based in Nepal in this regard,

OP 15 - Calls upon His Majesty's Government of Nepal to promptly and fully implement the Agreement with the Office of the High Commissioner for Human Rights signed on 10 April 2005 and to extend its full cooperation to the Office of the High Commissioner for Human Rights in Nepal, to assist it in discharge of its mandate and to take all necessary steps to ensure that its officials and experts on missions have free and unlimited access to any person in Nepal whom they might wish to meet,

OP 16 - Encourages the international community to assist His Majesty's Government of
Nepal in implementing the present resolution,

OP 17 - Requests the High Commissioner for Human Rights to present a report on the human rights situation and its activities, including technical cooperation, in Nepal through the Secretary-General to the General Assembly at its 60th Session and to the Commission at its 62nd Session,

OP 18 - Decides to continue its consideration of the situation of human rights in Nepal at its 62nd Session under the same agenda item.
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