NEPAL

Children in the Ranks

The Maoists' Use of Child Soldiers in Nepal

HUMAN RIGHTS WATCH

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Map of Nepal

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I. Summary and Introduction

> The Maoists first took my younger brother. He was 14 years old. He managed to escape. He just kept crying and kept saying that he would not go with the Maoists even if they beat him. They made him sentry guard, but he was so young… So we had to decide between us in the family whom to send—otherwise the Maoists would have locked our house. I had to go.
> —Sixteen-year-old *Leela*, a former child soldier for the Communist Party of Nepal (Maoist)

Leela was in army custody, exhausted, terrified, and hopeless, when she spoke to Human Rights Watch in March 2006. She had just survived one of the most intense battles of a brutal decade-long civil war that has already killed 13,000 people. Naturally, she was frightened of what the future would hold: at that time, it seemed that the civil war was about to engulf the entire country, as the insurgent forces of the Communist Party of Nepal (Maoist)—known as the CPN (M)—prepared for what they called the final assault against the repressive government of King Gyanendra, who had usurped all authority in the country on February 1, 2005.

While no exact figures are available, local groups estimate that at least 3,500 to 4,500 Nepali children are part of the Maoist fighting forces. Tens of thousands of Nepali children have been forced to flee their homes to avoid recruitment by the Maoists, or to seek better lives away from already impoverished communities further damaged by the conflict and the government's brutal responses.

What *Leela* (and her interviewers) could not imagine was that a few weeks later a historic people's movement would bring hundreds of thousands of ordinary Nepalis into the streets to demand an end to the royal autocracy and the civil war. Despite instances of severe police brutality in response to the demonstrations, by the end of April 2006 the movement forced the king to give up absolute rule and return power to a coalition of seven opposition parties, which immediately agreed to a ceasefire with the Maoists.

On November 21, 2006, the Nepali government and the Maoists entered into a comprehensive peace agreement to end more than 10 years of fighting, rewrite the country's constitution (whether Nepal will remain a monarchy is one of the constitutional issues to be determined), and establish an interim government. The Nepali Army (until recently the Royal Nepali Army) and Maoists agreed to an arms management pact, under which each side would put away most of its weapons and restrict most troops to a few barracks, under the supervision of monitors from the United Nations (UN). The Comprehensive Peace Agreement even explicitly committed the parties to avoid recruiting anyone younger than age 18 for military purposes. There is hope now for Nepal, and for thousands of children like *Leela* whose lives were damaged by the war.

Despite optimism, there are real grounds for caution. A previous attempt at a ceasefire and comprehensive peace talks fell apart in 2001 after only a few months and set off the war's bloodiest period. As a result, Nepalis are anxious about the success of current peace negotiations, and seek immediate implementation of policies that will improve the lives of ordinary people. Nepali groups hope that this ceasefire will lead to a sustainable peace, but they have learned from bitter experience that a ceasefire may also provide the warring sides an opportunity to strengthen their ranks before engaging in warfare again.

A major cause for concern is that despite the ongoing peace process, Maoist forces have failed to release the children in their ranks. On the contrary, Maoist forces have been steadily recruiting children, even after the King was stripped of power and serious peace negotiations began, and despite pressure from Nepali and international human rights groups that led the parties to include the explicit prohibition of recruitment of child soldiers in the comprehensive peace agreement of November 21. Because of the break in fighting, no children have been involved in combat since the people's movement of April 2006, but Nepali and international monitors observed ongoing recruitment and training of children by the Maoists' People's Liberation Army and local militias up to the eve of signing the comprehensive peace agreement and, at a somewhat slower pace, even afterward.

Although the practice seems to have decreased in frequency, at the time this report was going to press (January 2007) there were still frequent reports of Maoist cadres recruiting children from school, often under the guise of attending involuntary educational sessions. Several recent reports indicate that some of the newly recruited children are immediately given weapons training. The Maoists have enticed some children to join their ranks during the peace negotiation period because the children believe that they will receive compensation and job training when Maoist forces are integrated into the national army or decommissioned. Nepali human rights groups have accused the Maoists of recruiting children to swell the number of troops they place under cantonment pursuant to the peace agreement, thus bolstering their negotiating position and protecting their professional core cadres in case of a future outbreak of violence.

The Maoists' failure to initiate any systematic efforts to release the children already in their ranks, and their ongoing recruitment, means that Nepali child soldiers have so far not benefited as they should have from the peace agreement. The children's problems are compounded by the fact that the Nepali government still lacks the capacity to provide assistance for any released child soldiers to be reintegrated into civilian life. Therefore should the peace talks break down, Nepali groups fear, the CPN (M) will have thousands of children in its ranks, many of them recruited and trained after the peace process began.

Children carry out a variety of roles for the Maoists. Most children serve in local militias, but others hold positions in the Maoists' core military wing, the People's Liberation Army (PLA). Whether in the militias or the PLA, children serve as porters, sentries, messengers, and medical assistants. Children in Maoist ranks receive military training and are given weapons—this ranges from full-fledged weapons training in the PLA, to being given a single grenade or improvised "socket bombs." Regardless of their position, though, it is clear that children, even when serving with local militias (as opposed to the PLA), were exposed to fighting and were particularly vulnerable to injury. As established by Human Rights Watch's investigations of battle sites, sometimes within a few days of the fighting, Maoist child soldiers were frequently sighted at the battle field and they were prone to falling—or being left—behind by more mobile or more professional Maoist military units.

The Maoists have used a variety of techniques for recruiting children: kidnapping of individual children; abduction of large groups of children, often from schools; and use of propaganda campaigns to attract children as "volunteers." There are still frequent reports of children being forcibly abducted from school or on their way to or from school in order to attend involuntary educational sessions during mass rallies. This practice has provoked tremendous anger from Nepali parents as well as human rights groups, which have condemned the interruption of the children's schooling and the violation of their right to an education. But the chief objection to this practice reflects the fact that the Maoists' frequently use these involuntary educational sessions to recruit children as soldiers, sometimes simply by prohibiting the children from returning home.

In areas firmly under their control, particularly in the insurgency's heartland in Nepal's west and far west, the Maoists operated a "one family, one child" program whereby each family had to provide a recruit or face severe punishment. Once recruited, children were kept in the ranks through punishment or the fear of it; any children who considered escape also had to consider the real possibility that the Maoists would exact reprisal upon their families. This is how *Leela* came to fight with the Maoists, enter into battle, be captured by the army, and be interviewed by Human Rights Watch, and why she was so afraid of the future for herself and her family.

The Maoists have consistently denied that they recruit children or employ them, notwithstanding the incontestable experience of *Leela* and hundreds of others like her. The party's public position for the past five years has been that it does not allow anyone younger than 18 to join either the People's Liberation Army or the people's militias. Instead, the Maoists claim the only children among their cadres are those who lost their parents in the conflict or were otherwise unable to care for themselves. Prachanda, the Maoists' leader, repeated this claim as recently as November 18, 2006, just three days before signing the comprehensive peace agreement, in response to a direct question by Human Rights Watch during an event organized by the Observer Research Foundation in New Delhi.

In contradiction to the Maoists' claims, since 2002 the Maoists have been named in three consecutive reports from the UN secretary-general to the UN Security Council as violating international standards prohibiting the recruitment and use of child soldiers. In 2006, under Security Council Resolution 1612, the United Nations established a systematic monitoring and reporting mechanism to improve the collection of information on grave violations against children in conflict situations. Nepal was one of seven countries selected for the first phase of the system's implementation.

In response to such pressure from the UN and local and international children's rights groups, the Maoists have repeatedly stated their willingness to abide by the Geneva Conventions and international human rights instruments, while maintaining the pretense that they do not engage in the recruitment of children. Nepali rights groups, as well as the UN Office of the High Commissioner for Human Rights (OHCHR), have repeatedly urged the Maoists to admit the practice of forced recruitment of children and the presence of underage combatants in their ranks, whether among the PLA or local militias, in order to facilitate beginning the process of releasing and rehabilitating these children. On August 24, 2006, the Maoist leadership agreed to Nepali and international child protection agencies' carrying out assessment missions to gather information and plan the process of returning children to their families. But, crucially, the Maoist leadership has so far not issued a clear directive to stop the recruitment of child soldiers and to release those already in the ranks.

Since 2000 international law has banned the recruitment and use of children under age 18. The International Labour Organization has prohibited the forced recruitment of children under the age of 18 for use in armed conflict in its convention on the Worst Forms of Child Labour, which Nepal ratified in 2002. Nepal has also signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which entered into force in 2002. The protocol, which explicitly applies to non-state armed groups in addition to government forces, established 18 as the minimum age for any recruitment into nongovernmental armed groups.

Even before that, there was no question that recruiting and using children under age 15 as soldiers was a violation of the laws of war and international human rights, whether carried out by government forces or an armed group fighting an insurgency. Any recruitment or use in armed conflict of children under age 15 violates the nearly-universally ratified Convention on the Rights of the Child, to which Nepal is a party, as well as the second Additional Protocol to the Geneva Conventions of 1949, which governs situations of civil war such as those in Nepal. As demonstrated below, Maoist forces certainly have recruited (and continue to recruit) children under age 18, and even under age 15.

The problems of Nepali children recruited by the Maoists were compounded by the government of Nepal's failure to provide any assistance whatsoever to children who escaped the Maoists. Nepal's security forces established a terrible record for human rights violations and abuse through the course of the conflict as they engaged in routine and systematic arbitrary arrest, unlawful detention, "disappearances," extrajudicial executions, and torture and mistreatment of detainees. Because Nepal essentially lacks a juvenile justice system, Nepal's children were treated as poorly as detained adults and nearly always kept in the same detention facilities. As a result, any children considering escaping the Maoists were effectively discouraged by fear that they would be detained and abused by the government security forces. The government did not have a plan for encouraging children to leave the Maoists or for helping them if they did.

With the comprehensive peace agreement and the possibility of large-scale decommissioning of the Maoists, the need for such a plan is acute. Preparing for and attending to these children is politically important—and it is required by international law. The sudden release of these young troops could cause serious political problems. Thousands of children who have missed out on education could conceivably be released from Maoist ranks, and will be in need of assistance to reenter society—one that is already extremely poor and unlikely to be able to generate gainful employment for such a number. Furthermore, the government of Nepal has to meet its international legal obligations under the Convention on the Rights of the Child, as well as ILO Convention 182, to provide assistance and rehabilitation to former child soldiers.

Human Rights Watch believes that the problem of the Maoists' use of child soldiers should be immediately addressed by the parties to Nepal's civil war. Doing so removes one of the chief sources of worry for thousands of Nepali families and establishes the sincerity of the Maoists and the Nepali government toward the provisions of the comprehensive peace agreement.

Key recommendations

Human Rights Watch makes the following recommendations (a more detailed list of recommendations appears at the end of this report):

To the Communist Party of Nepal (Maoist)

- Immediately end all recruitment of persons under age 18, whether for use as combatants, cooks, porters, messengers, guards or for any other military purpose;
- Publicize the ban on recruitment of children through the media, as well as through local meetings;
- Release children under age 18 from all Maoist forces, and transfer them to appropriate child protection agencies.

To the Government of Nepal

- Ensure that an end to child recruitment and the immediate release of children from the Maoists are benchmarks for the peace process with the Maoists;
- Cooperate with appropriate child protection agencies to establish and support rehabilitation and reintegration programs for former child soldiers, and ensure that any such programs are tailored to meet the special requirements of girl soldiers;
- Grant a formal amnesty to all former child soldiers for their participation with the Maoists;
- Immediately ratify and implement the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts.

To the United Nations Security Council working group on children and armed conflict

- Urge immediate action by the CPN (M) to end all child recruitment and release all children from their forces;

- Recommend that no demobilization and rehabilitation packages be distributed to adult members of the Maoist forces until all children have been released.

Methodology

Human Rights Watch has published numerous reports on the recruitment and use of child soldiers, having documented this practice in Angola, Burma, Burundi, Colombia, the Democratic Republic of Congo, Lebanon, Liberia, Rwanda, Sierra Leone, Sri Lanka, Sudan, and Uganda.

This report presents information based on interviews conducted in Nepal in March and May 2006. We interviewed 21 child soldiers—11 girls and 10 boys—who had been recruited by the Maoists between the ages of 10 and 17 (at the time of our interviews, they ranged in age from 15 to 21). They had been recruited from different districts throughout Nepal, but mostly from the far western region of Nepal in 2004 and 2005. All had been detained by government forces at some point. Fifteen of them were detained by Nepali government troops after clashes at the end of February 2006. We interviewed several of the children while they were in detention; these interviews were conducted outside the presence of security forces. We also interviewed representatives of local and international organizations working on children's rights in Nepal. We received regular updates and reports of investigations from various highly respected and credible Nepali nongovernmental organizations (NGOs) monitoring children in conflict, including Advocacy Forum, Child Workers in Nepal (CWIN), National Coalition for Children as Zones of Peace, INSEC, as well as reports from international monitors.

The names of all children have been changed in this report in order to protect their privacy and security. In this report, the words "child" and "children" refer to anyone under age 18.

II. Background

The civil war's impact on children

Nepal's 10-year civil war has killed nearly 13,000 people. It has gravely affected the country's children by exposing them to violence by both sides, disrupting their home lives, limiting their families' economic activity, and hampering their access to education and health care. The Maoists' practice of recruiting children has placed children in harm's way by exposing them directly to the armed conflict. The fear this practice has engendered among Nepal's rural population has also greatly contributed to the heavy indirect toll the conflict has exacted on Nepal's children.

The practice of recruiting and using child soldiers was taking place at such an alarming rate in Nepal that it was one of seven countries selected to implement a monitoring and reporting mechanism on violations against children in armed conflict established under UN Security Council Resolution 1612, unanimously adopted in July 2006.[1] The council established the monitoring and reporting mechanism in order to improve the protection of children exposed to armed conflict, with a special emphasis on ending the practice of recruiting and using child soldiers.

Nepali NGOs estimate that over the past decade approximately 400 children have been killed directly by the warring parties and more than 600 have been injured.[2] Many were killed or injured during armed clashes or through extrajudicial executions

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[1] UN Security Council, Resolution 1612 (2005), S/RES/1612 (2005), http://www.un.org/special-rep/children-armed-conflict/Download/S-RES-1612e.pdf#search=%22security%20council%20resolution%201612%22 (accessed January 5, 2007). Seven countries are pilot countries for country-level reporting: Burundi, Côte d'Ivoire, Sudan, Somalia, Democratic Republic of Congo, Sri Lanka, and Nepal. The UN Interagency Taskforce decided to add the last two in order to demonstrate the importance of the same issues in countries that are not already on the Security Council agenda. See "Member States Renew Commitment to Protecting Children in Armed Conflict," UNICEF news note, July 24, 2006, http://www.unicef.org/media/media_35041.html (accessed on January 5, 2007); and Canadian Peacebuilding Coordinating Committee (CPCC), "Resolution 1612: Making It Work for Children and Youth," March 2006, http://action.web.ca/home/cpcc/attach/1612%20ReportMarch2006.pdf#search=%22resolution%201612%20pilot%20countries%20why%20nepal%3F%22 (accessed September 8, 2006).

[2] Exact figures are impossible to obtain, although data from different sources is fairly similar. The inconsistencies may be due to different criteria for measuring casualties directly caused by the conflict. The highly respected Nepali NGO, INSEC, recorded 34 children killed through October 8, 2006. INSEC, "Number of Children Killed by State and Maoists in Connection 'People's War' (13 Feb., 1996 – 8 Oct., 2006)," http://www.inseconline.org/hrvdata/KilledChildren.pdf (accessed January 15, 2007). The Nepali Coalition for Children as Zones of Peace, operating through Child Workers in Nepal (CWIN), reported 445 children killed and 522 injured by April 2006, http://www.cwin.org.np/resources/issues/cic/cazop_enews/news3_4.pdf (retrieved December 10, 2006).

carried out by each side; dozens were killed as a result of indiscriminate attacks by the combatants. Nepali children also suffered from the explosives that constituted the detritus of the conflict: according to UNICEF, Nepali children suffered the second highest rate of injuries caused by explosives in the world.[3] Hundreds of children suffered as a result of the landmines and unexploded ordinance left behind by the warring sides, particularly as a result of the Maoists' penchant for using—and leaving behind—improvised explosive devices.[4] Security forces routinely abused detained children suspected of cooperating with Maoist forces (see section VI, below).

The conflict aggravated the problems of Nepal's already impoverished population. In 1996 Nepal ranked 124 out of 137 countries listed in the United Nations Development Programme (UNDP) Human Development Index. A decade later the country's ranking had dropped to 136th, but even this masked the more serious degradation of conditions in the country's impoverished countryside, which are significantly worse off than urban areas. For instance, the under-five mortality rate in urban areas is 93.6 per 1,000, whereas in rural areas it jumps to 147 per 1,000 and in mountainous areas, it escalated to a staggering 201 per 1,000.[5] Economic disruptions caused by fighting and frequent blockades and checkpoints have curtailed food production and distribution, resulting in high rates of malnutrition and associated childhood maladies.[6] Conditions are particularly bad for populations displaced by the fighting, as demonstrated by research conducted by the NGO Terre des Hommes on internally displaced people in the highly affected mid-western areas of Nepal, where nearly 60 percent of the children suffered from malnutrition, 16 percent of them critically so.[7]

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[3] Human Rights Watch interview with Hugues Laurenge, UNICEF, Kathmandu, March 17, 2006. Naresh Newar, "Bomb Warning," *The Nepali Times*, March 10–March 16, 2006.

[4] According to the latest data available from Nepal's National Coalition to Ban Landmines, 56 children were killed or injured by landmines through June 2005; in 2004, the NCBL reported 134 children killed or injured by landmines. Landmine Monitor 2005, "Nepal," http://www.icbl.org/lm/2005/nepal.html (accessed October 15, 2006).

[5] Sonal Singh, Erik Bøhler, Khagendra Dahal, Edward Mills, "The State of Child Health and Human Rights in Nepal," July 2006, Public Library of Science-Medicine, http://medicine.plosjournals.org/perlserv?request=get-document&doi=10.1371/journal.pmed.0030203 (accessed October 15, 2006), citing Nepal Ministry of Health, "Nepal Demographic and Health Survey 2001," 2002.

[6] Watchlist on Children and Armed Conflict, "Caught in the middle: Mounting violations against children in Nepal's armed conflict," 2005, http://www.watchlist.org/reports/nepal.report.php (accessed October 15, 2006).

[7] Terre des Hommes Nepal, "Nutritional status of the children victims of the armed conflict in Nepal: A survey report among IDP children in Banke district," 2005, http://www.un.org.np/uploads/reports/TDH/2005/Nutritional-status-of-Children-tdh.pdf (accessed October 10, 2006).

The civil war also strained the social structure necessary for the development of children. As part of their recruitment campaigns, described in more detail below, Maoists abducted thousands of children; most were returned to their families after a brief "reeducation" campaign, but many were forcibly recruited.[8] Many more children, particularly boys, fled their homes to avoid these recruitment campaigns. The Maoists used these "reeducation" campaigns to identify likely candidates for future recruitment. The "reeducation" campaigns also provided the Maoists with the opportunity to take in thousands of children who enlisted "voluntarily"—no less a violation of international law, which explicitly prohibits the use of child soldiers, no matter how the children were taken into Maoist ranks. Tens of thousands of Nepali children also left their homes due to extreme poverty aggravated by the decade of fighting.[9] CWIN estimates that the conflict and associated pauperization of the populace displaced 40,000 Nepali children. While exact numbers are difficult to come by, telling evidence comes from an NGO survey of five border crossing points into India in western Nepal. The survey documented 17,000 children migrating to India (only 8,000 children came back during the same time period); a quarter of them said they were fleeing the conflict, while a third left home because of poverty.[10]

Education, too, suffered because of the conflict. The fighting slowed, and in some cases reversed, notable improvements in school enrolment rates and literacy since 1991.[11] Warfare directly impinged on children's schooling, as Maoists widely recruited children from schools, while government forces often used schools for shelter, and schools were mined or bombed.[12] The social disruption caused by the conflict also hindered children's access to education. According to a 2006 comprehensive report on the condition of women and children in Nepal by UNICEF,

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[8] Child Workers in Nepal, April 2006, http://www.cwin.org.np/resources/issues/cic/cazop_enews/news3_4.pdf (accessed October 8, 2006).

[9] UNICEF, "Situation of Women and Children in Nepal 2006," March 23, 2006, http://www.un.org.np/reportlibrary/table_metadata.php?mid=369 (accessed October 10, 2006).

[10] Central Child Welfare Board and Save the Children Alliance, "An Increasing Wave: Migration of Nepalese Children to India in the Context of Nepal's Armed Conflict," Kathmandu, 2005.

[11] UNICEF, "Situation of Women and Children in Nepal 2006," chapter 5.

[12] Watchlist on Children and Armed Conflict, "Caught in the middle."

> [t]he armed conflict has affected children of all ages through its impact on their families. However, it has particularly affected children by disrupting their education and interfering with their access to healthcare. Some children have been removed from school to help at home, as older members of the family have migrated away from their home village to avoid recruitment by the Communist Party of Nepal–Maoist… or harassment by the security forces. Children of families displaced by the fighting can expect their schooling to be temporarily suspended or even stopped, their access to healthcare to be made more difficult, and their living and environmental conditions to deteriorate and become less stable. Some children will be pushed into the labour market.[13]

The People's Movement and the Comprehensive Peace Agreement

Nepal's political situation, and hopes for peace and an end to the recruitment of child soldiers, took a dramatic turn in April 2006 when King Gyanendra was forced from political power. Over the course of 19 tumultuous days, hundreds of thousands of Nepalis took to the streets throughout the country in order to stop what was widely viewed as the country's slide toward disaster. The Jana Andolan II—"The People's Movement" (the "II" marks it as a sequel to the popular uprising in 1990 that first ushered in parliamentary rule in the country)—was a response to two distinct but related crises. The first crisis was the escalation of the civil war, which threatened to engulf the entire country. The second crisis blossomed on February 1, 2005, when King Gyanendra, citing the inability of Nepal's civilian government to resolve the civil war, used the Royal Nepali Army to assume all authority and crush any dissent.[14]

By April 2006, after more than a year of absolute rule, Gyanendra had come no closer to resolving the civil war, and even his security forces could no longer protect him from the concerted display of popular discontent as the Jana Andolan II gathered

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[13] UNICEF, "Situation of Women and Children in Nepal 2006."

[14] For an overview of Nepal's human rights situation at the time, see Human Rights Watch, Nepal's Civil War: The Conflict Resumes, March 28, 2006, http://hrw.org/english/docs/2006/03/28/nepal13078.htm.

In April 2006, public demonstrations challenged King Gyanendra's year-long authoritarian rule despite the use of excessive force by Nepali security forces. © 2006 Reuters

force. Although security forces resorted to excessive force to quell the demonstrations, even firing on unarmed protesters, Gyanendra was forced to give up his absolute power on April 24. Nepal's democratically elected parliament resumed deliberations and selected a cabinet composed of members of the seven major political parties that had opposed Gyanendra's rule. The seven parties had already negotiated an agreement with the Maoists to call a constituent assembly in order to rewrite the country's constitution, and to seek a political resolution to the civil war. On November 21, 2006, the seven-party government and the Maoists signed a comprehensive agreement to govern a peace process, the establishment of a constituent assembly to redraft the country's constitution (the continued existence of a monarchy is one of the issues to be determined), and the establishment of an interim government. This agreement explicitly referred to the parties' respect for human rights in its preamble as well as in more detail throughout the text. The agreement's preamble refers to the parties' commitment "towards the Universal Declaration of Human rights, [1948], international humanitarian laws and basic

principles and acceptance relating to human rights" while section 7 deals in some detail with various specific rights, including the principle of non-discrimination [section 7.1.1], the right to life [section 7.2], the prohibition on arbitrary or illegal detention (including a commitment to provide information about the fate of those "disappeared") [section 7.3.2], and respect for civil, political, economic, and social rights [sections 7.4 and 7.5].

At this writing (January 2007), there is real hope that the peace agreement will last this time, despite various infractions of the agreement by the CPN (M) and the Nepali military and the failure of the seven-party government to act as quickly as demanded by the Nepali public. On August 9, 2006, the government and the Maoists officially requested the United Nations to assist them with negotiations toward a permanent political resolution, including international help with the process of demobilizing, decommissioning, and reintegrating the two armed forces.[15] In the same month, the process of rewriting the Nepali constitution moved ahead with various drafts of a new constitution circulating and various political and social groups vying for influence on the country's new political structure. Taken together, these moves have been hailed as signs of real movement toward resolving Nepal's civil war as well as its underlying causes.

As part of the parties' commitment to protect economic and social rights, section 7.5.4 of the Comprehensive Peace Agreement states that

> [b]oth sides agree to guarantee that the right to education would not be impeded. They agree to put to an end, on an immediate basis, activities like taking the educational institutions under control and using them, abducting teachers and students, taking them under control and making them to disappear.

This language seems to be a response to the Nepali Army's frequently criticized practice of establishing posts at or near schools, as well as the Maoists' practice of

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[15] Sushil Sharma, "UN Team to Monitor Arms in Nepal," BBC News Online, August 14, 2006, http://news.bbc.co.uk/2/hi/south_asia/4790399.stm (accessed October 8, 2006).

forcibly recruiting students from schools, which we shall describe in more detail in section III below.

Most significantly, the agreement prohibits the general practice of using child soldiers age 18 or younger in section 7.6.1, and articulates the responsibility to assist such children. The full text of the section states:

> Both sides fully agree to protect the rights of the women and children in a special way, to immediately stop all types of violence against women and children, including child labour as well as sexual exploitation and abuse. *They also fully agree not to include or use children who are 18 years old and below in the armed force. Children thus affected would be instantaneously rescued and necessary and suitable assistance would be provided for their rehabilitation.* [Emphasis added.]

Despite real optimism about the parties' commitment to this peace process, much needs to be done. A previous attempt at a ceasefire and comprehensive peace talks fell apart in 2001 after only a few months and set off the war's bloodiest period. As a result, Nepalis are anxious about the success of current peace negotiations, and seek immediate implementation of policies that will improve the lives of ordinary people. One cause for particular concern has been the Maoists' ongoing recruitment of children (see section III below).[16] As explained by the Secretary-General of the United Nations in his report on children and armed conflict in Nepal," a serious concern since the April 2006 ceasefire is that recruitment and use, and abductions of children by CPN (M) continue."[17]

Furthermore, the ceasefire has not immediately translated into an improvement in other aspects of the risk to children, as unexploded ordinance and mines continue to jeopardize many lives. In fact, as pointed out by Nepal's National Coalition for

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[16] "Rights Activists Demand Demobilization of Child Soldiers," *IRINnews*, August 15, 2006, http://www.irinnews.org/report.asp?ReportID=55125&SelectRegion=Asia&SelectCountry=NEPAL (accessed October 8, 2006); "Nepal: School Children Still Being Put at Risk, Say Activists," *IRINnews*, August 28, 2006, http://www.irinnews.org/report.asp?ReportID=55293&SelectRegion=Asia (accessed October 8, 2006).

[17] Report of the Secretary-General on children and armed conflict in Nepal, December 20, 2006, S/2006/1007, p.3.

Children as Zones of Peace, "[i]n the period of four months before the cease-fire, five children died and 25 were injured, but during the period of hundred days after the cease-fire, the number of children who have died and sustained injuries have stood at four and 26 respectively."[18]

[18] National Coalition for Children as Zones of Peace, "Hundred Days of Democracy: Children Are Still Ignored," August 3, 2006, on file with Human Rights Watch.

III. Recruitment and Use of Child Soldiers

The Maoists' policy of recruiting children for fighting or supporting combat is one of the most disturbing aspects of Nepal's decade-long civil war. The concept of "recruitment" covers any means (formal or *de facto*) by which a person becomes a member of the armed forces or of an armed group, so it includes conscription (compulsory/obligatory military service), forced recruitment, and voluntary enlistment.[19]

The Maoists have used a variety of techniques for recruiting children: kidnapping of individual children; abduction of large groups of children, often from schools or at mass rallies that they are forced to attend; and use of propaganda campaigns to attract children as "volunteers."

At the height of the civil war, in areas firmly under their control—particularly in the insurgency's heartland in Nepal's west and far west—the Maoists operated a "one family, one child" program whereby each family had to provide a recruit or face severe punishment. This campaign operated at a particularly high capacity in 2004 and 2005, as the civil war was escalating. Media reports, citing high-level Maoist leaders, suggested that it was called the "Special People's Military Campaign" and involved training secondary and higher secondary students from many villages in "secret camps." Citing the same source, the paper suggested that "15,000 recruits have completed their basic training there." According to the account, the "model districts" for the campaign were far-western Jumla and Jajarkot.[20] Over half of the children interviewed by HRW were from these districts. Our research strongly suggested that systematic abduction of children, or forced recruitment, also occurred in other areas where the Maoists could operate unfettered.

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[19] See Sylvie-Stoyanka Junod, Article 4, No. 4557, in Claude Pilloud et al., *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva: International Committee of the Red Cross, 1987), p. 1380.

[20] Jhalak Gaire, "Child soldiers," *The Nepali Times*, February 27-March 6, 2004.

The Maoists conducted a systematic campaign of recruiting child soldiers. This campaign operated at a particularly high capacity in 2004 and 2005 in Nepal's west and far west, the insurgency's heartland. © 2004 AP Images

Human Rights Watch's interviews supported investigations by credible Nepali groups such as Children as Zones of Peace and Advocacy Forum that indicated that most of the affected children are initially recruited by and for local Maoist militias, not the People's Liberation Army (PLA, the armed wing of the CPN (M)). Militia units are expected to, and do, provide crucial military and logistical support to the PLA during combat operations, for instance by carrying supplies, providing frontline medical care, transporting the dead and injured away from battle, and, most directly, engaging in offensive or defensive military maneuvers. While local militias are not as well trained and well armed as the PLA, nonetheless both empirical evidence and statements by the Maoist leadership indicates that the CPN (M) closely monitors and controls the activity of local militias and exercises an effective chain of command when required.

We also interviewed some children who told us that they served with the PLA,

Most children were recruited by and for local Maoist militias. Militia units provided crucial military and logistical support to the Maoists' armed wing, the People's Liberation Army. © 2004 AP Images

confirming accounts by Nepali NGOs and international monitors about the PLA's use of children. While the PLA and local militias may differ in their degree of professionalism and military training, both groups have taken part in major military operations, and both have been subject to attacks by Nepali security forces. Maoist military strategy has relied on overwhelming government forces by superior numbers.

The Maoists' denials

Despite the evidence gathered from hundreds of children in Maoist ranks, the CPN (M) has consistently denied that it recruits or uses children for military activity. The party's publicly stated policy for the past five years has been that it does not allow anyone younger than age 18 to join either the People's Liberation Army or the "people's militias."

On November 18, 2006—just three days before the Comprehensive Peace Agreement was signed—Maoist leader Prachanda told Human Rights Watch, "We have never taken the policy to recruit children into our army. But in our military, they feed some children whose parents were martyred. We had some cases where we found that some cadres were children. We have returned them to their parents and helped them to go get an education." When pressed about reports of ongoing recruitment, Prachanda said, "There has been a tremendous exaggeration on this issue by the palace and vested interests." [21]

The most detailed articulation of the Maoists' official position came in February 2006, when it seemed as if the civil war was about to expand significantly. Prachanda was asked during an interview with the BBC about the Maoists' practice of recruiting children.

First, he denied that the party recruited children: "In our party's central policy," he told interviewer Charles Haviland, "we do not have a policy of recruiting children."[22]

Prachanda went on to elaborate that the party was not recruiting children for military duty, but rather was taking care of needy children:

> We do not even train children below 16 years old as militia.... But the situation does not match the account that the ruling classes and the feudals have propagated. Children whose parents have been killed in

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[21] Human Rights Watch questioned Prachanda during a meeting organized by the Observer Research Foundation in New Delhi on November 18, 2006.

[22] Charles Haviland, "Prachanda Interview: Full Transcript," *BBC News Online*, February 13, 2006, http://news.bbc.co.uk/2/hi/south_asia/4707482.stm (accessed October 2, 2006).

> the war—taking care of them is the responsibility of the party. That's why we are compelled to take care of, educate and provide work for hundreds of children, even those who are 12 to 15 years old. This is a compulsion born out of the war. This compulsion has been falsely portrayed by the feudal elements as forced recruitment of children.[23]

The interviewer persisted by pointing out that the presence of children under age 16 in Maoist ranks was well known. Prachanda backed away from his earlier, blanket denial of the presence of children—particularly children younger than 16—among Maoist troops: "In village militias it might be true but in the People's Liberation Army that's not the situation," he said.[24] He was distinguishing between the professional military of the People's Liberation Army and the less formal Maoist militias, which he implied might be less careful in applying the CPN (M)'s ban on recruiting children. In short, the Maoists denied that they had a policy of recruiting or using children for military purposes, and explained away the ubiquitous presence of children under age 18 by claiming that in fact such children were orphans being cared for by the CPN (M). At most, Prachanda implied, the presence of children among Maoist troops should be blamed on the lax discipline of village militias, not official party policy.

Prachanda's November 2006 statement was consistent with the party's official line since 2002.[25] The ceasefire has neither changed the Maoist's official line nor their justification for deviating from it. Nepali human rights investigators told Human Rights Watch that Maoist leaders, even at the local level, reject any requests or offers for assisting underage troops by simply denying that any children serve with them. And like Prachanda, when faced with the evidence, lower-level Maoist leaders claim that the children are all orphans in the care of the Maoists, or are volunteers. "We cannot stop the children who are impressed with our ideology and interested in our

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[23] Ibid.

[24] Ibid.

[25] See, for instance, Alex Perry, "'We Are Trying to Crush Feudal Autocracy': Interview with the Maoist Leader," *Time Asia*, April 15, 2005, http://www.time.com/time/asia/2005/nepal/ext_int_prachandar.html (accessed October 2, 2006). During that interview, Prachanda said, "We strictly do not allow those below the age of 18 to join. But one thing [that confuses] commentators is the thousands of orphans of our martyrs. Our party naturally undertakes the responsibility to feed, educate and train them so as to be good successors to their parents. We never use them in fighting, but we educate and discipline them as a children's organization."

party activities," a Maoist worker told journalists in September. "They have also their own rights and freedom to make their choices."[26]

Other local Maoist leaders justify ongoing recruitment by claiming to be unable to control their forces. For instance, in September 2006 a local Maoist leader from Kohalpur, in Banke district, told the press, "We are very sensitive about human rights and it is against our policy to involve children in any sort of political activity. We will take action against the cadres who have been involved in abductions or forceful participation of children in any of our political programs."[27] In an interview with *The Nepali Times*, Narendra Batha Magar, a Maoist militia member, explained why his group was still recruiting and forcing children to join the movement. "No one will listen to us if we give up arms right away," he said, adding, "there may be some violations of the code of conduct but that is because we haven't had a chance to talk to our cadre."[28]

"Voluntary" enlistment

Not all—not even most—of the children in Maoist ranks are forcibly recruited. Before the ceasefire many children joined Maoist cadres due to ideological training (see below), others because the Maoists offered them a way out of unemployment and poverty. Troublingly, after the ceasefire, the Maoists have attracted children into the ranks by promising them immediate financial assistance or jobs once Maoist forces and the Nepali Army are merged, pursuant to the peace agreement. Nepali human rights NGOs have accused the Maoists of enticing children to join by telling them that those who were in the PLA at the time of cantonment would receive pay of 7,000 to 10,000 rupees [US$100-US$141] per month.

Many lower caste Nepalis, particularly Dalits, joined to escape the rigid hierarchy of caste discrimination. As put in a report by the Center for Human Rights and Global Justice at New York University School of Law,

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[26] "NEPAL: Children still living in fear of Maoist rebels," *IRINnews*, September 11, 2006, URL (accessed October 2, 2006).

[27] Ibid.

[28] "Rolpa's Reality," *The Nepali Times*, August 25-31, 2006.

> Maoists have recruited heavily among Dalits and women to fill the lower ranks of their army. Dalit men and women, who endure extreme marginalization under the caste system, may experience a feeling of unprecedented authority, control, and empowerment when armed with a weapon.[29]

Rural Nepali girls are drawn to the CPN (M) because it promises them freedom from a life of servility. "The Maoists have capitalized on the widespread and legitimate discontent among rural women," a seminal study of the subject noted. "Many rural women have either been abused themselves [by government forces] or have seen their family members, relatives or neighbours victimized by the security forces."[30]

For example, 17-year-old *Kalawoti* told Human Rights Watch that the Maoists initially convinced her to join their campaign by explaining that as a woman she would never be able to achieve anything even if she continues her studies. She said,

> The Maoists took me from home for a campaign. I had finished sixth grade by then. They were saying that young girls like me should join them because in Nepal there was no point in studying, since in any case I would not be able to get a job.[31]

She added that when she came back home after participating in the "campaign," she found out that two people from her area who had participated in the same campaign had been killed by the security forces , and then she decided she "wanted to stay with the Maoists."[32] We heard similar tales from other girls we interviewed.

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[29] Center for Human Rights and Global Justice at NYU School of Law, "The Missing Piece of the Puzzle: Caste Discrimination and the Conflict in Nepal," 2005, http://www.nyuhr.org/nepalreport.htm (accessed October 16, 2005). The report went on to note, "Once drawn in, they are deployed on the frontlines of battle. While it is difficult to assess the number of Dalit deaths from the conflict, a disproportionate number of Dalits may be dying on the frontlines in clashes with security forces as very few assume positions of authority or decision-making in the insurgency."

[30] Mandira Sharma and Dinesh Prasain, "Gender Dimensions of the People's War," in Michael Hutt, ed., *Himalayan People's War* (Bloomington: Indiana University Press, 2004), p.164. The authors went on to point out that "the Maoists themselves have not as yet publicly produced an agenda setting out how they would seek to address gender issues more meaningfully in the immediate future—before the utopia of a classless society is achieved."

[31] Human Rights Watch interview with *Kalawoti* (age 17, from far western Nepal), Butwal, March 5, 2006.

[32] Ibid.

With poverty in Nepal seriously exacerbated by years of conflict, many Nepali children faced a bleak future and found the prospect of fighting for the Maoists preferable. The combination of economic incentive and Maoist ideology is particularly effective as a recruiting tool in those areas where Maoists have sufficient control over the territory to engage in repeated recruiting programs.

Ram, a 16-year-old boy from Panchthar district in the far east of Nepal, described the circumstances that led to his joining the Maoists when he was about 11 years old:

> I went to school up to class 6. I liked school. I used to stay with my grandfather; I had a stepmother and my father was often away. My grandmother didn't have enough money to buy material for school, so I stopped going. After I quit school, sometimes I stayed at home; other times I worked at hotels, washing dishes.
>
> After two months, I joined the Maoists. There were lots of Maoist programs in my village. Two or three Maoists came to my house. My father was not there, so they took me to go for a cultural program. Initially, I refused, but they insisted, so I went. They did not threaten me. I felt my parents did not give me enough attention.[33]

Another 17-year-old boy, *Hem*, described how he joined the Maoists after he failed to find sufficient employment in India:

> My village is Maoist, so I joined on my own. I had already left school. The reason I left school was I went to India in Ashoj 2059 [September 2002]. I went to Gauregang, Delhi, worked in a tea shop. I was 15 years old. After one year I came to Nepal. So many friends were joining [the Maoists] so I joined too.[34]

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[33] Human Rights Watch interview with *Ram* (age 16, from Panchthar), Kathmandu, May 1, 2006.

[34] Human Rights Watch interview with *Hem* (age 17, from Dadheldhuva), Butwal, March 5, 2006.

Recruitment campaigns

Bikram, a 16-year-old boy from Jumla district, described the cumulative impact of years of Maoist indoctrination in convincing him, and dozens more of his schoolmates, to join the Maoist cause voluntarily and against their parents' wishes:

> I was in class 6 [age 13] when they started [to] come to my class. I was 15 when I decided to join. I was highly influenced by the political ideology. I didn't tell my parents. I ran away from home. They wouldn't allow it. They said I have to study and work. All but five students from my class joined. All were influenced by the Maoists ideology and the cultural activities. No one was forced to join.
>
> There was a competition between schools to see how many would join from different districts. My school got first place. [In addition to 45 students from my class], there were 30 from another class; and 10 from another class. Eighty-five altogether. There were no prizes, but the students who headed organizations had their posts upgraded.[35]

The Maoists have relied on a large-scale, systematic program to recruit children through propaganda programs in schools or at mass gatherings. The Maoists used songs, dance, and theatrical performances designed to appeal to children; often children carry out these performances in order to attract other children. This program has continued even after the ceasefire.

[35] Human Rights Watch interview with *Bikram* (age 16, from Jumla), Kathmandu, May 1, 2006.

The Maoists recruited many children at involuntary mass gatherings where they were subjected to propaganda programs. © 2005 Ami Vitale

We received reports of recruitment campaigns like this all across Nepal before the ceasefire, casting doubt on the Maoists' claim that recruitment of children was the result of undisciplined or intransigent local militias. We interviewed children who had been recruited by Maoists at their school when they were as young as 10 years old, though most of the former child soldiers interviewed by Human Rights Watch had been around 14 years old when they had been recruited.

As frequently reported, these campaigns have included compelling children to attend involuntary educational sessions during which children are taught Maoist doctrines and are told about the advantages of joining Maoist cadres. In 2004 and 2005, when the Maoists' recruitment drive was particularly active, there were numerous reports of Maoists recruiting at schools throughout the area under their control. Frequently, Maoists brandished the threat of violence to compel an entire school's population to listen to the Maoists' propaganda. Beginning in 2003, the Maoists expanded their recruitment campaign beyond schools to include mass propaganda rallies. Attendance at these rallies was compulsory, and thousands of Nepalis, and in particular children, were forced to go.

According to Advocacy Forum, recruitment initially accelerated immediately after the ceasefire, and then has continued at a slower—though steady—pace even after the peace agreement. Recruitment often occurs under the public cover of "educational campaigns" or "schooling." NGOs monitoring the recruitment and use of child soldiers have received numerous reports of Maoists continuing their practice of forcibly commandeering schools or school grounds for such sessions across the country.[36] The OHCHR reported that "[c]hildren have been taken for short periods of time to attend mass political/student gatherings. In Kathmandu, on several occasions in August [2006], thousands of children were taken from schools to participate in day-long programmes organized by the ANNFSU—Revolutionary [All Nepal National Free Students Union–Revolutionary —the student wing of the CPN (M)]."[37]

The National Coalition for Children as Zones of Peace reported that in the 100 days after the ceasefire,

> [d]uring the monitoring of various places of the Kathmandu Valley such as Koteshwor, Bhaktapur, Banepa, Boudha, Jorpati, Maharajgunj, Balkhu, Kirtipur, Kalanki, Thankot and Chapagaon, the activists of the CPN (Maoist) have been found involving children in their school uniforms in various programmes. Furthermore, the Maoists and other political parties are forcing children to attend different programmes in other districts, too. In the same way, the Maoists' student wing—All Nepal National Free Students Union–Revolutionary (ANNFSU–R)—closed nine schools of Salyan district and took students to Shiva Jana Higher Secondary School, Shitalpati for making them participate in the Student Day Programme, which was organized by them.[38]

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[36] Human Rights Watch email correspondence with Advocacy Forum, January 19, 2007.

[37] Office of the High Commissioner for Human Rights in Nepal, "Human Rights Abuses by the CPN (M): Summary of Abuses," September 25, 2006. Note that ANNFSU is also sometimes referred to as the All Nepal National Independent Student Union, or ANNISU.

[38] National Coalition for Children as Zones of Peace, "Hundred Days of Democracy: Children Are Still Ignored."

In November 2006 an Advocacy Forum investigative team in midwestern Nepal reported:

> Mass recruitment has been going on. Villagers told us that from each VDC [village development committee] a busload of people (new recruits) were taken to Surkhet. From them about 20-30 were children under 18. Another interesting fact that came up, and that was seen as a trend in all the districts were that the new recruits were either dropout children, children who had not gone to schools, or adults who had no work.[39]

The content of the CPN (M)'s current propaganda campaign after the ceasefire seems to be essentially identical to programs they conducted at the height of the civil war in 2004 and 2005.[40] *Birendra*, a 16-year-old boy who had been 14 when he was recruited in Argakhanchi district, 250 kilometers west of Kathmandu, described the typical program of song and dance that he witnessed in 2004:

> The Maoists did programs at my school. In three or four months, they would come two or three times. They would sing, dance, and give speeches. Usually there were six to nine Maoists; some were the same age as me, some were older. In the speeches, they said, 'You have to fight for the people, for people's education, and you have to come with us.' It lasted about one hour. There were 35 students in my class; three (all boys) went. There were five or six from other classes that went also. One girl and the rest were boys.[41]

The Maoists' propaganda campaign does not rely on art and ideology alone. In most instances, children face pressure to join the Maoists. *Birendra* continued by explaining how cultural activities led to the Maoists recruiting him along with several other classmates:

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[39] Human Rights Watch email correspondence with Advocacy Forum, November 24, 2006.

[40] Human Rights Watch telephone interview with Mandira Sharma, Kathmandu, August 28, 2006.

[41] Human Rights Watch interview with *Birendra* (age 16, from Arghakanghan), Kathmandu, May 2, 2006.

> I went to school to the tenth grade. I stopped because the Maoists put pressure on me, I had to leave and join them. They asked me to go for cultural activities, so I went. Five or six [other students] joined first, then three of us.[42]

Bikram, who was 15 years old when he was recruited, described a similar program that netted the Maoists dozens of recruits after a more intensive propaganda campaign that included daily visits by Maoist cadres:

> I went to school to class nine. In school, the Maoists used to have cultural programs, and recruit children as combatants. There were 50 students originally in my class, but all but five were recruited. The Maoists came to my school every day. The cultural programs included singing and dancing, then speeches. They formed organizations among the students to do cultural programs in far places, to collect donations among students, and disseminate information about the Maoists to other youth. In the speeches, they said, "We are fighting for the people of the country; we have to fight against corruption. We are going to form the New People's government and we need support from all of you." The Maoists who came were of different ages; some older and some young. The programs were mostly in school; once a month or once a week they were in a public space or open space.[43]

Bikram went on to describe how the fear of Maoist reprisals, coupled with their propaganda campaign, made him feel compelled to join up:

> I was impressed by their speeches and very influenced by what they said about fighting for the people and fighting corruption. But I was also upset that they interrupted our schooling. They would force us to

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[42] Ibid.

[43] Human Rights Watch interview with *Bikram* (age 16, from Jumla), Kathmandu, May 1, 2006.

> come. If you didn't come, you will have to work for the Maoists or will be forbidden to go to school. I always went.[44]

Ramesh, a 15-year-old boy from Terahthum district, in the far east, described the campaign there in similar terms. *Ramesh* was in the fourth grade when he was recruited—just 10 years old. "I went to school till the fourth grade. I stopped when I joined the Maoists. The Maoists came to my school to do cultural program two or three times a month. There was singing, dancing and speeches. They said, 'You have to fight for your country, you have to join us.'" [45]

OHCHR said in a September 25, 2006 report, "Information clearly suggests that the CPN (M)'s cultural groups and militias have significant numbers of children who may at the same time also be used for military purposes as messengers or informants, and to attract other children into the CPN (M)-affiliated movements."[46] Several of the children we spoke with had recruited other children as part of their duties. For instance, *Kalawoti* told Human Rights Watch that she and other children "held campaigns, went to schools, and brought new students to join. We were also running programs in schools."[47]

While many children join the Maoist forces "voluntarily" after such sessions, Advocacy Forum reported that at least in a few cases (Kaski and Baglung districts), the children were moved to camps in different places so they could not be traced by their parents.[48] The sessions also help identify children who might be suitable for recruitment at a later date or through more forceful means (see, for example, the cases of *Pradeep* and *Shyam*, below).

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[44] Ibid.

[45] Human Rights Watch interview with *Ramesh* (age 15, from Tehrathu), Kathmandu, May 2, 2006.

[46] Office of the High Commissioner for Human Rights in Nepal, "Human Rights Abuses by the CPN (M): Summary of Abuses," September 25, 2006.

[47] Human Rights Watch interview with *Kalawoti* (age 17, from far western Nepal), Butwal, March 5, 2006.

[48] Human Rights Watch email correspondence with Advocacy Forum, August 30, 2006.

IV. Forced Recruitment

The following cases are examples of forced recruitment, including abductions in some cases.

Box: Govinda's abduction

"I was returning home from school one afternoon. There was a jungle that I was walking through and they [the Maoists] took me from there. I was completely scared because I thought they would kill me.

I was alone when I was taken away by five Maoists. They were fully armed, one with a bomb. When I was taken away, they said, 'Will you join us?' I said no. They said, 'Why, your uncle is in the police, you have to go with us.' Then they slapped me and I was crying. They slapped me, they asked me, 'Why [are you crying]?' They asked me if I was all right. I said no. Then they slapped me again, so I was quiet. It was Shawran 6, 2062 [July 21, 2005]."[49]

Slight of build, *Govinda* cried continuously as he told Human Rights Watch how he had been abducted by Maoists, been forced to participate in combat, and had been captured by government forces. *Govinda's* story, and accounts of similar kidnappings, are the stuff of many persistent rumors in Nepal and the source of tremendous anxiety for Nepali families. This practice—and stories like that of *Govinda*—terrified Nepali villagers and seriously disrupted their communities. Thousands of families sent their children, particularly boys, away to escape forced recruitment.

Govinda himself testified about how his family had tried for years to avoid exactly the fate that befell him, ultimately to no avail:

[49] Human Rights Watch interview with *Govinda* (age 17, from Dadheldhuva), Bhutwal, March 5, 2006.

> "Initially I was to study in a school close to my home, but later I was scared the Maoists would take me away so I moved to a city area for two years. But [for financial reasons] I had to go back to my original school. I was there for six months before I was taken away [by the Maoists]."[50]

In fact, nearly all the children we spoke with had been recruited far more brazenly, without the frightening backdrop of a solitary jungle abduction.

Sixteen-year-old *Leela*, from the far western parts of Nepal solidly under Maoist control, described the pressure exerted by Maoist forces on every family to provide at least one recruit and how they abducted her younger brother:

> The Maoists first took my younger brother. He was 14 years old. He managed to escape. He just kept crying and kept saying that he would not go with the Maoists even if they beat him. They made him sentry guard, but he was so young… So we had to decide between us in the family whom to send—otherwise the Maoists would have locked our house. I had to go.[51]

Most of the children we interviewed said that the Maoists took them from their homes for what they said would be a short-term stint participating in a "campaign"—a period of a month or two. But when the children tried to leave after the initial "campaign" period was over, the Maoists would not let them go, or would recapture them if they escaped.

Seventeen-year-old *Sita*, who had been with the Maoists for seven months before she was captured by government forces, told Human Rights Watch she was initially taken for a one-month "campaign," and managed to flee after the campaign was over. But the Maoists came back to her house and took her with them again:

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[50] Ibid.

[51] Human Rights Watch interview with *Leela* (age 16, from Rolpa), Butwal, March 5, 2006.

> They took me by force. The two ladies who came to our house were trying to convince me, but I kept refusing. They said they would kill me, but I still refused. Then they told me I should kill myself, and then they threatened they would make cuts on my body and pour chili pepper in the cuts. Then I was too scared and had to go with them.[52]

In other instances children were taken from school, despite their resistance and protests by school officials. Sixteen-year-old *Maya* explained how she had been taken from school despite her teacher's intercession with the Maoists:

> I was abducted from school. I was in school, it was lunch break, and we saw several Maoists coming. We were nine girls there, all 16 to 18 years old. The Maoists asked us how we were doing and said that we should join their campaign. We went to our teacher and said we wouldn't go, and the teacher told the Maoists, but they threatened him, and then just grabbed us and took us away. There were 15 or 18 of them so they could easily drag us away.[53]

Seventeen-year-old *Kalawoti* said that the Maoists first took some children from her area for their campaign, after which she was allowed to return home, but then they came back to her school to retrieve the children by force.

> The Maoists came to my school. There were four or five Maoists, they talked to the teacher and he told us that there is nothing he could do and that we should go with them. The Maoists took some 30 or 40 students. Most students stayed after the campaign.[54]

In Dailekh district, also in the west, *Pradeep*, a 16-year-old boy who was 14 when he was recruited, described his experience:

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[52] Human Rights Watch interview with *Sita* (17, from far western Nepal), Butwal, March 5, 2006.

[53] Human Rights Watch interview with *Maya* (age 16, from far western Nepal), Butwal, March 5, 2006.

[54] Human Rights Watch interview with *Kalawoti* (age 17, from far western Nepal), Butwal, March 5, 2006.

> I went to school to grade eight. I left school because I was recruited by the Maoists. They came to my school everyday. They gave a program to attract the children to join. There was singing, dancing and speeches. About three to four hours everyday. I was forced to join. They said, "Come with us." They had guns. They took me from school with five other boys from my class. It was in June 2004. My parents didn't know.[55]

Shyam, a 14-year-old boy who had been recruited when he was a year younger from Taplejung district in the far east of the country, also described how Maoist forces had abducted him, along with several other children, from school:

> I went to school to the sixth grade, then the Maoists took me. They came to school to do programs. Sometimes every five or six days, sometimes once a month. They sang and danced and gave speeches, I liked the programs…
>
> There were 90 students in my class. I was the only one who joined. I was forced. They took me from school. They said, 'Come with us and we will succeed in war.' There were two Maoists, they both had guns. I was afraid if I did not go, they would shoot me. They also took other students from class seven and class eight; three boys and three girls.[56]

Recruitment of child soldiers after the ceasefire

The Maoists have continued to recruit and train children as soldiers through the ceasefire period. Reports by local and international monitors suggest that incidents of forcible abduction have declined since the ceasefire, as Maoists can carry out propaganda and other recruitment activity openly and do not need to take children forcibly.[57] However, the same reports indicated that Maoists have at times relied on subterfuge or fraud to recruit children systematically across the country. Maoist

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[55] Human Rights Watch interview with *Pradeep* (age 16, from Dailekh), Kathmandu, May 2, 2006.

[56] Human Rights Watch interview with *Shyam* (age 14, from Taplejung, recruited at 13 in 2005), Kathmandu, May 2, 2006.

[57] Human Rights Watch email correspondence with Mandira Sharma, Kathmandu, August 29, 2006.

recruitment of children continued at a steady pace until December 2006, after the signing of the comprehensive peace agreement. As this report was being finalized, we continued to receive reports of ongoing recruitment by Maoist forces, albeit at a slower pace.

The UN Secretary-General's December 2006 report on child soldiers in Nepal, which included information gathered through the end of September 2006, stated that "a further concern is the active recruitment of children carried out by CPN-M since the April 2006 ceasefire." The report provided the following details regarding recruitment after the ceasefire:

> A total of 154 new incidents in all five regions were documented from May to September 2006, of which 72 involved recruitments into PLA and 82 into other CPN-M-affiliated organizations, including militias. The total number of newly recruited children is believed to be much higher, as many incidents reported could not be investigated owing to the lack of resources. Among the 154 cases, 2 took place in May, 3 in June, 24 in July, 84 in August and 41 in September.[58]

An August 2006 report of the Nepali National Coalition for Children as Zones of Peace stated that "still in the various parts of the country, Maoists are abducting and torturing children on various charges, threatening them to join their cultural troupe and army, forcibly associating them in the armed group, etc."[59] Since the ceasefire, the coalition has documented dozens of instances of abduction of children from different parts of the country, including Nawalparasi, Banke, and Makwanpur.[60] Similarly, the September 2006 report by the Office of the High Commissioner for Human Rights in Nepal presented information about recruitment from around the country:

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[58] Report of the Secretary-General on children and armed conflict in Nepal, December 20, 2006, S/2006/1007, p.6.

[59] National Coalition for Children as Zones of Peace, "Hundred Days of Democracy: Children Are Still Ignored."

[60] Ibid.

Since the ceasefire, concerns have been raised that some 50 children—including some as young as 12 years old—were taken away from their families to take part in PLA and militia activities…. In August [2006] alone, allegations of child recruitment were received from Chitwan, Dolakha, Gorkha, Ilam, Nawalparasi, Nuwakot, Ramechhap, Kaski, Baglung, and Kathmandu Districts. In all instances, the CPN (M) denied that the children were forced to join and stated that the recruitment was voluntary. While some children may have consented to accompany those recruiting initially, it is not clear under what conditions. In some cases parents stated that they had not given their consent. In other cases, the parents denied that the recruitment was voluntary.[61]

Maoists have often forced school children to attend rallies and ideological programs, even after the ceasefire. © 2006 Reuters

[61] Office of the High Commissioner for Human Rights in Nepal, "Human Rights Abuses by the CPN (M): Summary of Abuses," September 25, 2006.

Reports of abductions or forcible recruitment after the ceasefire frequently appeared in the media. To cite just one recent example, on September 16, 2006, *Nepal News* reported that 19 children between age 14 and 18 were abducted by Maoists after they had attended a conference by the Maoist-affiliated militia Tham Liberation Front in Dolakha district. Three of the children had managed to escape after six days and inform their parents, who had then failed to secure the release of the other children.[62] The same newspaper reported in August that Maoist forces abducted three children in Kathmandu in August 2006, and released them only after they promised not to join the Nepali army.[63]

This same pattern continued through November and even in the weeks immediately after the parties signed the Comprehensive Peace Agreement in late November. A monitoring team from Advocacy Forum traveling through mid-western Nepal in November found that Maoists "in Bardia… had told the children that, they had to fill the [recruitment] form in order to get the 'citizenship card' from the government. The ages filled in these forms were fake. They did ask the children their ages and added either 1 or 2 years or more to the real age."[64] On December 6, Somini Sengupta of the *New York Times* reported from the same area visited by Advocacy Forum, around Dashrathpur in midwestern Nepal, one of the 22 bases where Maoist forces are supposed to place their troops in cantonment and lock away their guns. "In a village called Ramghat, just across the river," she wrote, "schoolchildren recalled that rebel soldiers had gone around the market a couple of weeks before in an effort to enlist new recruits."[65]

Advocacy Forum monitors documented Maoist recruitment of children, including in some cases through abduction, in late December 2006 and early January 2007.[66] At the time of writing, there was no sign that the Maoists had ceased this practice.

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[62] "Guardians of Missing Kids Warn of Stir Against Maoists," *Nepal News*, September 16, 2006.

[63] "Maoists Release Youths on Condition of Not Joining the Army," *Nepal News*, August 10, 2006.

[64] Human Rights Watch email correspondence with Advocacy Forum, November 24, 2006.

[65] Somini Sengupta, "Nepal's Newly Peaceful Maoists Set Up Camp and Wait," New York Times, December 6, 2006, http://www.nytimes.com/2006/12/06/world/asia/06nepal.html?_r=1&oref=slogin&pagewa (accessed December 15, 2006).

[66] Human Rights Watch email correspondence with Mandira Sharma, January 19, 2007.

V. Treatment of Children in the Ranks

Children play a variety of roles for the CPN (M), including participation in direct combat, carrying military supplies as porters, providing medical assistance, and propaganda activities such as recruiting of other children. Additionally, we found that children among Maoist cadres were isolated from their home, with almost no contact with their parents. Life in the ranks was tightly regulated, and attempts to escape were carefully guarded against and harshly punished.

In the line of fire

Regardless of their assigned roles, many children serving with Maoist forces were exposed to armed conflict. Some were combatants, but even if children served essentially support roles like those described above, they were called upon to provide such support during battles or encounters with government forces.

Children were also vulnerable to attacks by government forces, particularly during the chaos of a Maoist withdrawal from a pitched battle. One group of children interviewed by Human Rights Watch had been captured immediately after they had been involved in a massive Maoist assault on the government center in the western city of Tensen. Several of the children who spoke to Human Rights Watch described participating directly in combat; others told us about the terror they experienced when government helicopters chased them. Several of the children had been injured during combat, and had seen other children suffer injuries and even death.

Bikram, the 16-year-old from Jumla, had been involved in direct, bloody combat since age 15:

> Once I was involved in a battle to release those in jail at the district headquarters of Jumla. The security forces had put many teachers and villagers into jail, so we attacked to get their release. There were 300 Maoists; I carried a gun. It was 10 at night; the battle lasted about an hour. I was very excited, very aggressive. One Maoist was killed and three were injured; eleven army and seven police killed; nine police

> captured. We released all of the prisoners (30 teachers, 20 villagers, 12 Maoists). While returning, we ran into crossfire between Jumla and Kalikot. One army soldier and three innocent civilians were killed. [67]

Bikram, who had received the most weapons training, was also unquestionably the most battle-hardened of the children we interviewed. All the other children we spoke with exhibited much greater fear and anxiety about their battle experiences.

Sixteen-year-old *Pradeep*, who had also received firearms training, described his terror the first time he engaged in combat, and how he was later injured:

> I was in battle twice. The first time, the army attacked my group. There was one hour of fighting. I shot my gun. I was very frightened. The commanders told us to leave our arms and run away. No one was injured or killed. The second time, my group attacked the same soldiers. This was a month later. I was not frightened. The battle lasted five hours. Many were injured and killed: 30 killed and 60 injured (out of nearly one thousand). I had a slight injury to my abdomen.[68]

Several children who had been involved in the Maoist attack on the government facility in Tensen, and then fled the government's sustained counterattack led by US-trained Rangers, described being caught up in the heavy fighting. According to *Hem*, who was 17 years old at the time of the attack, dozens, if not hundreds, of children of his age were involved in transporting military supplies before the attack, supporting combat troops during the assault, and providing medical assistance and even cover to retreating Maoist troops.[69]

Many of the children, who were not prepared for combat and who had only one grenade, were bewildered and frightened. Their superiors had warned them not to

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[67] Human Rights Watch interview with *Bikram* (age 16, from Jumla), Kathmandu, May 1, 2006.

[68] Human Rights Watch interview with *Pradeep* (age 16, from Panchthar), Kathmandu, May 2, 2006.

[69] Human Rights Watch interview with *Hem* (age 17, from Dadheldhuva), Butwal, March 5, 2006.

surrender, instead exhorting them to use their one grenade against government troops at the last moment.

Eighteen-year-old *Padma* told Human Rights Watch that her superiors had tried to discourage her from ever surrendering, warning her about the treatment she would receive from the Nepali army:

> The commanders told us never to surrender. They told us to throw the grenade that we had into the troops and run away. When I said that I wouldn't be able to do that, they said that the army would then arrest me, and if I surrender the army would torture and rape me.[70]

Padma described the circumstances of her capture to Human Rights Watch. She and several other Maoists, including children, were followed by government forces after the battle of Tensen. The small group of Maoists sought shelter in a house in a village, harried by government helicopters, which is where their commanders first told them not to surrender, and then essentially abandoned them:

> We were staying in the house with our commanders; they went out and started firing at the helicopter, and they also told the others to come out. Then, when the second helicopter arrived, the commanders just threw their weapons in the house and left. The commanders told us to run and not to surrender, but we said we would surrender to the army. The commanders were outside of the house, still trying to convince us to run, saying, 'You are going to surrender, we cannot let this happen—we would rather kill you.' And then they shot at the house once from a submachine gun, and ran away.[71]

Sixteen-year-old *Maya* was also captured in the retreat from Tensen. She said she was terrified to surrender because the Maoists talked a lot about what the army would do to the detainees, but at the same time felt that it was her chance to escape:

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[70] Human Rights Watch interview with *Padma* (age 18, from far western Nepal) Butwal, March 5, 2006.

[71] Ibid.

> Then [after the battle of Tensen] we were fleeing—we just kept running, the locals were running away, helicopters were hovering around. After the commanders left the house where we were all hiding, we felt that it was our chance to finally leave the group. But it was too late, the army was bombing from helicopters, and we just had to wait inside.
>
> Everybody was shaking from fear. The army encircled the house and told everybody to come out. Those who fled left their weapons inside—15 socket bombs and three rifles. The rifles belonged to the commanders.[72]

Another deterrent keeping children from surrendering was the possibility that they, or their families, would be punished by the Maoists. *JS*, a 19-year-old who was quite proud of his service with the Maoists (which began at age 17), spoke with Human Rights Watch a week after he had been captured by government forces after a difficult battle. His chief concern was that his former colleagues not think that he had surrendered, due to a combination of fear of reprisal and the possibility of missing out on future benefits:

> If we don't inform the party, they will adopt another behavior with us, but we are still doing the party's work. If the party comes to the top [wins the conflict with the government], we will be treated differently. If the party knows we haven't surrendered, the party will be good, if they don't know we haven't surrendered, then their approach to our families will be different.... If I can't confirm I didn't surrender, they may think my attachment to the party is less.[73]

Weapons training

All the children we interviewed had received at least rudimentary training in the use of weapons. Most of the children had been trained in how to use a grenade or socket bomb, while others had received more sophisticated instruction in the use of

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[72] Human Rights Watch interview with *Maya* (age 16, from far western Nepal), Butwal, March 5, 2006.

[73] Human Rights Watch interview with *JS* (age 19, from Kalikot), Butwal, March 5, 2006.

firearms. The testimony we received indicated that the Maoists had provided combat training to at least hundreds of children as young as 14 years old. The ceasefire has not stopped the Maoists' policy of training children in the use of weapons. The OHCHR's September report spoke of "credible reports" it and Nepali NGOs had received concerning weapons training given to some of the around 50 children OHCHR believed to have been recruited since the ceasefire (see above).[74]

One of the most alarming developments after the ceasefire has been that Maoists seem to have sped up the rate at which they train children in the use of firearms, subjecting children to weapons training very soon after recruiting them.[75] Information gathered by Human Rights Watch and other international and Nepali monitors indicated that before the ceasefire, weapons training had been part of a broader course of ideological and political training.

Bikram, the 16-year-old boy from Jumla who had been recruited when he was 14, told Human Rights Watch that he had received military training in the use of firearms, along with many other children:

> I had one month training in Kalikot: physical exercise, use of weapons, preparation of bombs, etc. We used M-16s [US-made machine-guns], INSAS [Indian-made assault rifle], and [European-made] SLR ["self-loading rifle"]. There were two thousand people in my training group. About one hundred were under 18.[76]

Sixteen-year-old *Pradeep*, from Dailekh district, had been 14 years old when he joined the Maoists. He also received instruction in the use of firearms, and told Human Rights Watch dozens of other children had received the same training along with him:

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[74] Office of the High Commissioner for Human Rights in Nepal, "Human Rights Abuses by the CPN (M): Summary of Abuses," September 25, 2006.

[75] Human Rights Watch email correspondence with Advocacy Forum, Kathmandu, August 30, 2006.

[76] Human Rights Watch interview with *Bikram* (age 16, from Jumla district), Kathmandu, May 1, 2006.

> They took me to a training center that was seven days walk. They gave me training and used me to attract others. I was at the training center for six months. I learned to use the SLR, M-16s, pistols, grenades, and mines. We learned self-defense. There were 150 people there. About 15 or 16 were the same age as me (14 years old). All were under 18.[77]

Other children told Human Rights Watch they had received less extensive weapons training. *Hem*, a 17-year-old, said,

> After joining the Maoists, I immediately joined a fighting group. They asked me how old I was, I said 16. They told me I was too young but I insisted. Five other boys joined at the same time. Two were older, the others were my age. Our training was three to four days long, on how to use weapons. Then it's a learning process. I've received moderate training on how to use a rifle or bomb. I was in a fighting group when arrested, but I've never been in any direct fighting. We had one Chinese pistol and four mobile phones [at the time of capture].[78]

Other children told Human Rights Watch they had received only rudimentary training, though they had all received basic instruction in the use of handheld explosives—and had been issued at least one grenade or socket bomb to carry.

Padma, who was 18 years old when she spoke to Human Rights Watch but had been recruited two years earlier, said,

> The Maoists gave me instructions on how to use it [a grenade]—they said I should just pull out the pin and throw it. I said, 'This is too risky, I have no idea how to use it,' but they said, 'It's all right, you'll get to know.'[79]

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[77] Human Rights Watch interview with *Pradeep* (age 16, from Dailekh district), Kathmandu, May 2, 2006.

[78] Human Rights Watch interview with *Hem* (age 17, from Dadheldhuva), Butwal, March 5, 2006.

[79] Human Rights Watch interview with *Padma* (age 18, from far western Nepal), Butwal, March 5, 2006.

Seventeen-year-old *Kalawoti* described her instruction on grenade use:

> I also had one grenade and they taught me how to use it. They explained to me its mechanism, saying that there is a spring inside, and a pin, and that you need to take a pin out to activate it. They told me I would have to use it during the fighting, but I did not get to participate.

In some cases, the Maoists apparently did not provide children with more extensive weapons training because they were considered too young even for the CPN (M). *Shyam*, who was only 13 years old when he was recruited (he was 14 years old at the time of the interview) said, "The Maoists did not give me military training. I carried grenades and knew how to use them. They didn't want to train me because of my age."[80]

Ram, a 16-year-old boy from Panchthar district who had been recruited when he was approximately 11 years old, initially viewed the grenade as a toy:

> They gave me a grenade and told me to stand sentry. After the program, they divided us into groups. Some went east and some went west. This was the first day. When they gave me the grenade I didn't know what it was, but they explained. I liked to carry it. It was like playing, but I was also afraid. I did two to three hours sentry duty, then someone else took the grenade.

As he grew older, *Ram* was transferred from a militia to a proper PLA company, and along the way was trained in the use of more complicated weapons:

> The head of my group was the area commander [of a militia]. They taught me how to use rifles, locally made weapons. Fourteen people were trained; two were 16 years old; the rest were all older. Then we were transferred from the militia to a company. I didn't carry weapons

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[80] Human Rights Watch interview with *Shyam* (age 14, from Taplejung), Kathmandu, May 2, 2006.

> in the company, but worked as an informant, looking for security personnel.[81]

Combat support

Children performed many of the combat support roles for Maoist forces, including basic logistics and medical assistance. Even in such roles, and away from battle, though, children came face to face with violence and threats. Furthermore, it bears repeating here that the prohibition against using children extends to using them as cooks, porters, and messengers—not just as combatants.

Ramesh, who had been recruited as a 10-year-old, described how he had seen action even though he was mostly a sentry:

> I was kept as a sentry boy. I would walk around to check on [government] security forces from morning until 4 or 5 p.m. We would use a cordless phone to report on the situation. There were 15 Maoists in my group. Two of us were under 18. I learned a little about guns. If we saw security forces, we would throw grenades. This happened two times.[82]

Ram, who had joined the Maoists when he was only 11 years old, joined a PLA company when he was 14, after three years in a militia group. In the PLA, he and other children were responsible for sentry duty and collecting food from villages, at times by intimidation:

> I was in the company for one year. When we stayed in one place, I had to walk for three to four hours around the perimeter to look for security forces. I also looked for curd and vegetables from villagers. They gave it willingly. Then I had wounds on my legs (from leeches) so I came back to my own area. I was given the responsibility to search for food and meat for the company. We would collect donations from villagers.

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[81] Human Rights Watch interview with *Ram* (age 16, from Panchthar), Kathmandu, May 1, 2006.

[82] Human Rights Watch interview with *Ramesh* (age 15, from Tehrathu), Kathmandu, May 2, 2006.

> We would have a chat with them and ask them for food. Two or three friends [who were 14 to 15 years old] would go also. Some [villagers] gave willingly, but some we had to persuade. We would say, 'We are fighting for you, for the people.' There were some cheaters in the village, so we would have to threaten them. I don't know [exactly how they would threaten them]. I would stand outside; my friends were inside. I did that for two years.[83]

Other children were assigned to medical duty (which could mean work as simple as carrying the injured) or menial work, such as cooking and portering. Maoist forces often recruit children for temporary stints as they were needed. One 17-year-old boy described how he had been taken from home, ostensibly for a short period, before he was caught by government troops after a particularly fierce battle:

> I'm not in a fighting group, I was told that we are going on a campaign, and that's how I was there. I was told I'm going for a campaign, you have to and cook for the battalion and go with medical people.[84]

Attempts to escape

Maoist forces closely watched the children in their ranks to make sure they did not escape. The children were forcibly kept apart from their parents; attempts at escape were harshly punished. Not only the children, but their families were vulnerable to punishment if the children fled service (for the related fears children had about surrender, see above).

Seventeen-year-old *Kamala*, who had been with the Maoists for two years, described the fear that kept her and other children in check:

> It was very hard to flee, because they were watching new people very closely. Some of my friends tried to flee, but the Maoists then locked

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[83] Human Rights Watch interview with *Ram* (age 16, from Panchthar), Kathmandu, May 1, 2006.

[84] Human Rights Watch interview with *Govinda* (age 17, from Dadheldhuva), Butwal, March 5, 2006.

> their houses and beat their family members—I was afraid the same would happen to my family if I attempted to escape.[85]

Seventeen-year-old *Sita* told Human Rights Watch that after the Maoists brought her back after she attempted an escape, they guarded her closely. They also prohibited her parents from seeing her. She said,

> The Maoists then kept me locked in a room during the nights, my mother wanted to come see me, but they didn't let her. The two ladies took me back [and] they again threatened me and said I should not even think of fleeing again… [Then] it was hard to run away because we walked at nights in the jungle, and I just wouldn't know where to go. And during daytime we were locked inside houses and not even allowed to go to the toilet outside. Besides, if you try to run away, the Maoists will do harm to your family. [86]

Eighteen-year-old *Padma* who was recruited at age 17 told Human Rights Watch,

> I was thinking of fleeing. Some of my friends have fled already, and the commanders were very concerned and watched me all the time. Besides, I would have had no idea which way to go and I was always very tired—we had very little time to sleep.[87]

Sixteen-year-old *Maya* said,

> I tried to flee, but I was caught and brought back. I tried three times, but never succeeded—as a punishment the Maoists forced me to carry heavy bags. Then I saw three people being severely beaten for trying to flee, and I didn't try again.[88]

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[85] Human Rights Watch interview with *Kamala* (age 17, from far western Nepal), Butwal, March 5, 2006.

[86] Human Rights Watch interview with *Sita* (age 17, from far western Nepal), Butwal, March 5, 2006.

[87] Human Rights Watch interview with *Padma* (age 18, from far western Nepal), Butwal, March 5, 2006.

[88] Human Rights Watch interview with *Maya* (age 16, from far western Nepal), Butwal, March 5, 2006.

Other children confirmed *Maya's* experience. Children who had already attempted escape were guarded particularly closely and punished by being forced to engage in hard labor. Seventeen-year-old *Govinda*, who had been kidnapped by the Maoists, explained that he had tried to escape nearly immediately:

> I tried to flee. I pretended I had to pee, but the armed people surrounded me. I tried to surrender to security forces, but then the Maoists recaptured me, kept me at the high camp and forced me to do hard labor, like move rocks. They threatened if I fled again they would kill me and my family.[89]

For many children, the Maoists' threats and the serious punishments meted out to captured escapees, or their families, were sufficient deterrents. Sixteen-year-old *Birendra* told Human Rights Watch,

> I did not think about running away. If I had gone home, they would have come to my house and taken me away.[90]

Ram, who had been recruited when he was 11 years old, regretted joining the Maoists because of the difficulty of life in the ranks, even though as a particularly young recruit, he was exempt from carrying the heavier burdens. Nonetheless, he stayed on because of the Maoists' serious threats:

> It would have been better to stay at home because at night I had to walk long distances and work as a sentry. I didn't like it; I didn't get good sleep. [I thought about running away] many times. But I didn't try because I was afraid the security forces would kill me. The Maoists told me they would kill me. Some others from the company ran away.[91]

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[89] Human Rights Watch interview with *Govinda* (age 17, from Dadheldhuva), Butwal, March 5, 2006.

[90] Human Rights Watch interview with *Birendra* (age 16, from Arghakanghan), Kathmandu, May 2, 2006.

[91] Human Rights Watch interview with *Ram* (age 16, from Panchthar), Kathmandu, May 1, 2006.

The majority of children interviewed by Human Rights Watch said that they had not seen or been in touch with their families since they had been recruited, some of them for several years. Immediately after recruitment, while the children were still in their home district, the Maoists discouraged and prevented the contact, and later on it was not possible as the children were taken far away from their homes.

Fifteen-year-old *Reema*, who was recruited at age 14, told Human Rights Watch,

> My family still does not know where I am. I asked the Maoists to let me go see my family, they promised, but then never arranged it, and then we left the village and it was not possible any more.[92]

Seventeen-year-old *Kamala*, who has been with the Maoists for two years, said that she wanted to go home and see her family but the Maoists did not let her: "The Maoists kept telling me that they also have homes and families where they would like to go, but they don't go, and I also shouldn't think about it."[93]

The forced separation from family was clearly one of the more difficult aspects of life for children serving with the Maoists, and one of the main reasons why they braved the Maoists' threats and the dauntingly unfamiliar terrain they often found themselves in. Fourteen-year-old *Shyam* described how his longing for his old life finally prompted him to flee:

> They guarded the people so they would not run away. If I ran away, maybe they would shoot me. I escaped after three months. I didn't like the Maoists. I wanted to study. I thought about my parents and my sisters. At night, I and a friend ran away. We asked villagers how to get to our home district. [94]

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[92] Human Rights Watch interview with *Reema* (age 15, from far western Nepal), Butwal, March 5, 2006.

[93] Human Rights Watch interview with *Kamala* (age 17, from far western Nepal), Butwal, March 5, 2006

[94] Human Rights Watch interview with *Shyam* (age 14, from Taplejung), Kathmandu, May 2, 2006.

Another serious deterrent to escape was the absence of a mechanism whereby children could return to their families. The deficiencies of the Nepali government response is discussed in the next section, but one aspect of the children's difficult life is particularly relevant here: often, even if children escaped successfully, they could find themselves detained by government security forces and employed as forced labor.

After fourteen-year-old *Shyam* managed to elude the Maoists, he had no way to get back to his parents. He told Human Rights Watch,

> We went to the police. They asked where we were from. They checked us [physically], and took us to our home district. We worked in the police station, in the canteen, cooking rice and making tea. We were at the police station for seven months. My uncle knew I was there. He found out after two months. My mother and father were both in India. Two sisters were in India also.[95]

Box: Ram's escape

The story of 16-year-old *Ram* encapsulates many of the problems facing children serving with the Maoists. He joined the Maoists when he was only 11 years old and worked his way up to joining the ranks of the People's Liberation Army. He saw action and regularly traveled with hard-core military units. But he is also still a child, homesick and exhausted from the difficulties of a soldier's life. He dreams of a better life than that of a soldier.

The Maoists tried to prevent him from contacting his family, and threatened him against escaping. But when he received news of a family bereavement, he decided to take a risk. After a harrowing journey, he got home and surrendered to the Nepali military, but the government security forces did not have a program for rehabilitating child soldiers and instead put him to work as a laborer in the barracks. Only after Nepali media and children's rights groups heralded his case did he receive some

[95] Ibid.

assistance. Nevertheless, like thousands of other Nepali children, he faces an uncertain future due to poverty and displacement:

"I heard that my grandmother was dead. At first I didn't believe it. The Maoists denied that she was dead. I phoned my uncle who confirmed that she had died. I didn't like that they had lied to me, so I left. And I didn't like working at night, doing sentry duty.

One day I went to a place with Maoist leaders who were attending an evening program. I put my grenade and photos of Maoists [heroes] in a shop and took my bag and went to [a nearby village]. It was five hours walking. There was a strike, so there was no transportation. As I walked I met other Maoists, friends, and they asked where I was going. I couldn't say I was running away, so I said I didn't like my transfer and was going to another area. They took me for two hours by the riverside. They were planning a bomb attack against the military barracks, so they left me behind. I walked to another district, and when the strike ended, took a bus to Ilam [in the far east].

When I arrived at Ilam, my uncle took me to the police where I surrendered myself. But the police said I was only a child, and there was no need to surrender. So I went back with uncle. After two or three days, the army came and took me to barracks. At the barracks, they did not beat me. They interrogated me about my work, battles. I told them everything. The military said they would take me to those areas to point out the Maoist areas, but I was frightened and cried. The army captain brought me out to watch TV, and talked to my family on the phone. He gave me a sleeping bag. The next morning, the captain went on duty and lower-ranked army man told me to sweep the floor. In the evening, the captain came back and gave me food.

A journalist came to meet me and wrote about me in the newspapers. My uncle went to human rights groups, and the pressure from human rights groups and journalists got me released. I was in the barracks for one-and-a-half months. Then I went back to my uncle's. I was interviewed by Kantipur TV and the journalist talked to my uncle about taking me to CWIN. My uncle called CWIN and they gave him ICRC's [the International Committee of the Red Cross] number. They took me to Peace House. I

have been here for about one year. I am going to school, class 8. My father died a few months ago. My uncle told me that since there is no one at home, after class 10 he would send me abroad to work, maybe to Saudi Arabia. I want to be a doctor."[96]

[96] Human Rights Watch interview with *Ram* (age 16, from Panchthar), Kathmandu, May 1, 2006.

VI. The Government's Detention of Former Child Soldiers and Failure to Provide Rehabilitation Assistance

Detention of children

Children serving with Maoist forces were afraid to run away because they feared the Maoists would punish them if they were caught, or if they succeeded, their families. Another major reason why children were afraid to escape was that they feared being caught by Nepali security forces, which had established a record of violating human rights laws and the laws of war in a systematic and widespread manner.[97] The treatment of former Maoists by security forces not only failed to provide children with rehabilitation assistance, but also entailed further violations of their rights. Children were held under "anti-terrorism" laws alongside adults, and were subject to abuse while in detention, including repeated and brutal beatings, interrogation, and forced labor. Since the ceasefire reports about abuses by the military have significantly declined (although nothing has been done to account for the numerous violations that occurred prior to the ceasefire) and some legal reforms have taken place.

Anti-terrorism laws first adopted during the state of emergency in 2001 allowed security forces to arrest and detain persons suspected of involvement in acts of terrorism without a warrant. Under the Terrorist and Disruptive Activities Ordinance (TADO), issued in November of 2001, security forces could hold individuals in preventive detention for up to one year without charge or trial and without any recourse to the judiciary.[98]

The new government has publicly announced that it has released all detainees held solely under preventive detention decrees, including children detained because of their previous association with the Maoists. TADO was not renewed after it lapsed in September 2006 and is no longer in force. But Nepali human rights groups report

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[97] See Human Rights Watch, Between a Rock and a Hard Place: Civilians Struggle to Survive in Nepal's Civil War , vol. 16, no. 12(C), October 2004, http://www.hrw.org/reports/2004/nepal1004/; Clear Culpability: "Disappearances" by Security Forces in Nepal, March 2005, http://hrw.org/reports/2005/nepal0205/; Nepal's Civil War: The Conflict Resumes, April 2006, http://hrw.org/english/docs/2006/03/28/nepal13078.htm.

[98] Terrorist and Disruptive Activities Ordinance, Ordinance no. 61, 2061, Nepal Rajpatra (Nepal Gazette), Part 54, Annex 33, Ashoj 27, 2061.

that some children remain in detention under different charges such as possession of arms or explosives, or more seriously, murder.[99] Human rights monitors from Nepali groups as well as the UN are concerned that these children may be subject to abuse while in detention—a reasonable fear, considering the history of mistreatment of children by Nepali security forces.

Pre-ceasefire mistreatment of children in detention

Human Rights Watch's interviews with Maoist child soldiers who had been detained by the government prior to the ceasefire confirmed that government security forces subjected children to interrogation, repeated and brutal beatings, and forced labor. Children were often detained for lengthy periods in army barracks, local police stations, or adult prisons, where some were subjected to additional violence, restraints, sensory deprivation, and inhumane conditions.

Sixteen-year old *Bikram* told Human Rights Watch that he had spent four months with the Maoists when he was arrested by the army in November 2004. Five members of his group, including another child age 14, were captured at the same time. He told us,

> The security forces beat us severely. They used their weapons, boots, and hands. They beat my back, head, thighs. I was beaten unconscious. That same day, they gave us bullets and bags to carry for them for a two-hour walk. Sometimes I couldn't breathe. When we couldn't walk, they would pull us.

The next day, he said, he witnessed the army execute another Maoist who had been captured earlier from another group. He and the other captives from his group were then beaten again, and interrogated for three or four hours before being taken to district headquarters. He said that once they reached the headquarters,

> [w]e were blindfolded and handcuffed and put in one room in the barracks. For five days we were not provided with anything, no food,

[99] Human Rights Watch telephone interview with Mandira Sharma, Kathmandu, August 29, 2006.

> no water. Every two hours they [the army] would come and beat us. For the first 17 days we were not allowed out of the room. We were forced to do our toilet in the same room.

Bikram said that after three months of detention representatives of the ICRC visited the camp. Following this visit, he said, the group was provided with blankets and was no longer blindfolded or handcuffed. He was detained in the army barracks for two more months before he was transferred to a jail in Kathmandu, where he was detained for a further 11 months. He was never provided a lawyer, and was first taken to court over a year after he was first captured. He was finally released after the human rights NGO Advocacy Forum filed a case in the Supreme Court challenging the illegal detention of minors in adult facilities. In total, he spent nearly 16 months in detention.[100]

Another boy, *Ram*, was recruited in 2004 when he was 14 years old. After a year in the Maoists he and another soldier were captured by the army. He said,

> They [the army] took us to the barracks. They beat us both with their guns and boots. After 15 days my friend died from the beatings. They beat me repeatedly. Once I was beaten unconscious and taken to the hospital. When I regained consciousness I was taken back to the barracks and beaten again. I nearly died. I don't know why they beat me.
>
> I was fed once a day and got the same food as the soldiers. The floor of the room was wet. I slept on the floor. After the ICRC found me [six weeks after his arrest], I got a blanket and the soldiers no longer beat me.

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[100] Human Rights Watch interview with *Bikram* (age 16, from Jumla), Kathmandu, May 1, 2006.

> He was detained in the army barracks for four months before he was released and taken by the ICRC to a rehabilitation program run by a Nepali NGO.[101]

As already described above, 14-year-old *Shyam* escaped from the Maoists after three months and surrendered himself to the police. The police kept him at the police station, where he worked cooking rice and making tea in the station canteen. The police attempted to contact his family, but most of his immediate family was working in India, and members of his extended family were not willing to take responsibility for him. He remained in the police station for seven months before the ICRC arranged for him to enter a rehabilitation program run by a local NGO.[102]

Other children also reported lengthy periods of detention. One was detained in army barracks for a year-and-a-half and worked in the camp kitchen. Although the boy was not certain of his age, he believed that he was only 12 or 13 years old when first captured and detained.[103]

A UNICEF study found that 30 percent of children and youth interviewed in prisons reported psychological problems related to torture, including sleeping disorders, nightmares, anxiety, palpitations, and uncertainty about their lives.[104] Human Rights Watch's interviews with detained child soldiers demonstrated the ongoing consequences of such treatment. *Bikram*, who was detained for 16 months, says that he still suffers physical problems from the beatings he received from the army, including damage to his right eye, hearing loss, and recurrent stomach aches.[105]

The Secretary-General's report on children and armed conflict in Nepal included the results of a study of Nepal's juvenile justice system carried out by a task force

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[101] Human Rights Watch interview with *Ram* (age 16, from Panchthar), Kathmandu, May 1, 2006.

[102] Human Rights Watch interview with *Shyam* (age 14, from Taplehung, recruited at 13 in 2005), Kathmandu, May 2, 2006.

[103] Human Rights Watch interview with *Ramesh* (age 15, from Tehrathu), Kathmandu, May 2, 2006.

[104] UNICEF, "Assessment of children and young persons in prisons, correction homes and police custody in Nepal," Juvenile Justice in Nepal Series 2, 2006, http://www.un.org.np/reports/UNICEF/2006/2006-6-20-UNICEF-juvunile-in-justicePrisonAssessment-2.pdf (accessed January 5, 2007).This statistic refers not only to children detained under TADO (approximately 23 percent of those interviewed in prison), but also children detained under other charges.

[105] Human Rights Watch interview with *Bikram* (age 16, from Jumla), Kathmandu, May 1, 2006.

comprised of Nepali and international monitors in accordance with Security Council resolution 1612. The task force documented 195 cases of juveniles held under TADO in army barracks, police stations, prisons and high security centers. Of these 195, the report stated, "the majority claimed to have been held incommunicado when detained by RNA for periods sometimes amounting six months."

> According to the findings of the monitoring and reporting task force, the majority of the children held under TADO were victims of ill-treatment or torture after their arrest, mainly during the initial interrogations. More than 80 percent of the 101 children who responded to the interviews by the task force provided detailed accounts of ill-treatment and torture. The methods of torture included blindfolding and handcuffing for extended periods of time, beatings with sticks mainly on the soles of the feet, kicking and punched on the head and the chest. Some children also reported electric shocks, water immersion until suffocation and mock executions.[106]

Lack of rehabilitation and reintegration programs for former child soldiers

The discussions between the government and the Maoists after the ceasefire have not adequately addressed the problem of child soldiers. Since the ceasefire, although security conditions have improved markedly, little has been done to facilitate the release and rehabilitation of children serving with the Maoists—in part because the status of children has not been discussed, in part because the Maoists continue to deny that a problem even exists, and in part due to a lack of political will and resources by the Nepali government.

The Secretary-General's report on children in armed conflict in Nepal stated that, as of September 2006, "it should be highlighted that child protection agencies have faced major difficulties in obtaining the separation of large numbers of children from

[106] Report of the Secretary-General on children and armed conflict in Nepal, pp.7-8.

CPN-M, in actively following up family requests for assistance to get their children out as well as in addressing the continuous and current cases of recruitment."[107]

As this report went to press, there were still no indications of a systematic effort to release and reintegrate children serving as soldiers with the CPN (M).

A growing body of international law has recognized that children who are recruited and used as soldiers are entitled to special assistance to ensure their rehabilitation and reintegration back into civilian society (see "International Legal Standards," below). Under its treaty obligations, the government of Nepal is required to provide former child soldiers with rehabilitation and reintegration assistance, including access to education, vocational training, and support for their physical and psychological recovery. However, to date the government of Nepal has taken little responsibility to ensure that former child soldiers receive the assistance to which they are entitled.[108] A few NGOs provide important and quality rehabilitation services, but their number is extremely small, and the assistance provided is entirely ad hoc.

Nearly all children leaving the Maoists face considerable challenges. They may have no place to live, or need help locating relatives who might be willing to take them in. Many have been out of school for a considerable period of time, and without previous school records and money for tuition and supplies they find it nearly impossible to re-enroll. They may have few marketable job skills and few options to support themselves.

Former child soldiers may also experience emotional and psychological problems. A counselor with a residential rehabilitation program run by a Nepali NGO told Human

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[107] Ibid., at p.16.

[108] In 2005 the Committee on the Rights of the Child recommended that the government of Nepal develop comprehensive policies and programs to implement the rights of children affected by armed conflict. In the area of rehabilitation, it specifically recommended that the government:

> "Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees;
>
> Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of informal education programs and by prioritizing the rehabilitation of school buildings and facilities and provision of water, sanitation and electricity in conflict-affected areas."

Committee on the Rights of the Child, Concluding Observations (CRC/C/15/Add.260), recommendations 82 (d) and (e).

Rights Watch, "The children can't sleep at night. They have eating problems, anxiety, fear about the future and about themselves."[109]

Without assistance, former child soldiers may remain separated from their families, and enter a precarious existence in the informal labor sector. Unknown numbers of children who have served with the Maoists have crossed into India, seeking not only work but also safety from both the Maoists and government security forces. Many children are afraid to seek help, worried that identifying themselves as former Maoists may stigmatize them or expose them to security risks.

Prior to the Jana Andolan II, the government of Nepal not only failed to support rehabilitation and reintegration assistance for child soldiers, but actively obstructed such efforts by failing to hand over children apprehended by security forces to appropriate agencies, including the ICRC, UN bodies, or nongovernmental organizations. As described above, security forces have detained children for months or years, often in inhumane and miserable conditions. In some cases, government authorities have refused to accept the authenticity of birth certificates or other documentation establishing a child as below the legal age (16) for incarceration in adult prisons. [110]

UN guidelines on the demobilization, rehabilitation and reintegration (DDR) of child soldiers stipulate that the demobilization and reintegration of children must be pursued at all times, regardless of whether formal peace or security sector reform agreements have been reached.[111] The demobilization and reintegration of children serving with the Maoists should not wait for final agreements between the Maoists and the government regarding an integrated military force. Immediate steps should be taken to identify boys and girls in Maoist ranks, and begin the DDR process.

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[109] Human Rights Watch interview with rehabilitation counselor, Kathmandu, April 26, 2006.

[110] Human Rights Watch interview, identity withheld, April 26, 2006.

[111] United Nations Inter-Agency Working Group on Disarmament, Demobilization, and Reintegration (UNIAWG-DDR), "Children and DDR," IDDRS module 5.30, http://www.unddr.org/iddrs/05/download/IDDRS_530.pdf (accessed January 5, 2007).

A UNICEF representative told Human Rights Watch,

> There is a potential that kids will be hostage to a long security reform process. There is no reason for kids to remain in the ranks. DDR of children is a human rights process, not a security process. It doesn't wait until people are ready for it. It has to start as soon as possible.[112]

In November, the UNICEF representative in Nepal expressed extreme concern that children had not yet been returned or reintegrated. The agency called for the Maoists to immediately hand over children to child protection agencies as soon as they were brought to the cantonment sites where the Maoists agreed to gather their soldiers.[113]

In a press interview, Sandra Beidas, head of the OHCHR-Nepal protection section, pointed out that the ceasefire negotiations and political discussions had failed to consider the problem of thousands of child soldiers and how to return them to normal life:

> There have been initiatives in Nepal during the past years to provide care for children who were either released by the parties to the conflict, captured or who simply voluntarily left. Some children were provided temporary shelter, others were given legal assistance when found to be held illegally in detention. Family tracing and mediation were also carried out to allow for the safe return of such children to their families. However, a national process to separate children from armed groups and return them to their communities has yet to be set up.
>
> Separating children from armed groups is essential in terms of their protection and allowing them to return to a normal life. This advocacy must not only be directed at the parties to the conflict, but also civil

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[112] Human Rights Watch interview with Manuel Fontaine, senior advisor on child protection, UNICEF, New York, June 5, 2006.

[113] "Let us send the children home to their families," UNICEF press release, November 13, 2006.

> society and the communities to which children will return, in order to facilitate their reintegration.[114]

Until recently, the burden was carried by a very small number of NGOs operating rehabilitation programs for former child soldiers. Child Workers in Nepal, for example, operates two centers for children affected by the conflict that accommodate around 130 children. The program helps children get back into school or vocational training programs. It also helps children make contact with their families and assesses whether it is possible or desirable for the child to return home.

Existing programs provide former child soldiers with a variety of services, including psychosocial counseling, education, vocational training, employment opportunities, and reintegration with their families. But such programs are of too small a scale to accommodate the thousands of children expected to be released in case of a full peace agreement between the government and the Maoists. For now, according to the Nepali groups, they have been unable to help many children even after the ceasefire. Despite improvements in the security environment, many Nepali families still harbor fears of reprisals from the CPN (M) or government forces.

According to the Nepali Coalition for Children as Zones of Peace, 100 days after the ceasefire,

> [v]ery few children have approached for such programmes during this period. According to UCEP [Underprivileged Children's Education Program] Nepal, only one child has visited the rehabilitation center in the hundred days after the restoration of democracy. Therefore, it seems that the process of identifying the children associated with the armed force or group and withdrawing them is still complicated. It is rather difficult to make their contact with and meet their families, who are still in dilemma about taking them back home. Some families are not assured about the security despite the easy present environment

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[114] "Nepal: Interview on Demobilisation of Child Soldiers," *IRINnews*, August 9, 2006, http://www.irinnews.org/report.asp?ReportID=55048&SelectRegion=Asia (accessed January 5, 2007).

for the children, who were once associated with the armed force or group.[115]

Because security risks make it impossible for many former child soldiers to return home, children may remain in these programs for several months or even years. As a result, the number of placements available at a given time is relatively small.

Knowledge about such programs is also very limited. Children are most likely to be referred to such programs through the Red Cross or NGOs. It is impossible to know how many children leave the Maoists and then never receive help because they do not know that assistance is available or how to access it.

Since the ceasefire, UNICEF has coordinated a working group to address children associated with fighting forces, together with national and international NGOs. The working group has conducted capacity-building workshops for its members on demobilization and reintegration, and conducted a rapid assessment on children associated with armed groups. UNICEF has also hired a full-time expert on child demobilization and reintegration to facilitate planning for the release and return of child soldiers.[116] Some NGOs are also scaling up programs to provide rehabilitation and reintegration assistance to children who may be released from the Maoists.

One complicating factor for NGOs operating programs for Maoist child soldiers is that the Maoists have been designated as a "terrorist" organization by several governments, including the United States, so some NGOs are reluctant to provide assistance to children who have been affiliated with the group, or make their efforts known. The terrorist designation has also limited avenues of financial support for rehabilitation programs. For example, United States law prohibits any US funding that benefits individuals affiliated with any organization that has been designated by the US government as a "terrorist" entity. Officials with USAID in Nepal have indicated that such laws may limit support from the agency for rehabilitation

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[115] National Coalition for Children as Zones of Peace, "Hundred Days of Ceasefire: Children Are Still Ignored."

[116] Human Rights Watch email correspondence with Rosana Vega, UNICEF Nepal, November 14, 2006.

programs for children who have been part of the Maoists, particularly in the absence of formal demobilization mechanisms.[117]

The demobilization and rehabilitation of child soldiers requires specialized expertise. Child protection agencies including UNICEF and NGOs should take the lead in providing the technical and operational expertise to design and implement DDR programs. However, the government of Nepal also has a responsibility to provide political support, allocate adequate resources, and involve appropriate ministries in the planning, design and implementation of DDR programs.

The support of donor governments is also key to help child protection agencies build capacity in the short term, and ensure long-term sustainability of essential reintegration programming, including education, training, and follow up.

[117] Human Rights Watch interview with Margaret Alexander, deputy mission director, USAID, Kathmandu, April 27, 2006; email communication to Human Rights Watch from Gary Winter, USAID, July 14, 2006.

VII. International Legal Standards

In the late 1990s a strong international trend developed to raise the minimum age for military service to 18. The Worst Forms of Child Labour Convention (Convention No. 182), adopted by the International Labour Organization in 1999—and ratified by the government of Nepal in 2002—prohibits the forced recruitment of children under age 18 for use in armed conflict as one of the worst forms of child labor.[118] Nepal is also a signatory to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which was adopted by the UN General Assembly in 2000 and entered into force in 2002. The protocol raised the standards set in the Convention on the Rights of the Child by establishing 18 as the minimum age for any conscription or forced recruitment or direct participation in hostilities.

The protocol explicitly addresses the conduct of non-state armed forces. Article 4 states that "armed groups that are distinct from the armed forces of a state should not, under any circumstances, recruit or use in hostilities persons under the age of eighteen."[119]

Protocol II to the Geneva Conventions of 1949, which applies during non-international armed conflicts (civil wars), prohibits states and non-state armed groups from recruiting or using children under the age of 15 in armed conflict.[120] Furthermore, such recruitment is identified as a war crime in the Rome Statute for the International Criminal Court (ICC).[121] In July 2006, after the success of the Jana

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[118] ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Worst Forms of Child Labour Convention), adopted June 17, 1999, 38 I.L.M. 1207 entered into force November 19, 2000, ratified by Nepal on January 3, 2002.

[119] Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted May 25, 2000, G.A. Res. 54/263, Annex I, 54 U.N. GAOR Supp. (No. 49) at 7, U.N. Doc. A/54/49, Vol. III (2000), entered into force February 12, 2002. Nepal signed the Protocol on September 8, 2005 and has started the ratification process, but so far has not completed all formalities necessary for ratification. Nevertheless, as a signatory of the Protocol, Nepal is "obliged to refrain from acts which would defeat the object and purpose" of the treaty. Vienna Convention on the Law of Treaties, UN Doc A/Conf 39/28, UKTS 58 (1980), art. 18.

[120] Nepal ratified the four Geneva Conventions in 1964.

[121] Rome Statute of the International Criminal Court, U.N. Doc.A/CONF.183/9, July 17, 1998, entered into force July 1, 2002, arts. 8(2)(b)(xxvi) and 8(2)(e)(vii), Nepal is not a signatory to the ICC statute, however members of CPN (M) who recruit children under the age of 15 may still be criminally responsible for acts amounting to war crimes under international law. In May 2004 the Appeals Chamber of the Special Court for Sierra Leone ruled that the prohibition on recruiting children below age 15 had crystallized as customary international law prior to 1996, citing the widespread recognition and acceptance of the norm in

Andolan, Nepal's parliament passed a resolution urging the government to accede to the Rome Statute, though the accession has not yet taken place.[122]

The prohibition on recruiting and using children as soldiers is broader than just children engaged in combat duties and includes children in combat-support and other related functions. The authoritative Capetown Principles and Best Practices define a child soldier as any person under age 18 who is "part of any kind of regular or irregular armed force or group in any capacity, including but not limited to cooks, porters, messengers and those accompanying such groups, other than purely as family members. It does not, therefore, only refer to a child who is carrying or has carried arms."[123]

The ICC statute makes clear that individual criminal liability also extends beyond the use of children as armed combatants. Under the ICC, the war crime of recruiting or using child soldiers

> [c]over[s] both direct participation in combat and also active participation in military activities linked to combat such as scouting, spying, sabotage and the use of children as decoys, couriers or at military checkpoints. It would not cover activities clearly unrelated to the hostilities such as food deliveries to an airbase or the use of domestic staff in an officer's married accommodation. However, use of children in a direct support function such as acting as bearers to take

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international instruments such as the Convention on the Rights of the Child and the Additional Protocols to the Geneva Conventions. The Special Court for Sierra Leone also found that the individuals responsible for recruiting children under the age of 15 bear criminal responsibility for their acts:

> "The practice of child recruitment bears the most atrocious consequences for the children. Serious violations of fundamental guarantees lead to individual criminal responsibility. Therefore the recruitment of children was already a crime by the time of the adoption of the 1998 Rome Statute for the International Criminal Court, which codified and ensured the effective implementation of an existing customary norm relating to child recruitment rather than forming a new one."

Summary of Decision on Preliminary Motion on Lack of Jurisdiction (Child Recruitment), *Prosecutor v. Sam Hinga Norman*, Appeals Chamber of the Special Court for Sierra Leone, May 31, 2004, Case Number SCSL-2003-14-AR72 (E).

[122] "Nepal parliament directs government to ink Rome statute," *Nepal Mountain News*, July 26, 2006, http://www.nepalmountainnews.org/news.php?subaction=showfull&id=1153887259&archive=&start_from=&ucat=11& (accessed January 15, 2007).

[123] UNICEF, Cape Town Principles and Best Practices, April 1977, http://www.unicef.org/emerg/files/Cape_Town_Principles(1).pdf (accessed October 17, 2006).

supplies to the front line, or activities at the front line itself, would be included…[124]

The Convention on the Rights of the Child requires the government to take "all feasible measures to ensure protection and care of children who are affected by an armed conflict," and to take "all appropriate measures" to promote the physical and psychological recovery and social reintegration of children who have been victim to armed conflicts.[125] Article 6(3) of the Optional Protocol provides that a state "shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service," and "shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration."[126]

As a state party to ILO Convention 182, which defines the forced recruitment of children for use in armed conflict as one the worst forms of child labor, the government of Nepal is obliged to "provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social reintegration, ensure access to free basic education, and wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour."[127] As we discuss above, the government of Nepal has failed in this important regard, even after the ceasefire.

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[124] See Michael Cottier, in Otto Triffterer,ed., *Commentary on the Rome Statute of the International Criminal Court: Observers' Notes, Article by Article* (Baden-Baden: Nomos Verlagsgesellschaft:), p. 261.

[125] Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, arts. 38, 39.

[126] Ibid, art. 6(3).

[127] ILO Convention 182, art. 7 (2) b and c.

VIII. Detailed Recommendations

To the Communist Party of Nepal (Maoist)

- Immediately end all recruitment of persons under age 18, whether for use as combatants, cooks, porters, messengers, guards or for any other military purpose;
- Publicize the ban on the recruitment of children through the media, as well as through local meetings;
- Release children under age 18 from all Maoist forces, and transfer them to their families or to appropriate child protection agencies;
- Establish appropriate procedures for penalizing any local cadres who recruit children or who do not immediately release children;
- Give all adults recruited by the CPN (M) before age 18 the option to leave CPN (M) forces, without any retaliation;
- Cooperate with national and international monitors to ensure compliance with an end to the recruitment and deployment of child soldiers and provide the ICRC, UNICEF, and OHCHR full and unhindered access to all military camps and forces for verification purposes;
- Cooperate with all efforts to rehabilitate demobilized child soldiers, including their reintegration back into their home communities.

To the Government of Nepal

- Ensure that an immediate release of children from the Maoists is part of any implementation program of the Comprehensive Peace Agreement with the Maoists;
- Cooperate with appropriate child protection agencies to establish and support rehabilitation and reintegration programs for former child soldiers, and ensure that any such programs are tailored to meet the special requirements of girl soldiers;
- Grant a formal amnesty to all former child soldiers for their participation with the Maoists;
- Exclude all known child recruiters from Nepal's new, integrated armed forces;

- Immediately ratify and implement the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts;
- Establish and implement procedures to ensure that child soldiers arrested or apprehended by security forces are immediately transferred to their families or to appropriate child protection agencies for rehabilitation and reintegration;
- Ensure that child soldiers who are taken into custody by security forces are treated with dignity and that their rights are respected; establish and implement sanctions against any member of the security forces responsible for physical violence or other human rights abuses against children in their custody;
- Immediately end the practice of incarcerating children together with adults;
- Allow national and international human rights monitors unhindered access to all Army barracks, police lock-ups, prisons, and other places where children may be detained;
- Ratify the Rome statute for the International Criminal Court;
- Amend the Child Rights Act to define as children all those below age 18 and introduce a comprehensive juvenile justice system.

To the National Human Rights Commission of Nepal

- Develop with UNICEF, OHCHR, and relevant NGOs complementary strategies to prevent the recruitment of children and to secure the release of children from the Maoists;
- Establish specialized training and recruitment for monitors at local offices of the NHRC to publicly report on the recruitment of children by the forces of the CPN (M);
- Monitor and publicly report on the treatment of children detained by the Government of Nepal.

To the Office of the High Commissioner for Human Rights

- Continue to work with local NGOs to monitor and report on any recruitment of child soldiers by the CPN (M) and any release and return of former child soldiers, and publicize any findings.

To UNICEF

- Take leadership in designing and implementing comprehensive demobilization, rehabilitation, and reintegration programs for children with Maoist forces, strengthening technical and operational capacity for this purpose, and working in cooperation with relevant government ministries and nongovernmental child protection organizations;
- Assist the government of Nepal in identifying all persons under age 18 and accused of affiliation with the Maoists who are now held in government custody, and facilitate their transfer to appropriate rehabilitation programs;
- Work with local communities and local nongovernmental organizations in order to effectively monitor child recruitment, put in place effective prevention strategies, and support the reintegration of children into their communities.

To the Special Representative of the Secretary-General for Children and Armed Conflict

- Seek commitments from the CPN (M) for an end to all child recruitment, the immediate release of children from its forces, and cooperation with their rehabilitation and reintegration;
- Seek commitments from the Nepal government for the creation and support of effective DDR programs for children.

To International Donors (including India, the United States, the European Union, the United Kingdom, Japan, Switzerland, and Scandinavian Countries)

- Create a donor task force for close liaison with UNICEF and other local actors and to make urgent interventions with the CPN (M) in cases of new child recruitment;
- Support the creation of a comprehensive child-focused demobilization, rehabilitation, and reintegration program for children associated with Maoist forces, and provide financial support to enhance the technical and operational capacity of child protection agencies, including UNICEF and NGOs, for this purpose;

- Insist that substantial progress is made in the demobilization, rehabilitation, and reintegration of child soldiers prior to committing significant resources to the demobilization of adult soldiers;
- Provide financial and logistical support for the deployment of international human rights monitors in support of the National Human Rights Commission of Nepal and the Office of the High Commissioner for Human Rights as part of any peace process;
- Use economic leverage to pressure the CPN (M) to put an end to all child recruitment by the CPN (M) and to promote the release of all children currently in the CPN (M)'s ranks;
- Provide financial support for the Monitoring and Reporting Task Force (co-convened by OHCHR and UNICEF, with the participation of other UN agencies and NGOs in Nepal), which was established under Security Council Resolution 1612 to monitor and report on grave violations against children in armed conflict situations.

To the United Nations Security Council

- Urge the CPN (M) to immediately end all child recruitment and demobilize all children from its forces;
- Recommend that no demobilization and rehabilitation packages be distributed to adult members of the Maoist forces until all children have been released;
- Have local Kathmandu missions of Security Council members meet with the CPN (M) to insist on progress in the release of children, in accordance with Security Council resolutions on children and armed conflict.

To All United Nations member states

- In accordance with Security Council Resolution 1379 on children and armed conflict (November 20, 2001), paragraph 9, use all legal, political, diplomatic, financial, and material measures to ensure respect for international norms for the protection of children by the parties to the conflict. In particular, states should unequivocally condemn the CPN (M)'s continued recruitment and use of child soldiers and withhold any financial, political, or military support to the CPN (M) until it ends all child recruitment and releases all children currently in its ranks.

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Children in the Ranks

The Maoists' Use of Child Soldiers in Nepal

One of the worst aspects of Nepal's 10-year-long civil war has been the systematic recruitment and use of child soldiers by the forces of the Communist Party of Nepal (Maoists). Maoist leaders consistently deny using child soldiers, but Human Rights Watch's interviews with former child soldiers establish beyond doubt that children served on the front lines, received weapons training, and carried out crucial military and logistical support duties for the Maoists. Although exact numbers are unavailable, most observers believe that 3,500 to 4,500 children are part of the Maoist fighting forces. The Maoists have been condemned for these practices in three consecutive reports to the U.N. Security Council since 2002.

After the "people's movement" of April, 2006, ended King Gyanendra's autocratic rule and ushered in peace talks between the Maoists and the Nepali government, there was real hope that the Maoists would stop recruiting children and would begin decommissioning those children already in their ranks. To the contrary, the Maoists have continued recruiting children and made no effort to release the children already serving with them. Even as this report went to press, we received consistent reports of Maoist cadres recruiting children.

The Maoists must immediately stop recruiting children and must begin allowing children to return to normal lives, with assistance from the Nepali government and the international community. Doing so removes one of the chief sources of worry for thousands of Nepali families and establishes the sincerity of the Maoists toward the country's peace process.

Maoist soldiers after a march from Deuphul to Tila. Many of these soldiers were recruited as children to serve as soldiers or workers within the Maoist movement. The Maoists recruited thousands of children during the conflict.

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