

## NEPAL ASSESSMENT

APRIL 2003

### Country Information and Policy Unit

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#### **1. SCOPE OF DOCUMENT**

**1.1** This assessment has been produced by the Country Information and Policy Unit, Immigration and Nationality Directorate, Home Office, from information obtained from a wide variety of recognised sources. The document does not contain any Home Office opinion or policy.

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

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

**1.4** It is intended to revise the assessment on a six-monthly basis while the country remains within the top 35 asylum-seeker producing countries in the United Kingdom.

## 2. GEOGRAPHY

### Geography

**2.1.** The Kingdom of Nepal is a high Himalayan country, flat and fertile in the south (Terai region). It is bordered by China and India. The national capital is Kathmandu, (population 1.1. million); other main cities are Biratnagar, Patan, Pokhara, Birganj, Dharan, and Nepalganj. **[1b]** The country is subdivided for administrative purposes into 5 development regions, 14 zones and 75 districts. **[1b]**

### Population

**2.2.** Nepal has a total population of 23.4 million (2001 census) with a growth rate of 2.3 percent per annum. **[1b]**

### Language

**2.3.** Nepali and 12 other languages are in common usage. Over 30 dialects spoken. English used as a common language amongst some sections of the population, particularly in government and business. **[1b]**

### Calendar

**2.4.** Nepal has a separate calendar. The year has twelve months based on the movement of the sun, but the festivals are set according to the lunar year. The new year begins in mid-April. The years (*Bikram Sambat*) are dated from 56 years previous to A.D. / C.E. 1, so year April 2000 to April 2001 is Bikram Sambat 2057; April 2001 to April 2002 is is Bikram Sambat 2058. **[10c]**

## 3. ECONOMY

**3.1.** Nepal is one of the world's poorest countries per head of population, averaging US \$220 income per annum, with many Nepalese people dependent upon subsistence farming or bonded agricultural work. 40 per cent of the population are directly employed in agriculture. **[9a]** Foreign aid is important to the economy, and tourism is the main foreign currency generator. **[9a]** India is the main trading partner of Nepal. **[9a]**

**3.2.** National security costs have risen greatly in 2001. The State of Emergency, by the end of December 2001, had exceeded more than 500m rupees the pre-set security budget of 10.31 billion rupees. The Ministry of Finance estimates a fiscal year spend of over 15 billion rupees on security. **[6j]** Reports in late March 2002 confirmed that expenditure would at year-end be 5 billion rupees over budget. **[6an]**

**3.3.** Further security spending, of the order of a 30 percent increase, was announced in July 2002. **[9s]** This particular news report put security spending in 2002 at a projected 97 billion rupees, with a promise of 8 -10 billion rupees from aid partners. **[9s]** The aid will be dependent upon the Nepalese Government stopping corruption and the misappropriation of development funds. **[9s]**

**3.4.** Tax collection is a key issue within the Nepalese economy, with tax evasion held to be endemic. The Inland Revenue Department (IRD) launched a campaign, the Voluntary Disclosure of Income Scheme (VDIS) to encourage declarations of earnings. The scheme ended on 13 January 2002, and yielded \$4.5 million, i.e. declarations of a third of estimated revenue owing. **[6o][9h]** During the VDIS, defaulters were able to settle tax bills at a discount ten percent income tax; after 13 January, defaulters will have to pay the full standard 25 percent plus fines. **[9h]** The government has promised a stringent crackdown on tax defaulters, but commentators say that people are sceptical as to the ability of the government to effect such moves. **[6o][9h]**

**3.5.** On 18 August 2002, the Commission for the Investigation of Abuse of Authority (CIAA) raided the homes of more than 20 Government officials in one of their largest investigations into official corruption to date. **[9ab]** The detention of 16 of those arrested was extended on 5 September 2002, as inquiries continued. **[6cg]**

**3.6.** The US Government has given moral and possibly future military support to the Nepalese government. No financial aid was reportedly discussed during US Secretary of State Colin Powell's visit in January 2002. **[6p][6q][9j]**

**3.7.** The tourist sector has reportedly been badly affected by the State of Emergency and the insurgency. **[8b]** The Government announced in late June 2002 that the economy had greatly suffered from the insurgency with industrial production, trade and

tourism affected. Many development projects have had to be abandoned or delayed. **[9p]** Growth in the fiscal year 2001-02 was announced on 3 September as being 0.8 percent, with a 0.5 percent increase in the inflation rate to 2.9 percent. **[6ce]**

#### 4. HISTORY

**4.1.** In 1959, King Mahendra issued a new constitution, and the first democratic elections for a national assembly were held. **[1b][9c]** The Koirala government was dismissed in 1960, when the King declared parliamentary democracy a failure. **[1a][1b]** A new constitution was promulgated in 1962, establishing a system of *panchayats* (councils) on "partyless" grounds, continuing after the accession of King Birendra in 1972, until 1990. **[1b]** In 1990, the King bowed to Nepali Congress Party (NCP) orchestrated public protest, and changed the Constitution. The 1990 Constitution is the current Constitution. **[9c]**

**4.2.** The NCP won the 1991 national elections, but lost 1994 elections to the Communist party (the United Marxist and Leninist Party - UML). **[9c]** The UML lost power in 1995, and a succession of short-lived governments, mainly NCP, have held power since. **[1b]**

**4.3.** The violent split of the Communist Party with the emergence of the United People's Front (the Maoists) operating an armed struggle outside the political process, has troubled all governments since 1996. **[1b]**

#### The State of Emergency, (from November 2001)

**4.4.** The initial state of emergency was declared by the government on 26 November 2001, to last three months. **[10a]** It was in response to an escalation of violence in mid-November 2001 after the breakdown of a four-month truce with the Maoist rebels. **[10a]** In the six-year war with the Maoists, over 2,000 people have been killed, but it was the massacre of 40 (or 27- figures conflict in sources) policemen, 7 soldiers, and 70 (200) rebels that prompted the government action. **[10a]** By June 2002, the official death-toll since the beginning of the state of emergency was of 991 security personnel, and 1,862 Maoists (though other estimates raise Maoist deaths to 2,652.) **[6br]** The official figures stated 1,313 injured security personnel, but only 198 (or alternatively, 271) injured Maoists captured in period. **[6br]** 29 rebels were killed in clashes in early August, 2002. **[9v]**

**4.5.** The state of emergency was brought in as the Terrorism Control Ordinance, under Part 18 and Clause 115 of the Constitution (1990). Nepalnews.com has reproduced full details of the ordinance and its authority. **[in 10a]** A full parliamentary bill has been launched, the Terrorist and destructive Activities (Control and Punishment) Bill 2002. **[6ao]** In March 2002, the bill was limited to a two year duration, as opposed to until repeal, in response to opposition resistance. **[6ao]**

**4.6.** The government has taken other actions, namely the freezing of bank accounts suspected as being linked to the terrorists groups. The government maintains these accounts contain the profits from frauds and extortion perpetrated by the Maoists. **[6m][9f]** The Government has suspended the Integrated Security and Development Plan (ISDP) for six of the seven districts most hit by Maoist activity. The government has promised to resume the ISDP once the state of emergency is lifted. **[6i]**

**4.7.** The state of emergency and direct actions by the Army are an escalation of the conflict that has been feared by NGOs and other observers over the past year. **[9k]** There is the same concern over the Maoists' defiant counter-statements. **[9d]** For instance, Amnesty International has reservations about the ordinance, particularly the suspension of Article 23 of the Constitution, whereby denying people access to judicial remedy (*habeus corpus* excluded). **[5c]** Amnesty International has been highly critical of the Maoists' methods and activities. **[5a][5b]**

**4.8.** The Government has claimed results from military offensives since November, with 6,000 Maoists surrendering by the end of December 2001. **[9e]**

**4.9.** On 21 January 2002, the Government announced that it was preparing an extension of time to the three month state of emergency. **[6r]** The Prime Minister, Sher Bahadur Deuba, stated that the emergency situation would remain until the Maoists laid down their arms. **[6u]** The Government is in talks with the opposition parties in order to gain support for an extension before the deadline of 23 February. **[6v]**

**4.10.** The ongoing security situation is held by Government sources to threaten the local elections scheduled for July 2002. **[6s]** The Election Commission has said it would be ready to run the 5 yearly elections, having updated all the voter lists, but the Government has so far (21 January) declined to set a date. **[6s]**

**4.11.** US Secretary of State Colin Powell visited Nepal on 19 January 2002. The US Government has given moral and possibly future military support to the Nepalese Government. US military support pledged. **[6p][6q][9j]**

### **Continuation of the State of Emergency (February 2002)**

**4.12.** On 23 February 2002, the Government decided to continue the state of emergency. Leading up to the announcement, there was continuing violence, such as the murder of 154 people in Maoist raids over the weekend of 16 / 17 February 2002. **[6y]**

**4.13.** On 22 February 2002, Nepal's parliament agreed to extend the state of emergency for a further three months. In order to obtain the necessary two-thirds agreement for the motion, the Government agreed to opposition demands for the development of social and economic development schemes for poor rural areas. **[6z]**

**4.14.** The army promptly moved against the guerrillas who had perpetrated the previous weekend's and that week's murders (almost 400 people in total **[6ab]** ), and killed initially 37 Maoists **[6aa]** and then up to 75 plus. **[6ab]** Army actions continued in March, for example 12 Maoists killed on 26 March 2002 in one incident and 3 in another on the same day. **[6ar]** Allegedly, the security forces are intensifying their operations, moving away from attempting to disarm rebels towards a policy of shooting on sight. **[6ai]** The Army is claiming success in targeting Maoist leaders. **[6ak]**

**4.15.** On 27 March 2002, a political furore blew up as the Chief of Army Staff Gen. Prajwalla Shumsher Rana spoke out against critics of the armed forces, blaming the security situation on poor Government. **[6as]** The Prime Minister duly cautioned him for his remarks. **[6av]**

**4.16.** At the end of March 2002, political violence continued e.g. the bombing in Kathmandu on 29 March 2002, injuring 25 people **[6at]** ; political unrest in the threat of a (postponed) general strike **[6aw]** ; and political activity by the Government in convening a cross-party alliance (of seven parties) in Parliament to condemn the Maoist actions. **[6au]**

**4.17.** On 23 April, rebels attacked property of the Prime Minister, Sher Bahadur Deuba. **[9l]** It coincided with the beginning of a national strike. **[9l]**

**4.18.** On 10 May 2002, the Maoists purportedly offered a month-long unilateral ceasefire, but the communiqué was later found not to have been issued by the Maoist high command, and of little value. **[6bg]** The Government duly rejected the offer, reiterating that there would be no peace talks until the Maoists abandoned their armed struggle. **[6bh]**

### **Continuation of the State of Emergency and political crisis (May 2002)**

**4.19.** The continuation of the state of emergency, decided upon in February 2002, was set to be renewed or abandoned on 24 May 2002. **[6bk]** On 17 May 2002, it looked clear that the Government was going to opt for an extension of six months. **[6bj]** An emergency debate in parliament was announced for the 23 May 2002. **[6bk]** However, the Nepali Congress Party, the majority party in Parliament, was furious that the Prime Minister, Sher Bahadur Deuba, had not consulted his own party **[6bl]** and on 22 May, considered a petition to the Government to remove the emergency extension motion. **[6bl]** The King responded to ensuing crisis with a dissolution of Parliament, on the Government Cabinet's recommendation, and installed Deuba as caretaker Prime Minister until elections in 13 November 2002. **[6bm]**

**4.20.** By 24 May 2002, Nepal was being ruled by royal decree. **[6bn]** Three cabinet ministers resigned in protest. **[6bn]** The political fallout included Deuba 's suspension from the Nepali Congress Party for three years, **[6bo]** and on 19 June 2002, the supporters of Deuba split from the party. **[6bs]** 61 Parliamentary Deputies proceeded to bring a challenge to the dissolution by filing three writs at the Supreme Court. **[6bq]** The Supreme Court ruled on 6 August 2002, that the dissolution had been constitutional, and endorsing the proposal of elections in November 2002. **[9w]**

**4.21.** The state of emergency was finally extended by three months, by royal decree, on 24 May 2002. **[6bp]**

**4.22.** On 19 June 2002, there was an international meeting hosted by the UK Government in London for the Nepalese Government to meet other governments and international bodies concerned about the situation in Nepal. **[5h]** Amnesty International lobbied the meeting, asking that human rights be 'at the heart' of the agenda. **[5h]** By 28 June 2002, King Gyanendra requested the assistance of the Indian authorities in tracking 35 Maoists believed to hiding and allegedly operating out of West Bengal. **[9n]** Other states have been asked for assistance, such as China, who in turn has offered moral support. **[9t]**

**4.23.** Prachandra, the CPN (Maoist) leader again offered to enter peace talks on the CPN's terms (the ending of the state of emergency, but refusal to give up arms) on 11 August 2002. **[9z]**

### **State of Emergency lifted, 29 August 2002**

**4.24.** The state of emergency was lifted by Prime Minister Deuba on 29 August 2002. **[6bx]** **[6bz]** **[6ca]** It was reportedly in

response to the criticism that the forthcoming November elections would not be regarded as free and fair so long as the state of emergency remained in place. [6bx]

**4.25.** The rebel forces are still continuing their offensive: a car bomb exploded in Kathmandu on 28 August 2002 [6by]; 15 Maoists were killed on 30 August 2002 [6cb] and a two-day, Maoist-orchestrated school strike beginning on 1 October 2002. [6cz] The first major rebel offensive after the lifting occurred on 8 September 2002, when 1000 Maoists attacked a police post in eastern Nepal, in Sindhuli district, resulting in 49 security personnel killed. [6cj] Another mass attack was launched on a district headquarters complex at Sandhikharka, in Arghakhanchi district, southern Nepal, also on the 8 September. [6ck] 100 Government personnel went missing, and the rebels later released 60 held hostage. [6cl]

**4.26.** On the basis of this latest show of force, the Maoist leader Prachandra offered to develop cease-fire talks, looking for "a positive political way out... but if the Government forces us to fight then we shall fight to the end." [6cm] All the main political parties were of the opinion that the Maoists had to demonstrate that willingness through laying down arms, and thus currently were lacking in credibility. [6cn] The main stream Communist parties, however, have asked the Government not to discount the Maoists' offer entirely. [6cq]

**4.27.** The continuing violence has prompted Nepalese Government sources to hint that the State of Emergency may be reinstated. [6cc] [6cd] It has also brought some to question whether the proposed elections should go ahead in November. [6co] [6cx] The Electoral Commission has announced, on 20 September 2002, that the elections will go ahead as planned on the 13 November, but in six phases, with ten day gaps in between, [6ct] with the disadvantage of making the elections the costliest and longest in modern Nepalese history. [6cw] The election process has already been declared a target for disruption by one of the main Maoist leaders, Bikalpa. [6cf]

### Current situation regarding government, January 2003

**4.28.** In October 2002, King Gyanendra assumed full control of government, announcing that he was ignoring the then Prime Minister Deuba's advice to suspend the forthcoming November elections for a year, to November 2003. [9av] The King dismissed Prime Minister Deuba, who had been previously estranged from most of his own political party earlier in the year, on grounds of failure to ensure the November 2002 elections could go ahead. [9av] Deuba and the rest of the sacked cabinet objected that the King did not have the Constitutional power to assume full control of the country. [9aw] On 3 January 2003, the King affirmed that he did look forward to the return of multi-party democracy and a constitutional monarchy, but did not specify when the return would be. [9at]

**4.29.** In October 2002, the King appointed a new Prime Minister, Lokendra Bahadur Chand, and then on 18 November 2002, a new cabinet of 13 ministers, all direct appointments. [9af]

### Cease-fire between Maoist rebel forces and Government Security Forces, 29 January 2003

**4.30.** On 26 January 2003, the Chief of Police Krishna Mohan Shrestha, his wife and a bodyguard were shot dead by a gang of six gunmen. [9ax] The Maoists would not confirm whether they were involved in the killing. [9ax] Police Chief Shrestha was the highest ranking police casualty of the insurgency. [9ax]

**4.31.** Most Nepalis were therefore surprised when it was announced on Wednesday 29 January 2003 that the Government and the Maoists had agreed on a cease-fire, after 24 hours of secret negotiations. [9ay] The Maoist leader, Prachanda, announced that the cease-fire would take immediate effect, and had conveyed that order to all units, including the most distant rural units. [9ay] The Maoist negotiating team was announced on 2 February 2002; headed by Dr Baburam Bhattarai, it was to consist of five senior Maoist leaders. [9az] Though Prachanda warned that the Maoists would break off and resume hostilities should there be any sign of government reversion to hostility, the Maoists were hopeful, stating that the rebels were determined to reach a peaceful solution. [9bb]

**4.32.** The full, exact terms of the cease-fire, according to one source, are not known (or, were not known on 4 February 2003). [4h] The source was concerned that the Maoists may have quietly dropped their previous conditions of a round table conference of all political parties; of an interim government; and of elections for a Constituent assembly. [4h] The Maoists' previous call for the abolition of the Monarchy was also in doubt. [4h] There were immediate Government concessions, reportedly previously conceived as precipitated peace moves - to stop calling the Maoists terrorists; to lift rewards for Maoist arrests; and to withdraw international police warrants issued for rebel leaders.[9ay]

**4.33.** By 7 February 2003, the Maoist terms were better known, comprising of: the release of jailed Maoist activists; information on those activists who had disappeared during police detention; a call for the Army to return to barracks; and to work to form an agreed code of conduct during the dialogue. [9bb]

**4.34.** On 6 February 2003, the Government formally accepted the opportunity for peace talks on acceptance **[10h]** The Government had already appointed the cabinet Minister for Physical Planning and Works, Narayan Singh Pun, to lead the Government negotiating team. **[9az]**

**4.35.** Amnesty International (AI), though welcoming the possible peace talks, has stated its insistence that human rights are also to be on the agenda. AI is concerned that there should be a mutually agreed human rights monitoring mechanism; independent investigations of all allegations of human rights' abuses, and of all prisoners currently held under the Terrorist and Disruptive Activities Act; and the rehabilitation of Maoist child-soldiers. **[5m]**

**4.36.** As of 7 February, despite the Government announcement of an invitation (*see above*), no dates or venues had been set for the peace talks. **[9bb]**

**4.37.** One commentator, from an Indian perspective, has alleged that there has been a concerted exclusion of political parties from the political process. **[4h]** The source suspects that many issues already been explored by both sides. **[4h]** Another source, from a Nepali viewpoint, has also raised similar concerns that established politicians are being kept out of the negotiations. **[10i]** Former Prime Minister Deuba is said to view the Maoists as being cowed into an agreement. **[10i]** The UML party, in particular, is surprised by the peace talks development. **[10i]**

**4.38.** There have been some concrete results from the cease-fire. A planned strike by the Maoist students has been called off. **[9ba]** Rehabilitation and reconstruction are the twin themes of one news article. **[10f]** It looks to the resettlement of the displaced population (estimates vary between 200,000 and 400,000 people), and the rebuilding of the rural infrastructure. **[10f]**

**4.39.** Since early February, the cease-fire announced on 29 January has continued to make progress, which has surprised some commentators. **[4j]** King Gyanendra has been highly involved in moving the cease-fire and peace talks along, with some commentators concerned that the party political process has been completely bypassed **[4j]**. The King made a public announcement, appealing for co-operation, on 19 February, Nepal's national Democracy Day. **[15a]**

**4.40.** The first round of peace talks began on 11 March 2003, as agreed in February **[9bc]** - the first meeting of the Maoists and the Government in 16 months - and was held to be "a positive beginning." **[9bd]** However, by late April 2003, the process had slowed somewhat, with talks scheduled for 21 April postponed. **[9bl]**

**4.41.** Reconstruction, and development projects stalled during the insurgency, has begun. The Government has begun developing a co-ordinated strategy of infrastructure repair and improvement. **[15f]** The Nepal Donor Group, which includes other governments' aid agencies and multilateral organisations such as the World Bank and the Asian Development Bank, has agreed to financial backing. **[15d]** United Nations agencies have also pledged their support, including human rights initiatives. **[15e]**

**4.42.** A number of commentators called for a code of conduct during the peace talks **[4j]**; and a code agreed by both sides was issued on 13 March 2003. **[15h]** **[9be]** Apart from the issue of prisoners (*see below*), the 22-point agreement covered the ceasing of Maoist extortion immediately, along with Maoist rallies, sit-ins, strikes and other forms of disruptive protest. In return, the Government will permit "justified and fair coverage of Maoist news". **[15h]**

**4.43.** The Government has already made three main concessions towards the Maoists, even before the code was agreed. **[4j]** The Government has promised to remove "price tags" i.e. rewards placed on individual's heads; to legitimise the Party, allowing a representational political wing to be formed; and to cancel red alert notices. **[4j]** Commentators look to the code to discuss mechanisms of ensuring that these concessions are met and the wider modalities of the cease-fire. **[4j]**

**4.44.** The Code of Conduct also includes the release of prisoners. The Government has agreed to release Maoist prisoners gradually, and the Maoists have agreed to release their hostages immediately. **[15h]** The Government holds about 5,000 Maoist prisoners in police or army custody, and the Maoists are thought to hold 180 prisoners. **[15g]**

## **5. STATE STRUCTURES**

### **THE CONSTITUTION**

**5.1.** Since 1990, Nepal has been a constitutional monarchy with a parliamentary form of government. **[1a]** **[4f]** However, since May 2002, with Parliament in dissolved, the country has reverted back to direct monarchical rule. **[6bn]** The parliament consists of two houses, the House of Representatives (lower house - 205 members) and the National Council (upper house - 60 members), both of which are democratically elected. **[1a][1b][4f]** The executive of government comprises of the Prime Minister, who chooses his

cabinet, as head of government; and the king as head of state. **[1b][4f]**

**5.2.** Elections are every five years under the 1990 constitution, and the latest national elections were held in May 1999. There were sporadic incidents of violence, with some attempts by the Maoists guerrillas to disrupt the elections. **[1a]** The political crisis of May 2002 (see above) means that new elections are to be held in November 2002.

**5.3.** On 28 February 2002, the Prime Minister invited four national political parties to send representatives for discussion about constitutional changes. **[6ac]** The opposition party, the Communist Party of Nepal (Unified Marxist-Leninist - UML), is actively participating in the process, and welcomes the opportunity. **[6ae]**

## CITIZENSHIP AND NATIONALITY

**5.4.** Citizenship and nationality are covered in Articles 8 -10 of the 1990 Constitution. Nepalese citizenship covers all whose fathers are Nepalese citizens; anyone who applies for and meets the criteria laid down in Article 9; and anyone who is conferred honorary citizenship as in Article 10. **[4d]**

## THE MONARCHY

**5.5.** The Monarchy (*adhirajya*) dates from the latter half of the 18<sup>th</sup> century when Prithvi Narayan Shah created a nation state out of a number of independent hill states. The Shah family has constituted the hereditary monarchy from that time on, losing power to the Rana family in 1846 to 1950, but still ruling, nominally, throughout. **[1b]**

**5.6.** The modern politically effective monarchy dates from King Tribhuvan in 1950, followed by King Mahendra. King Birendra ascended the throne in 1972. **[1b]** The King's future successor, until June 2001, was the Crown Prince Dipendra. **[1b]**

**5.7.** On 1 June 2001, the Crown Prince shot and killed the King, the Queen, his brother and his sister, his uncle, and several of his aunts before attempting suicide. **[8a][1b]** Dipendra, in a coma, was declared king on 1 June, but died on 4 June, when he was succeeded by his remaining uncle, Gyanendra Bir Bikram Shah Dev. **[9a]** Queen Komal, Gyanendra's wife, was wounded in the incident, but has since made a good recovery. **[6x]**

**5.8.** In the words of a BBC website report, "Gyanendra is thought to be a more forceful man than the late Birendra. However, he is also regarded as a safe pair of hands, eager to secure the continuity of Nepal's constitutional monarchy." **[9a]**

**5.9.** The Crown Prince Paras is the next in the royal succession; and on 30 July 2002, with the birth of a son to the Crown Prince and Crown Princess Himani, the second in line to the throne duly changed. **[9u]**

**5.10.** The political role of the monarch is as Head of State. The monarchy has retained a number of important powers and privileges under the 1990 Constitution. **[1a][4f]** These include exclusive power over legislation relating to the monarchy, tax exemption and non-interference of royal property, and wide powers of leadership in event of a state of emergency. **[1a][4f]**

**5.11.** There has been more general anti-monarchist protest. Large demonstrations organised by the Nepali Congress Party in late November 2002 attracted 'thousands of people', according to news reports. **[9ai]** Likewise in mid-December 2002, 'tens of thousands' demonstrated at a rally organised by the Communist Party - United Marxist Leninist (CP-UML), the main left-wing party. **[9ap]**

## POLITICAL SYSTEM

**5.12.** Under the 1990 Constitution, political parties are required to register with the Electoral Commission. **[2a]**

**5.13.** *Europa* lists 21 political parties, both open and underground. The main party in terms of representation in the House of Representatives is the Nepal Congress Party (NCP) with 110 members elected in the 1999 elections. There are two parties with ten or more members, the Communist Party of Nepal (Unified Marxist-Leninist - UML) (68 members) and the National Democratic Party (NDP) (11 members). Four other parties gained representation in the lower house in 1999. **[2a]** (see below, Annex C)

## CURRENT SITUATION REGARDING PARLIAMENT AND POLITICAL PARTIES

**5.14.** With the suspension of parliament in May 2002, and then the sacking of ministers in November 2002, all parliamentary parties are therefore operating in an extra-parliamentary sphere. An independent interest group, the South Asia Analysis Group, have produced a recent report (early December 2002) that claims the King is capitalising on the political parties' disarray. **[4g]**

**5.15.** The parties have launched many protest campaigns. Initial point of conflict was the King's appointment of Prime Minister Chand in October 2002, seeing the appointment of a cabinet in November as a consolidation of an unconstitutional temporary arrangement. **[9af]** In early December 2002, five of the six political parties that had previously been represented in Parliament united to protest. **[9ak]** The coalition divided, however, on whether to force the King to ensure elections to replace interim appointees with a properly elected government, or to ensure the direct appointment to the existing cabinet of the parties' appointees. **[9ak]**

**5.16.** The Maoists have exploited the situation between the King and the registered political parties. The rebels have made conciliatory moves towards other (legal) Communist parties since the 2003 ceasefire. **[9bi]** The other parties, however, harbour suspicions that both the King and the rebels seek to sideline the official political process. **[9bi]**

## LEGAL COMMUNIST PARTIES

**5.17.** The references in sources to non-maoist Communist parties distinguish between at least 5 parties or factions. **[2a]** The Maoist groups are discussed below.

**5.18.** Rastriya Prajatantra Party - RPP is the National Democratic Party (NDP). Described by sources as a "monarchist-based political party composed of former Panchayat-system supporters" i.e. endorsing absolute rule by the monarch through local / village councils. **[3f]**

**5.19.** In the crisis of the mid-1990s, the RPP split into two factions - one faction (of Lokendra Bahadur Chand) as operators of a strategic alliance with the UML, and another (of Surya Bahadur Thapa) as supporters of a NCP led coalition government (in 1995). **[3f][2a]**

**5.20.** Regarding extra-political movements and pressure groups, the National Democratic Student Association could not be found in reports accessed by the Canadian IRB in May 1997. **[3e]** The All Nepal National Free Student Union (ANNFSU) is politically active; it was particularly active during the demonstrations against the panchayat system in the early 1990s. **[4i]** It is aligned to the Communist Party of Nepal (Unified Marxist-Leninist), a legal Communist party. **[4i]**

**5.21.** A split occurred in the ruling Nepali Congress Party May 2002 when the Prime Minister Sher Bahadur Deuba dissolved parliament in the face of opposition to the continuation of the State of Emergency. (See above) Both pro-Deuba and anti-Deuba factions are, as of early August 2002, gearing up for the November elections. **[9w]** On 17 September, the Deuba faction suffered a setback with the decision of the Electoral Commission to recognise the anti-Deuba faction as the NCP and owners of the tree symbol. **[6cr]** The Deuba faction called for a rally of support, and announced a new party, the Nepali Congress (Democratic). **[6cs]** **[6cu]**

## JUDICIARY

**5.22.** The courts are arranged so there is one Supreme Court, 11 appellate courts, and 75 district courts. **[1b]** The Constitution upholds an independent judiciary, and the Supreme Court has demonstrated that independence, according to the US State Department. The source maintains the lower courts are open to political pressure and the bribery of judges and court staff is endemic. **[1a]** District and appellate courts have displayed their independence for political pressure, though in Rolpa District, human rights groups have alleged district court complicity with Government officials in violating detainee's rights. **[1a]**

## LEGAL RIGHTS/DETENTION

**5.23.** The US State Department report for 2001 (March 2002) states that arbitrary arrest and detention are occasionally practised by the police and the military. **[1c]**

**5.24.** The police have killed people in the process of maintaining order during violent demonstrations, with reports of deaths when police have tried to disrupt attempted Maoist demonstrations. **[1c]**

**5.25.** The police, it is further held by the US State Department in 2002, have been responsible for several deaths in custody, particularly disappearance of people in custody, typically having been held incommunicado. **[1c]** A local NGO, the Informal Sector Service Center (INSEC) has claimed there have been 269 cases of disappearance during custody since 1996. **[1f]**

## DEATH PENALTY

**5.26.** The death penalty has been abolished for all crimes. **[5g]**

## INTERNAL SECURITY

**5.27.** Internal security, until the declaration of the state of emergency, was handled by the national police force. In the words of the US State Department, the police are "subject to effective civilian control". **[1c]** The police force was supplemented in August 2001 by the creation of a paramilitary Armed Police Force, and since be working with the Royal Nepal Army in joint operations, **[1c]** with the Royal Nepal Army (RNA) effectively taking charge of the internal security responsibility. **[1f]** The police are arranged locally under Chief District Officers, who are civil servants in the Home Ministry, and, in the US State Department's words, "have wide discretion in maintaining law and order." **[1c]**

**5.28.** The police have been targeted by the Maoist armed groups, with over 100 policemen killed in "the People's War" by May 2001, **[9k]**. Between November and December 2001, over 100 security personnel, mainly policemen were killed. **[6i]**

**5.29.** The police force has been alleged to use torture to extract information and confessions on occasion. **[1a]** The Belgian fact-finding mission report of February 2002 notes that all contacts were of the opinion that internal communication of intelligence in the Police Force does 'not function very well'. Therefore national alerts are kept to key Maoist leaders, and not ordinary members or sympathisers. **[14a]** The update report (June 2002) also holds that this position is still true. **[14b]**

**5.30.** There are also claims of policemen committing crimes and abuses during operations in "Maoist sympathising" villages in January 2001, ostensibly as revenge for the killing of 14 policemen. **[1a]**

**5.31.** The Nepalese police authorities have sought the assistance of Interpol, and eight Interpol warrants have been issued, including for the arrest of Prachandra. **[9aa]** These warrants were an issue of immediate concern in the initial cease-fire talks, and the warrants have been revoked. **[9bd][9be]**

**5.32.** Arrest warrants are only issued by the Chief District Officer, under Article 16 of the Nepalese Police Act, 1955. **[14a]** They are often presented in asylum claims both in the UK and in Belgium. The Belgian fact-finding mission report states that though lawyers theoretically may ask for these documents, they are hard to obtain, especially since the declaration of the state of emergency. Few lawyers are willing to risk of being branded Maoist sympathisers. **[14a]** The UK Government's experience is that hitherto all arrest warrants presented for verification in Nepal have turned out to be fraudulent documentation. **[12a]**

**5.33.** The Terrorism and Destructive Activities Act, building on the Terrorism Ordinance **[6ao]** has given the security forces 'immunity for members of the security forces or other who undertake "bona fide" actions to control terrorism.' **[1f]** The US State Department report for 2002, reporting Amnesty International's views, alleges that this latitude has been abused by the security forces, demonstrated in a low prisoner to fatal shooting rate when engaged in conflicts with the guerrillas. **[1f]**

**5.34.** The police, according to all the Belgian contacts, do not interfere with the Nepalese postal service, contrary to some Belgian asylum claims. **[14a]**

## **PRISONS AND PRISON CONDITIONS**

**5.35.** Prison conditions are held to be poor, with overcrowding common in jails. **[1a]** Handcuffing and fettering of detainees is occasionally practised. **[1a]** Women are usually held separately from men, but in similar conditions: juveniles are sometimes held together with adult prisoners. Likewise, ill prisoners are referred to hospital and medical treatment, but mentally-ill people are often incarcerated with the general prison population. **[1a]**

**5.36.** According to the Department of Prisons, the prison population was 6,877 in year 2002, with 50 percent awaiting trial. **[1f]**

## **MILITARY**

**5.37.** The military forces comprise of the Royal Nepal Army divided into seven infantry brigades, a Royal Palace brigade, and individual brigades for artillery, engineer, signal parachute, logistics, transportation and air transportation. Total number of 40,000 personnel. **[1b]**

**5.38.** Military internal communication is held by Belgian contacts to be as rudimentary as in the police force; national alerting is used only for major suspects. **[14b]**

**5.39.** There is no conscription in Nepal. **[4a]**

**5.40.** Age for enlistment is between 18 and 23 years. Most of the enlisted are drawn from castes and tribes of mountainous areas and the Kathmandu plain. **[4a]**

**5.41.** The Government does not enlist under the age of 18, but sources claim that some recruits may be as young as 15 through lying about their age, being younger than stated through birth certification irregularities, and through local bribery. **[4c]**

**5.42.** The Mahakali treaty of 1996 with the Indian Government on shared river waters sparked in UDF-organised riots just before the signing of the treaty in September 1996. **[3d]** In March 2002 it was announced by the (Nepali) Prime Minister that the Nepali and Indian Governments were working to resolve border disputes initially by 2003. **[6ap]** The Indian Government also pledged assistance with suppressing, watching and controlling Maoist rebels on Indian Territory. **[6ap]**

## **MEDICAL SERVICES**

**5.43.** The World health Organisation has identified Nepal as a country particularly stricken by tuberculosis (TB). Half of the population of 22 million is estimated to carry TB, with 90,000 active cases, and 44,000 newly diagnosed cases each year. **[4d]** Other infectious diseases are prevalent; in September 2002, there was an outbreak of Japanese encephalitis, that affected the Terai region, killing over 50 people. **[6cp]**

## **EDUCATIONAL SYSTEM**

**5.44.** Sources differ on education. One source (Europa) state that primary education is compulsory and provided by the State. **[2a]** Another source (US State Department) states that education is not compulsory. **[1a]** The Government is aiming to give each child six years' primary education, but provision is very poor, with schools not existing in some areas. Roughly 60 percent of children who are working receive some schooling after work. **[1a]**

## **6. HUMAN RIGHTS**

### **6A. HUMAN RIGHTS ISSUES**

## OVERVIEW

**6.A.1.** In March 2002, the view taken in the US State Department report was that the Government generally respects the human rights of its citizens. The state of emergency has however eroded some of those freedoms, particularly in relation to arrest, nature and length of detention, interrogation and restitution when wronged by the security forces. **[1c]** The 2002 report, published in March 2003, takes a more robust line of 'the Government's human rights record remains poor, and it continued to commit numerous abuses.' The report does not comment on developments after the cease-fire, January 2003, and concentrates on the events of 2002. **[1f]**

**6.A.2.** Likewise, the Amnesty International (AI) fact-finding mission of 9 - 23 September 2002 recorded many accounts of persecution by the security forces of the civilian population, along with atrocities perpetrated by the Maoists, and violent abuse of combatants on both sides. **[1f][5h][5j]**

## FREEDOM OF SPEECH AND THE MEDIA

**6.A.3.** The Constitution specifies rights of freedom of thought and expression for citizens, though the Government restricts the media on some issues, namely, on defaming the monarchy and disturbing inter-community relations. **[1a]** The Press and Publications Act governs licences to publish and granting credentials to journalists, but there is a vigorous press operating within these parameters. **[1a]**

**6.A.4.** The BBC profile of Nepal has a good listing of media sources **[9a]**, likewise *Europa*. **[2a]**

**6.A.5.** The newspaper 'seen by many as the unofficial mouthpiece of Maoist rebels in Nepal', *Janadesh*, was permitted to be published again in March 2003, after an absence of eighteen months. **[9bh]**

### Journalists

**6.A.6.** The Federation of Nepalese Journalists (FNJ) put out a statement on 11 January 2002 claiming that the Government was increasingly curbing press freedom under the emergency regulations. **[6n][9g]** Over thirty journalists have been arrested since 26 November 2001, and four have been lodged in custody ever since the state of emergency was announced. **[6n][9g]** On 26 March 2002, the four other journalists were released, having been detained for varying lengths of time. **[6aq]** There were further protests by journalists in August 2002. **[9x]**

**6.A.7.** In late June 2002, a Human Rights Group, Reporters Sans Frontieres, called on the Government to investigate the death in custody of Krishna Sen, a pro-Maoist newspaper editor. **[9m]** The Nepalese Government promptly denied that Krishna Sen had ever been detained, and was, according to their intelligence, on the run and wanted for questioning. **[9q]** In late August 2002, three-member committee of investigation, headed by a Home Ministry official, confirmed the Government's denial, as opposed to the allegation that Sen, editor of *Janadesh*, was tortured to death by the security forces. **[9ac]**

## FREEDOM OF RELIGION

**6.A.8.** All religious groups in principle in the 1990 Constitution are equal in the eyes of the State, though the State is officially Hindu. Adherents of religious groups co-exist peacefully for the most part, with all places of worship respected as such. **[1a][1d]** Hindus and Buddhists respect one another's holy places, and the Buddha's Birthday is a national holiday. **[1a]** Muslims, however, remain a separate community. **[1a]**

**6.A.9.** The law prohibits proselytising, and is enforced with fines and imprisonment. Some Christian groups are concerned about this ban. **[1d]**

### Religious Groups

**6.A.10.** Christians are guaranteed freedom to worship as a group under the Constitution but must not convert people from one religion to another, i.e. no evangelising. Two percent of the population are Christian, with estimates of numbers around 300,000 - 400,000 (circa 1995) in 20,000 churches. **[3b][3c]** Year 2000 estimates are of 400,000 Christians, with 170 churches in Kathmandu alone. **[1d]** Christians complain of being treated as "second-class citizens". **[3c]**

**6.A.11.** In August 2002, there were reports of scuffles between Muslims and Hindus in the southern district of Mahottari. The Nepalese authorities have tightened up border controls between India and Nepal in response. **[9y]**

## FREEDOM OF ASSEMBLY AND ASSOCIATION

**6.A.12.** The Government tolerates demonstrations, strikes and petitions. **[1c]** National strikes, known as *bandhs*, have regularly been called for by the Maoists as a form of political protest. Violence has often ensued, with the Maoists deliberately killing civilians not participating in the *bandh*. **[5d]** The actions of the Maoist organisers are of great concern to Amnesty International. **[5d]** Student strikes have been the scene of acts of violence, both on the protesters' side **[9bk]** and on the police side **[1f]**.

**6.A.13.** Under the emergency regulations, the Government banned rallies and demonstrations by the banned Maoist organisations. **[1c]** Since the January 2003 cease-fire, rallies have been permitted again, such as the rally of an estimated 30,000 people in Kathmandu, on 3 April 2003. **[9bj]** The rally was addressed by Baburam Bhattarai, the second in command of the CPN (Maoist). **[9bj]** Maoist supporters claimed there was harassment by the accompanying police, but the rally went off peaceably. **[9bj]**

## Political Activists

**6.A.14.** The principal political activists outside the main-stream, legitimate political process are the illegal Maoist groups. "Maobadi" is a generic Nepali term meaning "the Maoists", and not a party in itself. Sources take of many different organisations that feed into the Maoists. Most sources by 2001 talk of the Communist Party of Nepal - Maoist as the main organisational name for the Maoists. The term "Moovad" or "Maovad" made in asylum claims to the Canadian Government could not be found in sources consulted by Canadian Immigration and Refugee Board researchers. **[3m]**

**6.A.15.** The Maoists maintained and intensified the armed struggle in 2002. **[4g]** The war was deemed to be unwinnable by commentators after a lull was interrupted by the rebels in early September 2002. **[9ad]** The two attacks were in Sindhuli District (east of Kathmandu) and Sandhikhara District (west of Kathmandu). **[9ad]**

**6.A.16.** On 4 December 2002, the Maoist rebels issued another peace offer, but it offered no compromise on previous Maoist positions, and was rejected. **[9aj]** The offer was repeated on 4 December, with the promise to stop bombing civilian infrastructure, such as powerlines, roads and bridges. It was similarly rejected. **[9au]** On 11 December, the (Nepal) National Human Rights Commission urged both the Government and the Maoists to begin peace talks. **[9al]** On 28 December 2002, the country was braced for a two-day general strike orchestrated by the Maoists and possible rebel attacks. **[9ar]**

**6.A.17.** On 14 December 2002, a visiting senior US official (Assistant Secretary of State for South Asia, Christina Rocca) urged both sides to come to peace talks, and explored ways as to how the US could assist. She affirmed military equipment, training and development aid offered by US Secretary of State Colin Powell earlier in 2002. **[9ao]**

**6.A.18.** Amnesty International (AI) has claimed that human rights abuses by both sides have reached an unprecedented level. **[5j]** **[5h]** **[9aq]** AI claimed that of the 4,366 fatalities in the year 2002, half were civilians and most of the total figure had been killed by the security forces. **[5h]****[9aq]** The Armed Police Force was particularly criticised for the alleged use of various tortures. **[5h]****[5j]** AI's allegations of the Army and the Police killing 'with impunity' drew a strong denial from the Army. **[9aq]**

**6.A.19.** Amnesty International has also alleged, in news releases of late December 2002, that witnesses interviewed for the report *Nepal: a deepening human rights crisis*, published 19 December 2002 **[5j]** had been 'pressured by army officials... to retract information given to Amnesty International.' **[5i]** and that families of witnesses had been threatened (source of threats unstated.) **[5k]**

**6.A.20.** Janabani Morcha is another party involved in armed struggle, and is staunchly anti-monarchist. It lost its nine seats in the lower house in 1994, and developed a factional party called the Nepali People's Front. **[3d]**

**6.A.21.** The United People's Front (UPF) = Samyukta Jana Morcha (SJM) was an alliance formed in February 1996 of United Liberation Torch-bearers (Samyukta Mukti Bahini) and the Democratic Front (Janawadi Morcha) who took to armed insurgency at the same time. **[3d]** Other sources place the UPF as the political wing of "the revolutionary Maoists". **[3g]****[3k]** However, one reliable source states that the UPF=SJM was an organisation that was active in the early 1990s, had great success in the 1991 elections, then split into 2 factions in 1994. **[6w]** One of the factions, led by Baburam Bhattarai, then joined up with the Communist Party of Nepal (Mashal / "the torch") - CPN (M) led by Pushpa Kamal Dahal in 1995 to form the Communist Party of Nepal (CPN) - Maoist. **[6w]**

**6.A.22.** Communist Party of Nepal (CPN) - Maoist is now the key armed group operating in Nepal and should be the basis of a 2001 onwards understanding of "Maoist". It models itself on Peru's Sendero Luminoso (The Shining Path) combining Maoist ideology with a call to a radical brand of Nepali self-determination. **[3j]** It is reportedly using Maoist revolutionary strategy, currently developing the second stage of the "people's war", that of strategic stalemate whereby the Maoists bide their time, pin down and suck up Government security resources and consolidate their own resource supply lines in areas of control and of influence. **[6ad]**

**6.A.23.** The leader of the CPN is a shadowy figure called Prachanda (English translation "Awesome"). **[6f]** The US State Department identifies Prachanda as Pushpa Kamal Dahal, who launched the "People's War" unilaterally with Baburam Bhattarai in 1995. **[1c]** **[6w]** The Belgian fact-finding mission of February 2002 states that none of the key Maoist leaders have fled to Europe, with most remaining close to the Nepalese border in India, in order to maintain control and contact with Maoist fighters. **[14a]**

**6.A.24.** Maoist areas of control are primarily in the Mid-Western districts of Rolpa, Rukum, Jajarkot and Kalikot, physically located around the Kamali and Bheri river valleys. **[3j]** The contacts of the Belgian fact-finding mission reiterated the districts of Rolpa, Rukum, and Jajarkot, adding the district of Salyan. They identified Kalikot and Pyuthan as the main Maoist power base areas. **[14a]**

**6.A.25.** The Maoists have been responsible for and implicated in many atrocities, targeting soldiers, police, and Government agencies, but also teachers and anyone they regard as "exploiters". **[3i]** Not only are the ruling Nepali Congress Party targeted by the Maoists, but also members of the opposition Communist Party of Nepal - United Marxist / Leninist (CPN-UML). **[1c]** The severing of limbs is used as a means of spreading a terror-based control. **[1c]** Many civilian deaths have occurred when the Maoists have used them as living shields, with the routine kidnap of children and youths for this purpose. **[6bi]**

**6.A.26.** Extortion on businesses in Maoist-influenced areas prevails, and summary justice dispensed through kangaroo courts. **[6f]** Child soldiers are recruited and deployed. **[4c][5a]**

**6.A.27.** The CPN have been able to effect jail breaks, with 54 inmates escaping from a prison in Surkhet in January 2002. **[9i]**

**6.A.28.** The CPN hold captives for political purposes. According to the Nepali Government as reported by the US State Department, the CPN hold an estimated 180 captives, **[1c][15g]** but under the Code of Conduct of the cease-fire, have agreed to release their captives immediately. **[15h]**

**6.A.29.** There are a number of legitimate organisations inside Nepal that the Maoists have infiltrated or tried to influence: see the listing in source **[6t]**. Likewise the Maoists known to have established links with a number of political rebel groups outside Nepal: see the listing in source **[6t]** The CPN - Maoist also operate behind a number of urban front organisations **[6w]** and satellite organisations. **[14a]** Since the declaration of the state of emergency, members of the satellite organisations are also held to belong to banned organisations and liable to arrest. **[14a]**

**6.A.30.** The Belgian fact-finding mission concluded from contacts' comments that "low level Maobadi" and Maoist sympathisers are not at risk of attracting persecution at the hands of the security forces. **[14a]** Likewise, they concluded that there are many people who sympathise with the aims of the Maoists without supporting them as an organisation or their methods; and such is recognised by the security forces. **[14a]**

## **EMPLOYMENT RIGHTS**

**6.A.31.** Worker representation through unions is permitted by the Government, but is poorly developed within all employment sectors through lack of experience and employer reluctance to meet with unions. **[1c]** There are legal protections, particularly in the case of child workers, but these are limited in their enforcement. **[1c]** (See *below, Children*).

**6.A.32.** A 1997 report by Anti-Slavery International of a three-year study of conditions in Nepal estimated 200,000 Nepalis were in bonded, unpaid labour, with 40,000 treated as slaves. **[9b]** Such bonded labour arrangements have been, until recently, accepted by the Nepali Government as tribal tradition. **[9b][1a]** The Department of Labour has recently made efforts to release bonded Kamaiya, having banned the bonded agricultural labour system in July 2000. Up to December 2000, the Government had not been able to provide the freed Kamaiya with land to call their own. **[1a]** The land distribution was underway by March 2001. **[1c]**

### **Migrant Workers Abroad: 1. Nepali Prostitutes in India**

**6.A.33.** The Human Rights Watch has, since 1995, monitored and reported on the trafficking of Nepali women to brothels in India. Nepalis are estimated to compose up to half of Bombay's 10,000 brothel workers. **[7a][1a]** Another source states that as many as

18,000 young females may be sold into sexual slavery each year in Nepal, and that there are an estimated 200,000 Nepali sex workers in India. **[6ag]** There is a sub-caste, the Badis, of the lowest of the caste system - indeed, outcastes, the Dalits, who are known as a prostitute caste. **[7d]**

## **Migrant Workers Abroad: 2. Gurkha Soldiers in Foreign Armies**

**6.A.34.** Gurkhas are Nepalis that are employed as paid soldiers in the British and Indian armies. Originally dating back to colonial arrangements in British administered India in the nineteenth century, current conditions of employment are set by the 7 November 1947 memorandum of agreement between the UK and the Kingdom of Nepal. (The recruiting structures indicate that the Gurkhas are employed soldiers, not mercenaries; but conversely are not obliged to serve over and above their terms of employment, as British citizens might be obliged to do so under conscription.) **[6aj]** Reportedly, the British Welfare Centre, which acts as a recruiting depot has been unable to conduct any selections in 2002 **[6ch]** and an employee has been held as hostage by the Maoists. **[6cv]**

**6.A.35.** Some 500,000 Nepali troops have served in the British Army, including in World War I and World War II. Less than 3,500 are currently employed in the British Army. Thousands of Gurkhas have served in the Indian Army. **[6aj]**

**6.A.36.** Parity of pay and pension rates between UK and Gurkha service personnel has been an issue in Nepal, with a Nepalese Supreme Court judgement against equal pay and pension rates given in March 2002. **[6aj]** UK court cases are currently ongoing. **[6aj]** Most Gurkhas retire back to Nepal. **[6aj]**

## **PEOPLE TRAFFICKING**

**6.A.37.** Women and children are trafficked over borders, but their actual status as trafficked people is obscured by the bonded labour issues mentioned above. **[1c]** The law prohibits the trafficking of persons, and the penalty for convicted traffickers can be up to twenty years' imprisonment. **[1c]** Anti-trafficking measures by the Government are "sporadic", prosecutions relatively few, and rehabilitation of traffickers' victims is limited by insufficient funds. **[1c]**

## **FREEDOM OF MOVEMENT**

**6.A.38.** Normally, there are few Government restrictions on movement within the country, with the exception of foreigners, including Tibetan refugees, away from areas around the Chinese border. **[1c]**

**6.A.39.** Nepalese citizens normally carry any of a number of official papers that can be used identification. **[14a]** The scenario of passports being checked and withheld by the Government, forcing the use of false passports and people smugglers, is not held to be credible by the contacts interviewed by the Belgian Government researchers. **[14a]**

**6.A.40.** The state of emergency has not imposed any blanket restrictions on movement. **[1c]** Likewise, the Belgian fact-finding mission concluded that internal flight is a viable option for the majority of people fearing violence. **[14a]** Kathmandu and other cities were held to be safe from security force / Maoist violence generally, and from Maoist reprisals in particular. **[14b]**

## **Immigration and Asylum Issues**

**6.A.41.** As for asylum from other countries to Nepal, the Government accepts refugees. Since 1951, over 20,000 Tibetan refugees, and since 1991, 101,000 Bhutanese refugees have found refuge, both temporary and permanent, in Nepal. **[1c]** (*See below for particular ethnic groups*).

**6.A.42.** In October 2001, the Nepali Times, an English-language paper in Nepal, ran an expose of asylum scams running in European countries and Australia. **[10b]** It lamented that genuine asylum seekers were eclipsed by the large rise in Nepalese economic migrants, then elaborating on ruses attempted (two years ago, claimants claimed they were Bhutanese refugees; now, claim persecution either from the police or the Maoists) **[10b]**. It talks of counter-measures taken within Nepal and abroad, both by the Nepali authorities and by foreign Governments. **[10b]** The article ends "As long as there is unemployment and economic desperation in Nepal, there will be Nepali migrants trying to sneak into Europe or overstay in Australia, And, it seems, they will use whatever political cause is most likely to grant them asylum". **[10b]**

**6.A.43.** On fraudulent documentation, the article runs:-

'Asylum seekers are typically armed with documents to "prove" their claims. Some have Maoist photo IDs (in English), others have supposed threats spelled out on what appears to be Maoist party stationery. Still others have warrants on police letter heads that say the person in question is being sought for killing civilians. Many also have with them front-page stories from obscure district newspapers speaking of threats to their lives. (We received a copy of one such paper with a page 1 story detailing the threats to the life of an asylum seeker, but we couldn't find a copy of the newspaper.)' **[10b]**

**6.A.44.** In dealings with the F&CO on verifying documentation, the following general information has been offered by Kathmandu:-

'Our experience has shown that on average it takes about 2 months to have checks/verifications done. However, it can take more depending on the remoteness of the district where the checks need to be sent to. Most of the Government Offices outside the capital have no fax machine. Moreover the postal system in Nepal is very poor. We frequently receive request for checks from UK on newspaper articles and documents produced by police i.e. arrest warrants. So far there has not been one of these documents has proven to be genuine. It is difficult to check newspaper reports, very few (if any) appear in the better known/circulated papers. Most appear in obscure publication that may only exist for one or two issues. Most of these papers do not have proper contact address nor telephone numbers. We also receive documents produced by the Nepal Communist Party (Maoists), Nepal. Unfortunately these documents cannot be verified as the Maoist Party is an illegal organisation and is not a recognised party by the Nepalese Government. They are an underground organisation and have been recently proclaimed as terrorists.' **[12a]**

**6.A.45.** Producers of fraudulent documentation have in particular targeted one newspaper, the Daily Janamat. The Chief Editor was contacted by the British Embassy in Kathmandu and was most put out that his paper was being altered to publish false news. 'It is clear from the original issues that Daily Janamat has been used by some organisation to publish false news.' **[13a]**

#### **Belgian Fact-Finding Mission, January / February 2002, with follow-up in June 2002.**

**6.A.46.** In July 2002, the Kingdom of Belgium, Office of the Commissioner General for Refugees and Stateless Persons (CEDOCA) documentation and research department, made a fact-finding mission report to Nepal publicly available. It is fully disclosable. **[14a]**

**6.A.47.** The CEDOCA mission was in Nepal between the 21 January and 9 February 2002; and the report was written in March 2002. **[14a]** The report was updated with a follow-up report written in June 2002 and published in August 2002. **[14b]**

**6.A.48.** A quick summary of the first CEDOCA report follows.

Introduction - an explanation of methodology of the fact-finding mission, including full details of contacts interviewed. **[14a]**

**6.A.49.** I. General findings - of situation in Nepal and of abuse of the asylum claims. "There are serious indications of abuse of the asylum procedure by Nepalese people in Europe... not a single human rights organisation of human rights activist that knew one real refugee who is said to have fled to Belgium... Several human rights organisations indicated being aware of this phenomenon of abuse of the asylum procedure, which is much to their regret, since it damages the reputation of all Nepalese people." **[14a]**

**6.A.50.** II. Identification papers - gives details of the general official documentation available to Nepalese citizens, such as passports, ID cards, birth certificates, etc. "...the Office of the Commissioner General came to the conclusion that all the contacts found it very strange that several of the Nepalese asylum seekers were not able to present any identification papers to prove their identity." **[14a]**

**6.A.51.** III (Spread and nature of) Persecution - has an annexed map of districts from where most claimants claim to originate. CEDOCA has seen a clear distinction between districts affected by Maoist violence and districts of claimants' origin. **[14a]**

**6.A.52.** IV (Sufficiency of Protection Issues) - Suggests that the arrest and detention of Maoist suspects can be arbitrary on occasion; that monitoring of abuse by official agencies is compromised by sheer volume of complaints at times; that there is an active monitoring of human rights abuse by local NGOs. **[14a]**

**6.A.53.** V Post (the postal system) - refutes suggestions by claimants that the postal system is monitored by the Nepalese Government. **[14a]**

**6.A.54.** VI Internal Flight Alternative - interesting practical details leading to the conclusion that for most low-level Maoist sympathisers, internal flight to other districts is possible. Also, that many Maoists wanted by the police are unable to get to Kathmandu because of lack of funds; that controls on Nepalese in Nepal restricted to Maoist affected districts; and the Nepalese

police are incapable of tracking low-level suspects across the country. [14a]

**6.A.55.** VII India as a safe third country - No extradition from India by the Indian Government to date (March 2002) but may happen in the future. No passport restrictions on Nepalese in India, and India held by CEDOCA to main route out to Europe. [14a]

**6.A.56.** VIII Nepalese policemen as claimants - difficult to obtain information from the Royal Nepal Police on these issues, and NGOs regard this group as problematic, with scant information. Depends heavily on individual's circumstances. [14a]

**6.A.57.** IX. Conclusion - "the low level Maobadi, the sympathiser, or someone who is only suspected of having Maobadi sympathies does not risk persecution on a national level, and that person can use the internal flight alternative... This category only runs a higher risk of being persecuted in the most discordant districts." [14a]

**6.A.58.** Of the general conclusions to the first report, '... contacts found it very strange that many of the Nepalese asylum seekers did not present a single piece of evidence to prove their identity or their declared problems.' [14a] '... there are enough elements available to be able to state that many Nepalese asylum seekers have taken advantage of the care of the Office of the Commissioner General.' [14a]

**6.A.59.** The update report of June 2002 concentrates on four supplementary questions on internal flight issues, namely, of flight from police alerts and military alerts, and whether Kathmandu is safe from violence generally and violence from the Maoists in particular. [14b]

## **6B. HUMAN RIGHTS - SPECIFIC GROUPS**

### **ETHNIC GROUPS**

**6.B.1.** The country has over 75 ethnic groups, speaking 50 different languages. [1a] In 1991, only 24 of these groups were held by the authorities to be "ethnic groups" (*jan-jati*). [11a] The Constitution provides that all communities have the right 'to preserve and promote its language, script and culture', and to set up schools operating in the local language up to primary level. [1a] Most Hindu ethnic groups in Nepal are blurred by the question of caste, and the two definitive features are interchangeable for practical purposes. [1a]

**6.B.2.** Tibetan refugees in Nepal number about 18,000, and most are refugees in the second and third generations. Most have integrated into Nepali society. [3h] Nepal is a major transit route for Tibetans leaving China and heading for northern India. The UNHCR estimated that 2,200 Tibetans passed through Nepal in 1997. [3h] Many Tibetans are known to have died whilst fleeing over the mountain routes from China to Nepal during the winter months. Nepalese border guards have been known to demand large bribes from apprehended Tibetan refugees, and in 1997, as many as 50 Tibetans were handed back to the Chinese authorities. [3h] The Tibetan Government in Exile (self-styled) runs a number of reception centres and runs one in Kathmandu jointly supported by the UNHCR. [3h]

*Further information on Tibetans in China, Northern India and Nepal is to be found in China Extended Bulletin 3/2002 (Tibet) - July 2002.*

**6.B.3.** Since the early 1990s, Bhutanese refugees living in Nepal have numbered as many as 90,000. [7b] The refugees are mainly Nepali Bhutanese who were expelled from Bhutan after being stripped of Bhutanese nationality under nationality laws that deliberately discriminated against the southern Bhutanese. [7b] They are known as Lhotsampas. [6bb]

**6.B.4.** In December 2000, the Nepal and the Bhutan Governments agreed on a joint verification of the refugee camps after a decade of diplomatic stalemate. [7b] The Human Rights Watch has called for the UNHCR to be accepted as a third party in such discussions. [7b] In June 2001, there were reports that journalists were being turned away from entering the camps. [6ax] There are reportedly seven Bhutanese refugee camps in eastern Nepal. [6bb]

**6.B.5.** Bhutanese political struggles are played out in Nepal, for example, the murder of R.K. Budathoki, the leader of the People's Party (of Bhutan) in September 2001. [1c][6a][6ay]

**6.B.6.** The Bhutan / Nepalese migrant situation has been complicated by the presence of armed Muslim groups, namely the United Liberation Front of Asom (ULFA) which have destabilised other Bhutanese border areas. [6az] Reports in late March 2002 indicate that the King of Bhutan, Jigme Singye Wangchuck, has entered into negotiations with the ULFA. [6bd]

**6.B.7.** In January 2002, groups representing the Bhutanese refugees (the Bhutanese Refugees Representative Repatriation

Committee (BRRRC) ) petitioned the visiting US Secretary of State, Colin Powell, to bring pressure on both the Bhutanese and Nepalese Governments to find a "durable solution". [6ba] Two months later, the BRRRC approached the King (of Nepal) with a 100,000 signature petition. [6bb] The Bhutanese refugee issue has been taken up by the Nepali opposition party, the Nepal Congress Party (NCP), with the leader NCP Chakra Prasad Bastola going to Bhutan to talk to the Bhutanese Government in late April 2002. [6bf]

**6.B.8.** Within the Kingdom of Bhutan, it was announced in April 2002 that the Bhutan's first-ever national constitution had been shaped in draft by the country's constitution drafting committee. [6bc] There has also been a rush to purchase land within Bhutan, which may complicate Lhotsampa returns. [6be] A refugee from Bhutan has reported to a Nepali newspaper in October 2002 that ethnic Nepalis in the north of Bhutan are being targeted by the Bhutanese Government for false imprisonment and confiscation of property, including the confiscation of identity cards of around 2,000 people. [6cy]

**6.B.9.** On 6 February 2003, in what was heralded in the Nepali press as "a major breakthrough", the Bhutanese Government agreed to accept voluntary returns from the camps in Nepal. [10g] However, talks in March 2003 have only led to the agreement to hold further talks in May 2003. [9bg]

**6.B.10.** Joint Verification Teams have been working since 2001 to interview and establish identities of Bhutanese refugees in the camps, with a view towards categorisation for repatriation. The mechanism of repatriation and exact categorisation is now the key issue to be resolved. [10g] Some commentators are sceptical, awaiting actual progress, claiming that this point had been reached before and then fell foul of Bhutanese Government slowness to act. [4k]

**Further information on the Bhutanese and ethnic Nepalis from Bhutan is to be found in Bhutan Extended Bulletin 1/2002 - October 2002.**

## WOMEN

**6.B.11.** The general position of women is still heavily influenced by traditional patterns of life and social arrangements, which is in marked contrast with the rights of equality given under the 1990 Constitution, including such rights as equal pay for equal work. Many women in rural communities do not exercise basic rights such as the right to vote and to hold property in their own name. [1a] Overall, legal authorities have identified 20 laws in Nepali civil law where there is a discriminatory factor against women. [1a]

**6.B.12.** The basic marriage laws of Nepal are to be found in the 1971 Marriage Act. All marriage rites must be legitimised by a marriage certificate, though all religious and customary marriage ceremonies are recognised. [3a] The male partner must be 21 years of age, female 18 years; but younger couples may marry if with parental assent. [3a] Forced marriages, polygamy and adultery by women are illegal. [3a] The dowry tradition is strong, particularly in the Terai region, near the Indian border. [1a]

**6.B.13.** Violence against women, mainly within the home, is a widespread problem in Nepal. There is a general reluctance, both in politics and in society, to acknowledge that there is an issue. [1a]

**6.B.14.** Rape and incest are problems, particularly in rural areas. Laws provide for prison sentences from six to ten years for rape of a female child (under 14) and three to five years for the rape of a woman (over 14). Spousal rape is not recognised and the rape of a prostitute carries a one year sentence. [1a]

**6.B.15.** The police department has a "women's cell" in five cities including Kathmandu for the reception of domestic violence victims. Each unit has female officers trained to handle abused women. [1a] Directives have been sent to police units to treat domestic violence as a crime, but it has been difficult to enforce because of entrenched discriminatory attitudes. [1a]

**6.B.16.** The slavery and trafficking of women in Nepal has a long history. "Kamaiya" bonded agricultural labour disguises the slavery issue for women. (see below, *Children, bonded labour*) [1a] The *Kamaiya* system was formally abolished on 21 February 2002; and a law is now in place demanding that former *Kamaiya* labourers are rehabilitated. [1f]

**6.B.17.** In March 2002, a bill was approved by parliament, giving equal property rights to women. [6ah]

**6.B.18.** Some women's groups, particularly the All Nepal Women Association (ANWA) have links with the Maoists, and members have be arrested as such. [3i]

## CHILDREN

**6.B.19.** Life expectancy is low in rural areas, as many children are at risk from severe and fatal diseases stemming from poor or non-existent sanitation. **[1a]**

**6.B.20.** The child workforce was estimated by the Nepali Government to be over 77,000 children (year 2000 estimate). **[6am]**

**6.B.21.** Children are vulnerable in the current conflict in Nepal. The Maoists in particular have since the inception of "the People's War" used child soldiers. (See above, Political Activists.) **[4c][5a]** A children's rights group, Child Workers in Nepal, stated in July 2002 that during the "People's War" more than one hundred children had been killed, fifteen-hundred orphaned, and thousands displaced; and that children were vulnerable to be targeted as Maoist collaborators. **[9o]** A further report issued in July 2002 by Amnesty International and the Human Rights Watch reiterates these points. **[9r]**

**6.B.22.** Children have been particularly vulnerable in the past to being sold as slaves by their families or put in other forms of bonded labour. **[1c]**

**6.B.23.** Female children in particular are held to be commodities, to be bartered or sold or remain as a burden. Child brides are common, and age difference in marriage is often cited as a factor in domestic violence. **[1a]**

### Child Care Arrangements

**6.B.24.** Official childcare for abandoned and orphaned children is very limited, just as most social welfare spending is very limited. However, the care of orphans has been tackled by a number of international and foreign groups and individuals, mainly in the Kathmandu area. **[6bt] [6bu] [6bv] [6bw]**

## HOMOSEXUALS

**6.B.25.** Homosexuality is illegal between men. There was some media reporting of a lesbian marriage case in 1998. The Nepal Queer Society was the first advocacy group, founded in 1993. **[4b]** In February 2003, it was reported that about 60 to 70 gay men (or by the Nepali preferred term, men who have sex with men - MSM) gathered together to discuss health and general welfare issues. The article outlined details of different Nepali terms for different characteristics. Practically, opposition comes from family and general society: there were no accounts of official persecution. **[15i]**

## 6.C HUMAN RIGHTS - OTHER ISSUES

### The caste system

**6.C.1.** The Hindu caste system in Nepal is practically identical to the caste system of India, with the four classes of the *varna* system (*Brahmins*- priests and teachers; *Ksyatriyas* - rulers and soldiers; *Vaisyas* - merchants and traders; and *Shudras* - labourers and artisans) with an out-caste class, the *Dalits* or "untouchables". **[7d]**

**6.C.2.** The 1990 constitution prohibits discrimination on the basis of caste (as well as sex, race, religion and ideology), but includes a provision for discrimination in Hindu religious practices. This loophole allowed a number of wide interpretations, such as in the "Gaidakot Milk Scandal" of year 2000, when a Dalit milk producer was barred from selling to a Hindu milk marketing cooperative. NGO protest and pressure eventually resolved the situation. **[7d]**

**6.C.3.** Nepal is co-operative with some international monitoring organisations (CERD) and the Government attempts to address caste problems. Castes are deeply entrenched in Nepali society though, exacerbated by the remote and rural nature of most of Nepal. The bonded labour system (see below) also disguises on-going caste discrimination. **[7d]**

**6.C.4.** The socio-economic situation of the Dalits and lower castes is significantly lower than that of the higher castes, with Dalits living five years less than the average non-Dalit Nepali citizen. Dalits collectively own less than 1 percent of farm land in Nepal; 90 percent of Dalits are below the poverty line; and per Dalit, annual income averages \$39.60 (Nepali average is \$210 per year.) The Dalits make up one-fifth of the total population of Nepal. **[7d]**

**6.C.5.** Dalit women are further marginalised and exploited, within and outside the family. Many have been driven to prostitution (see below) and there is a sub-caste known as the Badis who are known as a prostitute caste. **[7d]**

## ANNEX A: CHRONOLOGY OF EVENTS

*Based on Chronology given in BBC Timeline [9c]*

**1951** Restoration of the monarchy: absolute rule by the monarch.

**1959** Multi-party constitution adopted.

**1960** King Mahendra seizes control - parliament and party politics suspended.

**1962** Panchayat system of local councils introduced under a new constitution. The King has overall control of the panchayats.

**1972** King Mahendra dies; succeeded by King Birendra.

### Period of Democracy

**1980** Constitutional reform referendum, and the King permits a non-party direct elections to the national assembly.

**1985** The **Nepal Congress Party (NPC)** begins a campaign of civil disobedience for restoration of multi-party system. New direct, non-party elections in **1986** boycotted by the NCP. Campaign increases until in **1990**, King Birendra bows to pressure and agrees to new democratic constitution.

**1991** The Nepali Congress party win the first democratic elections.

**1994** Period of political instability begins. The Nepal Congress Party Government brought down, and Communist Party wins elections.

**1995** Communist Government dissolved and Communist part of Nepal (Maoist) begin insurrection, with "People's war" declared in **1996**. A period of political turmoil, culminating in the Nepali Congress Party winning the **1999** elections

**2001, 1 June** Most of the Royal Family murdered by the Crown Prince Dipendra.

**2001, July** Sher Bahadur Deuba is appointed Prime Minister. The Maoists step up their campaign of violence.

**2001, 26 November** Three-month state of emergency announced. Renewed on **23 February 2002**, and again on **24 May 2002**. State of Emergency withdrawn on **28 August 2002**.

**2003, 29 January** Cease-fire between the Government and the Maoists announced.

## ANNEX B: POLITICAL ORGANISATIONS

Name (English translation; Burmese when known)	Abbreviation	Type of organisation	Notes
Bhutanese Refugees Representative Repatriation Committee	BRRRC	Bhutanese refugee pressure group	
Communist Party of Nepal (Maoist)	CPN (Maoists)	<b>Illegal</b> , underground political movement	Known as the <b>Maobadi</b>
Communist Party of Nepal (Marxist-Leninist - ML)	CPN (ML)	Legal political party	Founded in 1989 as a breakaway faction of the UML
Communist Party of Nepal (Mashal)	CPN (Mashal)	Legal political party	
Communist Party of Nepal (United Marxist-Leninist - UML)	CPN (UML)	Legal political party	
Communist Party of Nepal (Verma)	CPN (Verma)	Legal political party	

<b>Green Nepal Party</b> <b>Janabadi Morcha</b>		Legal political party An anti-monarchist party	Faction developed into the <b>Nepali People's Front</b>
<b>Janawadi Morcha</b> <b>Moovad / Maovad</b> <b>National Democratic Party</b>	NDP	Legal political party Unknown group Legal political party	Nepalese name -  <b>Rastriya Prajatantra Party - RPP</b> Also claims Nepalese name -  <b>Rastriya Prajatantra Party - RPP</b> Nepalese name -  <b>Rastriya Janata Parishad - RJP</b> Nepalese name -  <b>Rastriya Jana Morcha;</b> formerly <b>Janabani Morcha</b> Left-wing, rejects 1990 constitution as reactionary.
<b>National Democratic Party (Chand)</b>	NDP (Chand)	Legal political party	
<b>National People's Council</b>			
<b>National People's Front</b>			
<b>National People's Liberation Forum</b> <b>Nepal Praja Parishad</b> <b>Nepal Workers' and Peasants' Party</b> <b>Nepali Congress Party</b>	NCP	Legal political party Legal political party Legal political party	Until the dissolution of Parliament, May 2002, was main political party with a majority of deputies.
<b>Nepali Janata Dal</b> <b>Nepali National Congress</b> <b>Nepali Sadbhavana Party</b>	NSP	Legal political party Legal political party Legal political party	English - Nepal Goodwill Party; promoted the interests of the Madhesiya community, ethnic Indians from the Terai region.
<b>Samyukta Janmorcha Nepal</b>		Illegal political movement	<b>United People's Front (UPF)</b> an alliance formed in February 1996 of <b>United Liberation Torch-bearers (Samyukta Mukti Bahini)</b> and <b>the Democratic Front (Janawadi Morcha)</b> who took to armed insurgency at the same time. <i>See note above, Samyukta Janmorcha Nepal.</i> The political antecedent of the <b>CPN (Maoist)</b> and <b>CPN (Mashal)</b>
<b>United People's Front</b>		<b>Illegal</b> , underground political movement	

## ANNEX C: PROMINENT PEOPLE

**Baburam Bhattarai:** Rebel leader, co-founder of Communist Party Nepal (Maoist)

**Bikalpa:** A Maoist leader.

**Birendra:** King, died in 2001.

**Deuba, Sher Bahadur:** Prime Minister; leader of the Nepali Congress party until expulsion in May 2002.

**Gyanendra:** King since June 2001.

**Krishna Sen:** journalist and newspaper editor.

**Mahendra:** King, died in 1972. Succeeded by King **Birendra**.

**Pushpa Kamal Dahal:** Founder member of the "People's War"

## ANNEX D: NEPALI / ENGLISH GLOSSARY

### Nepali

Badis

bandh

Dalit

jan-jati

kamaiya

Lhotsampas

panchayat

varna

### English

A Dalit (untouchable) sub-caste where the women are usually forced into prostitution.

national strike

"out-caste; untouchable" lowest rank, outside caste, in the Hindu caste system.

"ethnic group" as defined by the Government

System of bonded agricultural labour agreements

Southern Bhutanese refugees, of Nepali ethnicity.

"Council" System of government introduced in 1962.

Hindu Caste or lit. "colour" system

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[Part I](#)

[Part II](#)

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