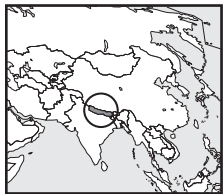


## Adding insult to injury



The main obstacle to human security in Nepal is poverty, with 38% of the population, or 9 million Nepalese, living below the poverty line. The absence of the rule of law, the on-going Maoist insurgency and the resultant pattern of gross human rights violations (killings, torture, disappearances, abductions, arbitrary arrests) and persistent discrimination based on caste, class, ethnicity and sex are other factors that pose a threat to human security.

### Rural Reconstruction Nepal

Arjun Karki / Mukunda Kattel / Rakhee Lohani

Respect for human rights through rule of law is central to the concept of human security, by which everyone has the freedom and opportunity to live in a just and peaceful environment.

The main obstacle to human security in Nepal is poverty. The absence of the rule of law, the on-going Maoist insurgency and the resultant gross and systematic human rights violations, the lack of good governance and persistent discrimination based on caste, class, ethnicity and sex are other threats to human security.

### Poverty

According to government estimates, 9 million Nepalese (38% of the population) fell below the poverty line of USD 1 a day in 2001. More alarmingly, the incidence of poverty is increasing “at an annual rate of more than 3%” with the “number of absolute poor almost doubled in the past 20 years (between 1977 and 1996)”.<sup>1</sup> Poverty is predominantly a rural phenomenon - 86% of the population live in villages, and agriculture is their main livelihood. Of the total poor, “over 90% live in rural areas”. The poverty rate varies according to geographical regions and is “highest in the more remote rural areas - the Mid-Western and Far-Western hills”.<sup>2</sup>

The caste system maintains its rigidly vertical hierarchical form. By virtue of their caste position those in the lower echelons often find themselves discriminated against politically, economically and socially, while historically, small groups of high-caste people maintain a position of dominance. This situation of exclusion has a strong bearing on the causes and perpetuation of poverty. Poverty cuts across all caste groups (most of the poor belong to the *dalit*, the so-called low-caste) and ethnic communities that are excluded from policy- and decision-making opportunities because of their origins.

1 Nepal South Asia Centre (NESAC). *Nepal Human Development Report 1998*. Kathmandu, 1998, p. 12.

2 National Planning Commission (NPC). *The Tenth Plan. Poverty Reduction Strategy Paper*. Kathmandu: NPC/HMGN. 2003, p. 25.

### Food security

Closely linked to poverty is the question of food security, which comes as a recent phenomenon in the poverty discourse in Nepal. Until the 1970s, Nepal was a food exporting country. With the onset of the 1980s the situation began to change for the worse due to the decline in food production in relation to the growth of the population and to the lack of state responsiveness in dealing with the causes of the shortage of food. Highlighting food insecurity as “the most serious problem of the poor”, the Agriculture Projects Service Centre estimated that in 1996, 41 of the 75 districts of Nepal had food deficits, although other estimates are higher. All sources however agree that the problem is more severe in remote hill and mountain areas, where crop yields are low and off-farm employment opportunities are almost non-existent.

Every year, households in the hills and mountains experience lean seasons or deficits from their food production. The situation becomes precarious when there are droughts, floods or extreme price fluctuations. The current situation of armed insurgency has added another significant dimension to the problem of food security.

Poverty and food security largely depend on political decisions governing the methods and systems of production, food production, storage and distribution across the country. Food security is the political responsibility of the State and access to food is one of the fundamental human rights of every person. By maintaining a semi-feudal type of production system and by failing to introduce an effective mechanism for food storage and distribution, the State has clearly failed to ensure the human security of nearly half of its population.

### Human rights violations

The 1990 Constitution of the Kingdom of Nepal guarantees the fundamental human rights and freedoms of its citizens (Box 1). In the other hand, Nepal has ratified all the major international human rights instruments and key ILO Conventions governing freedom from discrimination, freedom of association, equal remuneration and criteria for access to employment. However a number of laws still conflict with human rights principles and constitutional directives, something that can be observed in the fact

### Human Rights in Nepal

The 1990 Constitution guarantees the following fundamental rights:

- Right to equality
- Right to freedom
- Press and publication rights
- Right to criminal justice
- Right against preventive detention
- Right to information
- Right to property
- Cultural and educational rights
- Right to religion
- Right against exploitation
- Right against exile
- Right to privacy
- Right to constitutional remedy

### Nepal is State Party to the following:

- International Covenant on Civil and Political Rights, (ICCPR) 1966\*
- International Covenant on Economic, Social and Cultural Rights, (ICESCR) 1966
- Convention on the Elimination of Discrimination against Women (CEDAW) 1979\*
- Convention on the Rights of the Child (CRC) 1989\*
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965

\* Including optional protocol/s

As a signatory to the ICESCR, the Nepalese State is to guarantee its citizens the following rights:

- Right to work in safe, just and healthy conditions
- Right to equal pay for equal work, with a fair wage that provides a decent living for workers and their families
- Right to social protection
- Right to adequate standard of living
- Right to education, cultural freedom and scientific progress ■

that, despite having ratified the United Nations Convention against Torture in 1991, torture is still not a crime in Nepal.<sup>3</sup>

To add insult to the nation's human rights injury, the Government passed the Terrorist and Disruptive Activities Act (TADA) 2002, giving security forces the power to arrest people without a warrant and detain suspects in police custody for up to 90 days. Strong opposition from human rights organisations and civil society groups have not prevented the TADA from becoming a major source of human rights violations.

Opposition to the State has traditionally been met with violence, and this continues unabated to this day. In recent years, particularly after the People's War started in 1996, killing has become an everyday phenomenon. Today, three lives per day are lost in the country (see *The Maoist Insurgency*). Torture is a longstanding phenomenon. Methods of torture include rape, *falanga* (beatings on the soles of the feet), electric shock, *belana* (rolling a weighted stick along the prisoner's thighs causing muscular damage), beating with iron rods covered in plastic, and mock executions.<sup>4</sup>

Cases of disappearances and abductions add to the gruesome record of human rights violations. The State was responsible for 250 disappearances from the start of the People's War and October 2003. In addition, "hundreds of alleged extrajudicial executions, thousands of arbitrary arrests and numerous instances of torture have taken place in the context of the People's War."<sup>5</sup> The Maoists have been responsible for over 250 abductions of members of political parties, civilians perceived not to be their supporters, journalists and anyone else who is critical of them.

## Gender violence

The intensity of gender violence is equally shocking. Women, who bear the brunt of farming and household work, have very little access to real property, savings or credit. Their participation in political decision-making and administration is shamefully low. According to UNDP, they occupied only 6.4% of seats in parliament in 2000 and their participation in government administration is barely one tenth that of men.

Traffic in women and girls for commercial sexual exploitation is all too common. Each year up to 7,000 girls and children are trafficked from Nepal

and forced into sex work in different parts of the world. In India alone there are at least 200,000 Nepalese women serving as sex workers.

Deep-rooted superstitious beliefs and attitudes also afflict many women. Women accused of practicing witchcraft become the victims of physical and mental torture and are compelled to live a life of humiliation and neglect. In the cruellest crime of its kind in the history of crime in Nepal, two elderly women accused of practising witchcraft were beaten to death in 2003. Over a dozen cases of witchcraft-related crimes are recorded every year. The ongoing Maoist insurgency adds another dimension to the violence against women, who are direct and indirect victims of the war. Many are displaced from their homes and communities, and the killing of male members of the family increases their burden of family responsibilities.

## The Maoist insurgency

In 1996, only six years after the restoration of democracy by the People's Movement, a faction of the (Maoist) Communist Party of Nepal declared armed insurgency (the People's War) against the present socio-economic structure and the Government with the aim of establishing a new state styled after the one established by Mao Zedong in China in 1945. The insurgency, and the counter-insurgency measures adopted by the State to fight the Maoists, have resulted in a protracted threat to human security.

Between February 1996 and November 2003, 8,295 people were killed at the rate of three a day, and 5,597 of these killings were by the State. Many thousands have sustained injuries (in 2002 alone 1,019 people were injured) and much infrastructure has been destroyed (as many as 177 private houses, 33 health centres, 12 telecommunications towers, 31 school buildings, 54 police posts, 18 post offices, 93 government offices, 29 private offices and 31 electricity-related centres).<sup>6</sup>

The fear of being caught in the crossfire between Maoist guerrillas and state security forces has forced rural people to abandon their villages and belongings. In 2002 alone, 17,564 people throughout the country were displaced. This pattern of displacement is on the increase. The Geneva based Global IDP Project estimates the total number of the displaced to be somewhere between 100,000 and 200,000.

The impact of insurgency on education has been equally damaging. Around 3,000 teachers have stopped teaching in outlying districts, which has affected as many as 100,000 students. Around 700 schools across the country have been closed. The Maoists, through the All Nepal National Independent Free Students Union, have disrupted education throughout the country through a series of

*bandhs* (shut-downs) and protests. The fear of insurgency has also deterred health workers from working outside urban areas, which had been relatively risk-free up until now.

Caught in the crossfire between Maoists guerrillas and State security forces, Nepalese people are living a fearful, uncertain and insecure life.

## Lack of good governance

Corruption and irregularities are widespread at all levels of government, and they exist under the patronage of high-ranking political leaders and ministers. Lawlessness and the rulers' arbitrary orders have often shattered the essence of the rule of law and have institutionalised dishonesty in all administrative units of the State.

Nowadays corruption takes centre stage, lawlessness becomes the norm of governance and the financial resources of the State are channelled to the rulers and their cronies. This has been happening for many years, even during the so-called democratic era of the 1990s. As UNDP puts it, "poverty reduction policies and programmes" have fallen short of their aims and "basic social services" have been "inaccessible to large segments of the poor." "Public investments" have been rendered ineffective in "addressing poor people's needs." Rather, government institutions have often chosen to "exclude" the poor or "silence their voices." If corruption were not the order of the day, as Thapa argues "our country would have been able to provide good education, health care and drinking water from its own wealth of resources..."<sup>7</sup> Unfortunately, rampant corruption has been embedded in the governance system, crippling the already weak delivery of services which would otherwise give some relief to the needy.

Overcoming the threats to human security is a major challenge facing Nepal today. The reinstatement of democracy brought hopes that changes would occur in the governance system which would address the problems of poverty, discrimination and bad governance. Had that occurred, the problem of human security would have been to some extent resolved. But the Government in the 1990s was not significantly different from the former regime. The term "democracy" was a mere slogan rather than a standard for political decision-making and implementation. The result is that poverty continued to increase, the situation of human rights violations worsened, corruption and dishonesty marred the concept of good governance and, as an effect of all this, a new problem - the Maoist insurgency - emerged. Nepal is now in a dire state, and so is human security.

To ensure human security, Nepal needs to embrace inclusive, democratic governance that operates on the basis of the rule of law, with full and unconditional observance of human rights. ■

3 Also, although the Torture Compensation Act (TCA) passed in 1996 enables victims of torture or relatives of those dead in custody due to torture to apply for compensation to the district courts, neither the police nor the judiciary are fully adhering to the requirements set out in the TCA: officials often hinder victims trying to file cases or requesting medical examinations in order to gain redress under the TCA.

4 Amnesty International. "Nepal: A deepening human rights crisis". 19 December 2002. <http://web.amnesty.org/library/eng-npl/reports>

5 Amnesty International. Nepal: "Widespread 'disappearances' in the context of armed conflict". 16 October 2003. <http://web.amnesty.org/library/eng-npl/reports>

6 Informal Sector Service Centre (INSEC). *Nepal Human Rights Yearbook 2003* (Nepalese). Kathmandu, 2003, p. 499.

7 Thapa, H B. *Anatomy of Corruption*. Kathmandu, 2002.