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**Executive Summary**  
**SITUATION OF HUMAN RIGHTS IN 2006**



## 1. Defeat of Autocracy: Way Forward to Human Rights

Year 2006 began with the nationwide wave of protests against the king's direct rule. On the fourth month of the year, the king bowed down before the people's power and *Loktantra* awoke. With *Loktantra* in place and subsequent lifting of restrictions on civil and political rights, Human Rights situation of the country started to improve.

As many as 313 persons were killed by the state and 256 were killed by the CPN (Maoist) in the year 2006. In the aftermath of *Loktantra*, in accordance with INSEC's documentation, as many as 10 and 7 persons were killed in the incidents of firing by the state and the CPN (Maoist) respectively. Likewise, on to incidents of explosion during the period, one person died on the hand of the state and four by the CPN (Maoist). Maoists killed two persons by using sharp weapons. Similarly seven persons died in Maoist "captivity" and other seven were beaten to death in 2006 in the aftermath of *Loktantra*. One person died in police custody.

Based on the data of initial three months of democratic government, one can reach to the conclusion that situation of Human Rights improved after the establishment of *Loktantra*. According to INSEC's documentation, nine persons were killed and 26 arrested by the state between the period of April 25 to August 2. During the same period, 11 persons were killed and 362 abducted by the CPN (Maoist).<sup>1</sup>

After founding *Loktantra* the trend of killing, as during the violent conflict, virtually came down to an end. During the hundred days of *Loktantra* altogether nine persons were killed in Morang, Sindhupalchowk and Dang districts by the state. Likewise, altogether 11 people were killed by the CPN (Maoist) in Saptari, Siraha, Bara, Chitwan, Sarlahi, Rautahat, Sindhupalchowk, Jajarkot and Surkhet districts. However, the situation began improving gradually.

Last year, in 2005, both the warring factions observed ceasefire for four months. The state and the Maoists were indulged in the con-

frontation for initial eight months. During that period as many as 815 persons were killed by the state and 709 were killed by the CPN (Maoist).

During the 19 days of *Jana Andolan-II* beginning April 6 to 24, a total of 19 persons were killed by the state in a bid to suppress the peaceful demonstrations. Among those deceased, 10 were killed on the spot in police firing. Rest nine persons died on different dates in hospitals while undergoing medical treatment. After the completion of *Jana Andolan-II* the government published the names of 25 persons as the martyrs of *Jana Andolan-II*. The government paid tribute to all those who gained martyrdom during the movement against autocracy since the year 2004.

In fact, the success of *Jana Andolan-II* was the success of endeavour for peaceful political transformation. *Jana Andolan-II* also mirrored the people's desire for peaceful resolution of the violent conflict. Formation of Seven-Party Alliance (SPA) by NC, CPN (UML), NC (D), NSP (A), NWPP, Janamorcha Nepal and United Left Front created a new vigour in Nepali politics. The 12-point understanding inked between the SPA and the Maoists took the anti-authoritarianism Movement to a new height.

In the meanwhile, the king announced municipal election in a bid to institutionalise his autocratic audacity but his poor play was exposed throughout the world.

The intellectuals and the common people moved forward with the aspiration to achieve *Loktantra* from the beginning of the year 2006. In that course, Human Rights Defenders first went to the street to defend civil and political rights. They vowed against the excessive use of force over the peaceful demonstration. Then, after achieving *Loktantra*, they started criticizing the gap between the rhetoric and realities of Maoists in terms of commitments on peace. Till the end of the year, Human Rights Defenders raised their strong voice to provide justice to the victims of violations of Human Rights and Humanitarian laws in the past.

CPN (Maoist), officially, expressed com-

1. INSEC. Loktantra Praptika Saya Din: Manav Adhikarko Sthiti. Kathmandu: Anupacharik Chhetra Sewa Kendra. 063. pp 1-2

mitments for peaceful politics time and again. However, some of the activities carried out by the cadres of CPN (Maoist) even after the establishment of *Loktantra* give some apprehension that they were not in favour of the peaceful transformation. This report records several incidents of Human Rights abuses by the CPN (Maoist) even in the aftermath of the establishment of *Loktantra* in 2006.

There is a need to carry out a comprehensive study on disappeared persons in Nepal. It is not fair to keep ambiguous situation on the whereabouts of hundreds of people even in the *Loktantra*. Human Rights Organizations have been investigating on the subject as per their capacity and resources. In this regard, Human Rights Yearbook 2007 has made an effort to present detailed information on armed conflict induced disappearance. However, state should initiate serious efforts to investigate the cases of disappearances. This year, we undertake research on disappearance considering the family members as the primary source of information. YB representatives visited the family members of the disappeared persons to get updated information on the matter.

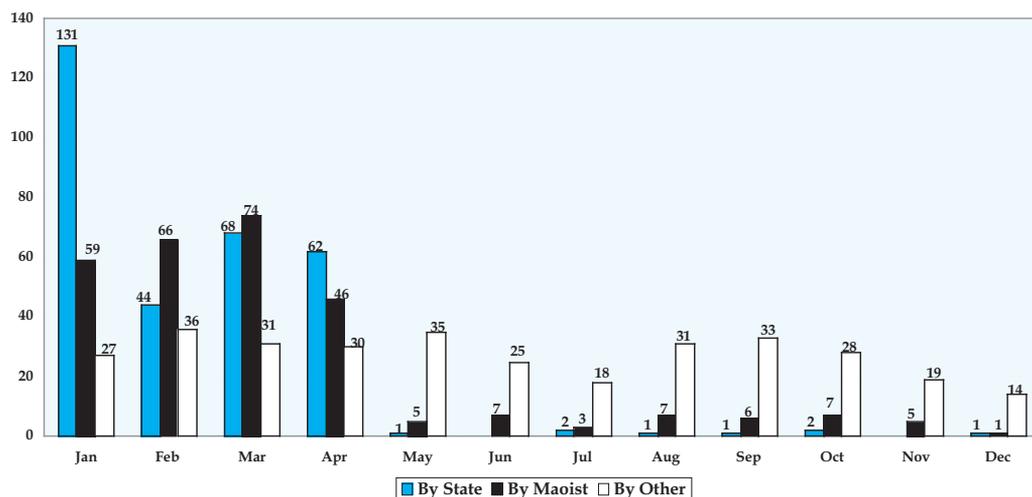
Surprising facts were revealed during the study. The Yearbook 2007 incorporates information that people declared disappeared by the state were killed long before.

The report published by the democratic government on September 22 on the state of people disappeared by state remains unbelievable. The report mentioned that Chetanath Ghimire was arrested and subsequently disappeared from Bhorletar, Lamjung district five years ago and was in the security base camp of the same place. But one month after the release of the report the skeletons of Chetnath and one Shekharnath were found in a forest near neighboring Kaski district. The remnants were identified with the help of watches and shoes in the presence of relatives, villagers and Human Rights Defenders. (See: Annex 1, Facts on Human Rights Violation in 2006, Western Region, Lamjung)

Study conducted by INSEC shows that as much as 783 and 105 persons were disappeared by the state and the CPN (Maoist) respectively during the period of 1996 to 2006. Some of the cases might be missing in our record. (See Table 6, No. of persons disappeared by State and Maoists)

We organized pre-evaluation meetings during the preparation of Yearbook 2007 for the first time this year. This year, after the compilation of data we organized ten pre-evaluation meeting in ten districts comprising *Madhes* and hill in all five development regions. Such meetings, for the verification of data, will be organized in number of districts in times to come.

**Table 1 Statistics of Killings by State, Maoists and Others (In 2006)**



## 2. New Roadmap for the Country

The year 2006 will be acknowledged in the political history of Nepal for its pace to peace process. The Seven-Party Alliance and the Maoists reached to a '12-point understanding' in November 2005 for sustainable peace. After five months of understanding between the SPA and the Maoists, the king's autocratic rule came crashing. People became able to breath in peaceful environment after more than a decade. A number of accords were signed between the CPN (Maoist) and the SPA. However, the year bid farewell before seeing the implementation of agreements and understandings.

The armed attacks in Taulihawa and Butwal by the CPN (Maoist) on April 7 were noticed as the last attacks of such kind during the ten years of war. Three security persons and 16 Maoists were killed during the attacks. Earlier, the Maoist's armed group attacked Malangawa, the headquarters of Sarlahi district on April 5. A total of four Maoists and 16 security persons died in the incident. (For details, see the incidents under Kapilbastu, Rupandehi and Sarlahi districts). With an end to king's direct rule, the party has left its prudence to such attacks.

The year 2006 can be divided into two ruling periods. One of them was the royal regime with the king as chairperson of the government and the other was democratic government approved by the parliament reinstated with power of *Jana Andolan-II*. The disposition of these two governments was obviously dissimilar. The government led by the king was against rule of law; order oriented and against people's consent. The royal government was not only unsuccessful in providing economic and social security and service but was also against equality, social justice and Human Rights. Hence, the irresponsible, unaccountable, opaque, centralized, impatience or brutal royal government was repudiated and defamed both nationally and internationally.

The year 2006 woke with the end of royal regime and the movement for establishing

*Lokatantra*. During this period, anti-autocratic voices were heard everywhere. The royal government was not only trying to prolong its regime, but also planning to institutionalize the same. The acute face of its misstep was seen with the announcement of municipal election. In spite of extensive denial, the government announced the completion of municipality election. The government attempted to curb the *Jana Andolan-II* with excessive use of force. But, the movement against king's direct rule gradually became prevalent. Finally, the fifteen-month long autocratic regime came to an end on April 24.

## 3. The King's Election: Lubrication on the Fire

The municipal election carried out by the king was nothing but an attempt to institutionalize the autocracy. The seven major political parties including Nepali Congress and UML announced to boycott the election. Human Rights organizations and civil society considered the monitoring of election as meaningless.

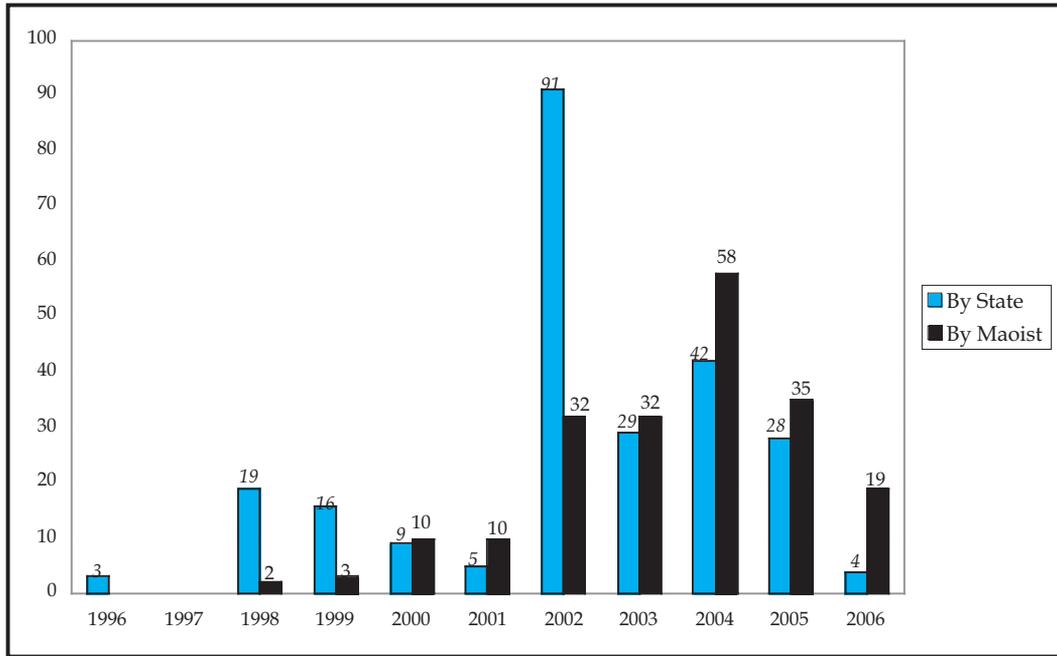
The election was held in 58 municipalities out of which 22 municipalities had no vote cast. The government announced that mayors in 24 municipalities were elected unanimously. There were 1,906,600 voters in 58 municipalities out of which 292,876 voters i.e. only 15.4 percent turned out in the poll. The drama in the name of election was so grimy that 34 municipalities saw only two or more mayoral candidates. The number of parties to participate in the election was shown as 22. But, there were three municipalities with no candidates for the post of ward chairman, and eight municipalities with no candidates for the post of ward member. There was one mayoral candidate in Ilam, Damak and Tansen municipalities each. The vote cast was nil in 22 municipalities including Nawalparasi, Dasharath Chand, Amargadhi, Butwal, Baglung, Birendranagar, Gulariya, Nepalganj, Dipayal. The government announcement revealed that all candidates belonging to Kamal Thapa faction of RPP, except one in Ilam municipality, were elected with no oppositions.<sup>2</sup>

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2. Nirwahan Aayog. Sthaniya Nikay Nirwahan-2062, Mahanagarpalika, Upa Mahanagarpalika, Nagarpalika Nirwachanko Antim Parinam: Nirwachit, Nirbirodh Paddhakariko Namawali. Kathmandu : Nirwahan Aayog. 2062

Table 2

## Children Killed by State and Maoists



#### 4. Efforts of Judiciary to Clean the Face

Independent judiciary should be free from threat, fear, terror, greed or unfeasible influence through the state mechanism, individual or any institution. Judicial freedom is actually examined by the role of judiciary and the behavior of executive body of state.

In this frontier an effort has been made to study the situation of Nepal's judicial independence in the year 2006. (See Chapter: 3.1 "Judiciary and Human Rights" of Human Rights Yearbook 2007) Last year and the initial months of this year was the trial period for judiciary in terms of its role in protecting Human Rights and ensuring justice to the people. The court was certainly in an unfavorable situation at that time. But people's opinion that Supreme Court should not have hesitated using its mandate independently at any situation holds meaning. Rather, the Chief Justice supported the action by the then Royal Commission on Corruption Control (RCCC) against the judges and no prompt verdicts were given on the cases of contempt of court orders by the state agencies. On this basis it was concluded that the

independency of judiciary did not remain uninfluenced.

Similarly, the appointment of judges, tendency of marginalizing important cases, dispute between the bar and the bench and the government's unnecessary intervention in the activities of judiciary led to people's gloomy faith on judiciary. Despite all these, the overall role of Supreme Court to confront the attack of royal regime aiming to deactivate the constitutional supremacy after the king took over the executive powers was positive.

Citizen's fundamental rights were arbitrarily restrained and the peaceful activities of the political parties were strictly prohibited after the formation of unconstitutional executive body. Means of public communication including telephone services were obstructed. There was extreme misuse of law by the state. In some of the instances, Supreme Court stood one step forward and gave verdict in favor of Human Rights pointing out the misconducts of the state.

The verdict of the Supreme Court on the cases of *habeas corpus* and right to freedom of

expression has been commendable. In the beginning of this year the court was able to respect the rule of law and to assure people of its credibility by giving verdict for the dismissal of the Royal Commission for Corruption Control (RCCC). Judiciary is a justice executing body of the state. Under the main functions of justice execution, the responsibility to protect the people's inalienable rights is inherent in judiciary.

In the context of Nepal, various political disputes are taken to court and the different verdicts given have widespread impact on the contemporary political situation of the country. This is why judiciary keeps on coming into debate. Such condition prevailed in different forms this year also. During the *Jana Andolan-II* it was noticed that writs on *habeus corpus* were given prompt verdict. Along with these verdicts, judicial activism was observed as an appreciated step of the court to protect civil rights. But the role of judiciary was controversial in the issues of cases related to local election and some other political cases. Similarly, it was evaluated that the judiciary could not hold up its prestige in some cases including the case filed demanding suspension of the Chief of Army Staff.

Basically judiciary was criticized as it could not hold up its independency and supremacy as per the rule of law during the direct ruling of the king. But by the time of establishment of *Loktantra* judiciary was found keen on improving its impression. The firm stand taken by the judiciary on separation of power, following the principal of rule of law, independent judiciary and judicial review were taken as the positive sides.

##### **5. Restored HoR and People's Jubilation**

Historical *Jana Andolan-II*, with the restoration of House of Representative, handed back the state sovereignty to the people and ended the king's direct rule. The newly reinstated HoR played historical role for the political transformation to meet the objectives of sustainable peace and establishment of *Loktantra* by returning back the sovereignty to the people. Serious and prudential decisions were taken immediately after the reinstatement of the HoR.

Aftermath of *Jana Andolan-II*, the HoR proved to be an effective bridging institution on giving a definite shape to the road map presented by the Seven-Party Alliance (SPA) and the CPN (Maoist) for the progressive reform of the state. This has, ending the vacuum of people's representation in the state mechanism, raised new hope among people for *Loktantra*, peace and progression.

Through the royal proclamation on April 24, 2006, the king, accepting the road map of seven agitating parties, had declared the reinstatement of the House of Representatives. It can be believed that Nepali politics attained the direction of liberation from the armed conflict and autocratic regime from that moment. Despite the positive diplomatic views from the international community on the king's address of April 21, 2006, agitating seven political parties continued their movement and succeeded the reinstatement of the HoR. Earlier, the country remained in absence of the HoR for almost four years. The king, on the recommendation of the then Prime Minister Sher Bahadur Deuba, had dissolved the HoR on May 22, 2002.

Constitution of the kingdom of Nepal 1990, deactivated by the king in the past reactivated with the reinstatement of the HoR. On one hand the constitutional vacuum was filled up and on the other rule of law began with the end of the king's despotic regime. Nepali people's long awaited legitimate and pro-people government was formed through the reinstatement of the HoR.

All the steps of the king were proven wrong as soon as the HoR was restored. King was forced to admit his mistakes and declare that Nepal's sovereignty and state authority is inherent in the Nepali people. Through the reinstatement of the HoR, both, regressive roadmap of King Gyanendra and extreme leftist road map of the CPN (Maoist) were discarded. Seven political parties commenced their works to guide the country in the path of peace and *Loktantra* through the HoR. Restored HoR proved the assumption that any problem can be resolved by means of peaceful movement and peace dialogues. Seven parties steered the country towards the epoch-making changes with the HoR Declaration of May 18, 2006.

Through the declaration and other proposals, the HoR expressed concerns on the issues of Human Rights and social justice. (See Chapter: 3.3 "Legislative" of Human Rights Yearbook 2007)

**6. Transitional Justice: Human Rights Agenda in Loktantra**

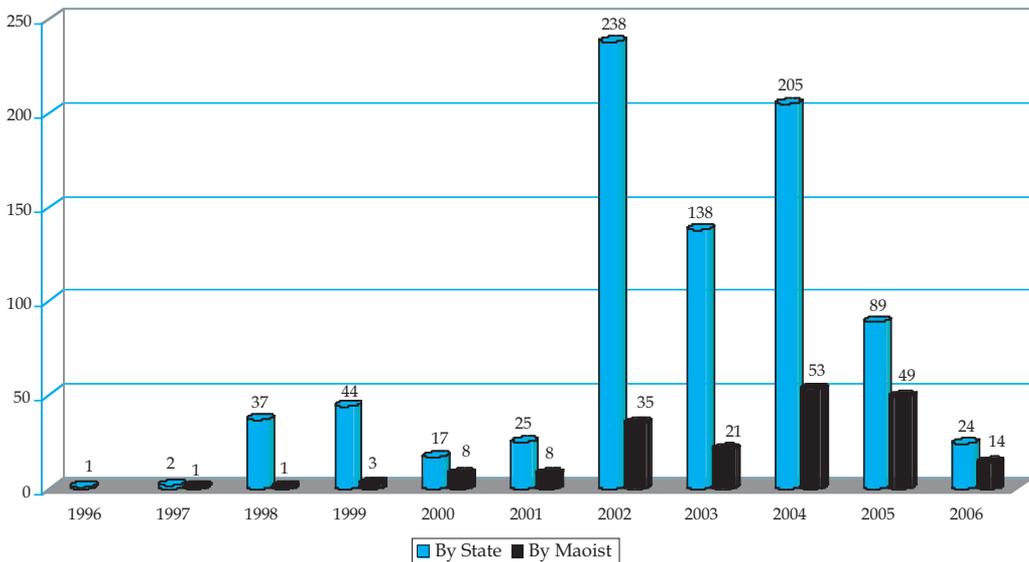
From the very next day of the success of *Jana Andolan-II*, there have been demands that those responsible for the violation of Human Rights and International Humanitarian Laws in the past be brought to justice. Repatriation and reintegration of conflict induced displaced persons is a burning issue of Nepal at present. The demand for publicizing the whereabouts of those people disappeared by the state and the Maoists is also equally important. The necessity to ensure that effective system and mechanisms are in place to provide justice to the victim of violation of Human Rights and Humanitarian Laws in the past could contribute in strengthening *Loktantra*.

Immediately after the *Jana Andolan-II*, the government formed a five-member High Level Probe Commission on May 5 under the Chairmanship of Krishna Jung Rayamajhi, former Justice of the Supreme Court, addressing

one of the major demands of the people to investigate upon those involved in suppressing the *Jana Andolan-II* through various means. The Commission was mandated for probing the Human Rights violation and abuse of authority by the state during the royal regime after February 1, 2005. However, the government did not publicize the report of the Commission this year. The government informed that a committee was formed under the Coordination of the Deputy Prime Minister and Minister for Foreign Affairs K.P. Sharma Oli to study and recommend for implementation. But, the government provided no information in relation to the progress made by the committee by the end of this year.

It is pity to express that the eight parties were not seen sensitive on the issues pertaining to transitional justice throughout the year. The process of investigating cases of grave violation of Human Rights and International Humanitarian Laws in the past must be given high priority in the sequel of political transformation. Mechanisms for acquiring factual information, working procedures, rehabilitation and relief to victims, reconstruction and legal and institutional progress are the pre-requisite for transitional justice. Expecting strengthening of

**Table 3 Statistics of Women Killed by State and Maoists**



*Loktantra*, people were eager to see the nature of punishment against violators of Human Rights and International Humanitarian Laws in the past and justice to the victims.

In the Comprehensive Peace Accord (CPA), under the topic 'ways of normalizing situation', the government and the CPN (Maoist) have agreed to constitute a National Peace and Rehabilitation Commission to carry out relief and rehabilitation works for conflict victims and displaced persons. However, the accord remains mute on the time line to form the commission. The political parties who are in power again after the success of *Jana Andolan-II* had discarded the report of Mallik Commission, which was formed to probe the atrocities committed by the then Panchayat regime during the popular movement in 1990. In this context it worth taking note that the report of the Raymajhi Commission, too, was not publicized till the end of the year. On the basis of various expressions and actions of the Maoists, it seems that they don't intend to investigate the cases of Human Rights violations committed by their own cadres. It is a matter of concern that such intention of both the parties can again establish a culture of impunity. In this context, the future of the proposed commission is in perplexity.

The experiences of other countries have proved the fact that way to sustainable peace is not attainable without fair investigating for the past atrocities. Therefore, we are expecting that our political actors be serious on these issues.

## 7. Issue of Inclusion and Discontent in *Madhesh*

For some past years, there were voices in the country that "There should be constitutional provision for proportionate representation of all communities on the basis of according to caste in all the institutions of the state. The monopoly of *Khas* caste in the control of state power should be ended as per the spirit that Nepal is a common nation of all castes and tribes."<sup>3</sup> In this regard, the voices on the prob-

lem for the identification and values of *Madhesi* community on the ground "Madhesis of Nepal are discriminated on the ground of culture, language and origin" are remarkable.

The demands of *Madhesi* and indigenous people have been raised strongly in the open circumstances after the restoration of democracy. Aware people *Madhesh* started carrying out activities for their demands. On July 5 thirty-three parliamentarians from *Madhesh* announced in Kathmandu to strongly raise the *Madhesi* issues for taking the country ahead in united manner and for proper representation in the interim constitution and Constituent Assembly election. It was said that discussion was held on "Institutionalizing peace and democracy and representing and respecting the spirit of *Madhesh* in the interim constitution and Constituent Assembly" in a gathering held in the coordination of NC (D) leader Bijay Kumar Gachhedhar.<sup>4</sup>

Nepal Sadbhawana Party (Anandidevi) was raising the voice for proportional representation in Constituent Assembly election. In this regard, CPN (UML) registered the note of dissent in the meeting between the SPA and the Maoists on November 8. The UML presented its view as, "Applying a proportional system is the best *Lokatantrik* way for the election of Constituent Assembly."

The discussions on issues concerning *Madhesh* became serious at the end of the year. The demands to determine the number of constituencies according to population and proportional representation were raised prior to the promulgation of interim constitution. Demonstrations began in *Madhesh* against interim constitution before its promulgation.<sup>5</sup>

Nepal Sadabhawana Party (Anandidevi), one of the allies of eight parties, called for *Terai Bandha* on December 25 with demands of federal state and determining constituencies according to population. The normal lives in other parts of the country came to normalcy from the next day. But tension grew high-

3. Gupta Jaya Prakash et al. "Ke ho madhesko samasya : kasari garne samadhan". *Nepali madheshika samasya: char bichar*.

Kathmandu: Madhesi Manavadhikar Sanrakshan Kendra. 2060. p 7

4. "Madhesh samasyabare sansad bhela". *Kantipur* 063 Srawan 21 p. 4

5. "Antarim sambidhan madhesi birodhi". *Kantipur* 063 Push 10 p. 3

er as some destructive activities were carried out in Nepalgunj in the name of protesting the vandalism during the *bandha day*. The tension in Nepalgunj did not end till the end of the year. The incident of Nepalgunj distressed *Madhesi* community.

### 8. Maoist's Effort to Change Themselves and the Challenges

The CPA puts an end to the armed conflict prevailing since 1996 and declares the new beginning of peaceful cooperation with political consensus between the government and the CPN (Maoist) in guaranteeing sovereignty, progressive political resolution, democratic reform of the state and economic-social-cultural transformation.

The Maoist "*Janayuddha*" initiated from 1996 ended up with the emergence of *Loktantra*. According to INSEC documentation, a total of 13,284 Nepali were killed in the period. The year 2002 was recorded as the highest casualty period. (See Table: 1, Yearly Presentation of Violation of Right to Life by the State and CPN (Maoist) during "*Janayuddha*")

This year CPN (Maoist) joined the political mainstream. However, the Code of Conduct of ceasefire inked between Nepal Government and the Maoists was surrounded by debate due to the contempt from the Maoist side. The examples of breaking the commitments made

by the Maoists were witnessed all over the country even after the establishment of *Loktantra*. Under the heading of 'Guarantee of fearless civil life' in the 25-point Code of Conduct signed between government and Maoist, a point clearly mentions that, "Armed force will not be mobilized, demonstrated and used in order to spread fear among the common people." A high level committee was formed to monitor the implementation of the Code of Conduct. But, in course of time, the committee was dissolved following the debate on the matter of violation of Code of Conduct by the Maoist. Information coming from different parts of the country said that Maoists were breaching the Code of Conduct.

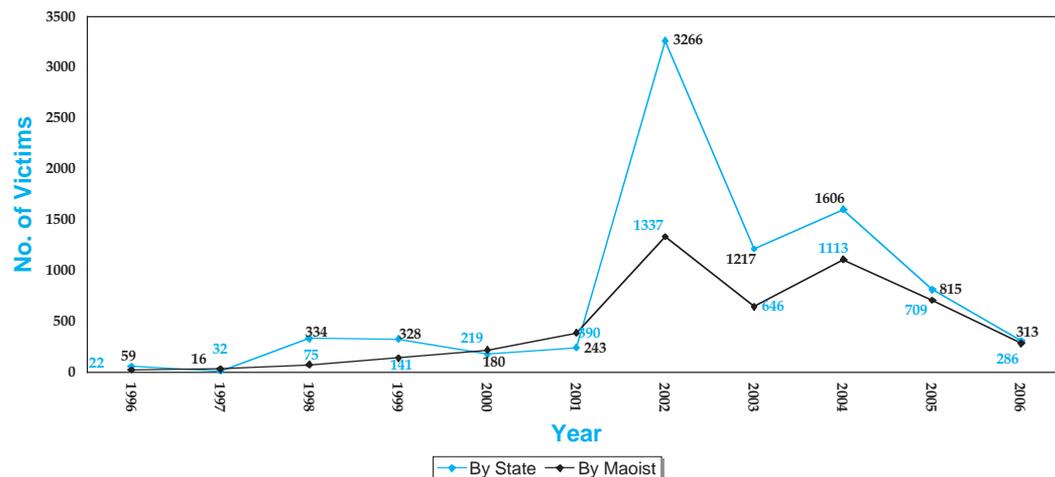
INSEC's documentation shows that as much as 59 incidents of extortion were carried out by the Maoists during the period of April 25 to August 2. Maoist cadres had collected money by obstructing highway during the great festival *Dashain* being celebrated after the establishment of *Loktantra*.

Even after signing Code of Conduct Maoists cadres were involved in Human Rights abuses. Below is an example of such incident from Lamjung district.

People had assembled at the threshold of the house, turned to "detention" centre by the Maoists, from the early morning. Armed cadres

Table 4

### Number of Killings by State and Maoists (13 February 1996 to 31 December 2006)



of CPN (Maoist) were saying, "Today we are taking this boy to another place." Meanwhile, someone from the crowd peeped inside the room through the ventilation in that noisy environment. The boy came down immediately shouting, "Gore has already been turned to corpse." Anxious villagers suddenly moved forward without fear. On observing the higher temper of villagers, a group of Maoists fled the scene. However, the villagers dared to capture 13 Maoists that day and locked them inside the same room. Then, Maoists were compelled to make Santabahdur's murder public. One of the Maoist leaders donated a few rupees for the funeral.

A witness to Maoists' barbaric act at Isaneshwor VDC-2, Lamjung district on that night of September 6 recalls, "I went to bed at 11 in the night. But how could I sleep? That boy was badly beaten up inside a room of the house in front of my room." The witness was anxious till 1 am on September 7 as he listened to the heart rendering panicking sounds of the victim in reaction to the brutal act. After about one hour the sound stopped. But, suddenly he heard someone's loud voice, "Oh! this boy is pretending." About one hour later at around 5 o'clock in the morning, Santabahdur took his last breath while struggling with death.

September 11, Lamagaun, forest of Kerabari. A 16-year-old boy was running with last hope. He was facing difficulty to breathe. But he was running with the hope of life. In course of running he could not see the cliff. He fell 100 meters down from the cliff. He fell down in Handikhola in semi-dead condition. But his miserable condition could not evoke mercy for Maoists. As they speeded up the beating, he fell down and turned dead in a moment. It was 9 o'clock in the morning. Maoists made their way after covering the corpse with sand and mud nearby.

On September 7 and 11, cadres of CPN (Maoist) brutally killed a youth and a child. Both were from Dalit community. The incidences that occurred within the period of five days exposed the criminal attitude of Maoists, who have been claiming of being in transformation process. INSEC documentation shows that within the period of hundred days of

*Loktantra*, as many as 11 people were killed by the Maoist cadres.

Human Rights organizations including INSEC reached to a conclusion after a fact finding visit on the incident-"CPN (Maoist) Lamjung, in the name of carrying out so-called investigation, should not give protection to those cadres involved in the incidents of murder time to time to encourage impunity. Perpetrators should be handed to the administration for the legal prosecution. Only this can establish that perpetrators are not provided safe drain and that impunity is not encouraged. If the Maoists want to stop bearing the institutional responsibility for the criminal act of an individual character, they should learn to be more serious.

Numbers of information on the abuses by the Maoists was collected from the districts throughout the year. However, they did a praiseworthy job by handing over two persons involved in the murder of Sushil Gyawali, a local leader of Nepali Congress, in Bardiya district. In that course, Maoists declared that the party would not give protection to the criminal elements. (See: Annex 1, Facts on Human Rights Violation in 2006, Mid-western Region, Bardiya)

## 9. Significance of the OHCHR in Nepal

The Office of the United Nations High Commissioner for Human Rights (OHCHR) was established in Nepal at the time when there was widespread violation of civil and political rights in 2005. The role of the office to safeguard Human Rights was highlighted in the previous yearbook. The office raised its voice on Human Rights issues throughout the year with high priority. The office had expressed its grave concern on the use of excessive force by the security persons against demonstrators during *Jana Andolan-II*.

On May 26, OHCHR-Nepal published a significant report on arbitrary arrest, torture and disappearance at the Bhairabnath battalion of the then Royal Nepalese Army (RNA) situated at Maharajganj, Kathmandu. The report has made public the names of 49 persons, who were arrested by security persons, kept at the barrack and then disappeared.

OHCHR-Nepal published a detailed report on December 6 on the death of Maina Sunuwar at security detention. The office, stating that the government lacked political willpower for protecting Human Rights, emphasized on the fact that the government should make the perpetrators accountable for the violation. The office demanded with the Nepal Government and the security forces to take legal action against the perpetrators of the incident of torture and death of Maina Sunuwar so as to fulfill the commitment towards Human Rights. The office has been raising concerns that the government and the security forces should demonstrate the implementation of their commitments on Human Rights and Humanitarian Laws to the Nepali people and the international community.

As in the past year, the office, this year too, drew attention on the atrocities carried out by the Maoists.

#### 10. Human Rights: Performance of Democratic Government

After the reinstatement of HoR in April 2006, Human Rights organizations including INSEC requested the HoR and political parties to ratify the major international treaties and conventions on Human Rights and

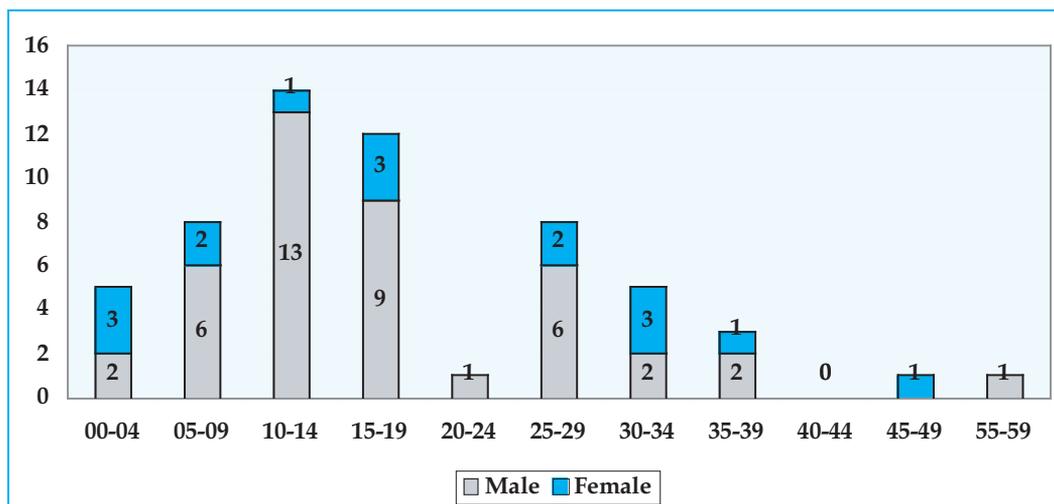
Humanitarian Laws. One of the treaties was Rome Statute of the International Criminal Court (ICC).

It has already been 42 years that Nepal ratified the Geneva Conventions of 1949. However, no law has been enacted for the effective implementation of the Conventions. In this backdrop, the Supreme Court had issued a directive order to the government on January 9, 2004 to enact laws in accordance with the Geneva Conventions. After the establishment of *Loktantra*, reinstated HoR unanimously adopted a commitment resolution on July 25, 2006 directing the government to accede to the Rome Statute. However, the government did not implement these orders by the end of the year.

On 18 December 2006, HoR unanimously adopted a proposal tabled by the government requesting ratification of the Optional Protocol to the Convention on Elimination of All Forms of Discriminations Against Women (OP-CEDAW) 1999 with reservation in two articles. Earlier, on November 27 the government had denied accepting the competency of the Committee on the Elimination of Discrimination Against Women for the purpose of article 8 and 9 in accordance with the Article 10(1) of the Optional Protocol. Such reservation that prevents the application for the inquiry

Table 5

**Number of Explosion Victims**  
(1 June to 31 December 2006)





making in course of peace process was not considered transparent and inclusive even by the parties under the umbrella of SPA. The eight political parties did not seem serious to address the disparities on the decisions. Because of the incapability of the government to tackle the grievances, turmoil surfaced at Nepalgunj, a mid-western city; resulting in human and physical casualty at the end of the year.

'Deepening National Crisis' was the highlighted issue in the Human Rights Yearbook 2006. While, the present volume of Yearbook discusses about the achievements of *Jana Aandolan-II*, new road map adopted by the SPA and the CPN (Maoist) after the establishment of *Loktantra*, and also points out the major concerns over the challenges for Human Rights in the transition phase.

The trend of grave Human Rights violations caused by both the state and the CPN (Maoist) was prolonged before the establishment of *Loktantra* in Nepal. A joint initiation was legitimized between the SPA and the CPN (Maoist) in November 2005 through a 12-point understanding leading to the historical peace process. The understanding took CPN (Maoist) to the stage of ending the decade-long war. Since mid-2006 peace and the democratization process speeded up aiming at resolving the class, caste, gender and regional-based disparity and discrimination. People of Nepal have been looking forward for restructuring the state

by constructing a new constitution through the election of Constituent Assembly in 2007.

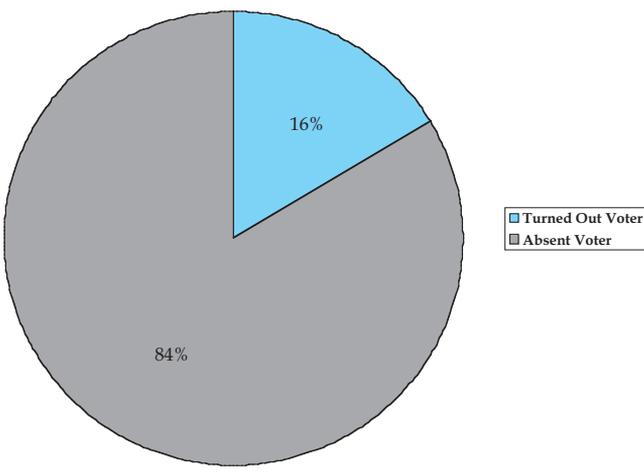
A comparative analysis of Human Rights situation in 2006—during the king's direct rule, in particular the initial four months of the year and after the establishment of *Loktantra*—is presented in this Yearbook. Major challenges to Human Rights in 2006 are discussed in the Chapter titled "New Road Map and Challenges of Transition" under the Highlight of the Year. The major issues related to the suppression of people by the royal regime before the establishment of *Loktantra* is discussed in the first part of the Chapter 2 i.e. Highlight of the Year. Establishment of *Loktantra* and general trends and major issues of concerns relating Human Rights in *Democratic* state are analyzed in the second part of the Chapter.

The year 2006 passed through two types of state systems i.e. royal regime and *Loktantra*, in particular the government formed under the Chairmanship of the king and another approved by the newly reinstated parliament by the people power of *Jana Aandolan-II*. Naturally, those two different governments encompassed different characteristics. King led government was seen against the principle of rule of law. It was run in monopolized manner, in lack of people's participation and public approval and failed ensuring economic and social security and services to the people. The autocratic government was proven to be against

Human Rights, social justice and equity. It was repulsive with the core characteristics of recklessness or lack of public accountability. The royal government was also distinct with its opaque, centralized, intolerant and brutal nature. Thus it was rejected in national and international arena.

After the establishment of *Loktantra*, the seven political parties, the leading agents of *Jana Aandolan-II*, formed a government with strong commitment for the rule of law. The parties firmly proceeded ahead to run the government by expressing their commitments for Human Rights, social

**Table 7** Municipal Election 2006: Turnout Status



justice and equity with sensitivity to ensure economic and social security and service delivery to the people. Public accountability, transparency and establishment of mechanisms for decentralized governance, high priority to people's participation, requirement of representative public approval and official commitment for the overall change and forwardness of the nation were some of the distinct identities of the SPA. It was usual for the democratic government to have wider international legitimacy. It was also natural for the government to be accountable to the people given the contexts of newly-established *Loktantra* and trust of the CPN (Maoist).

But, as anticipated, the government was not active in fully ensuing the rule of law, implementing the principles of Human Rights, taking the people's voices into consideration, putting an end to impunity and ensuring justice. Expectation from the government to address the challenges of transitional phase remained unfulfilled by the end of the year. However, Nepali people were liberated from the deepening crisis of decade-long armed conflict and Human Rights violations right after the establishment of *Loktantra* and the peace process encompassing ceasefire, peace talks and the CPA between the SPA-led government and the CPN (Maoist).

## 12. Explosive Remnants of War: Painful Reminder of Past

Decade-long violent conflict has come to an end. But the reminders of the conflict are lying around us. Explosive Remnants of War (ERW), one such reminder, are still inflicting sufferings to the people. Government should launch an effective campaign with the support of international donor agencies and in coordination with the NGOs.

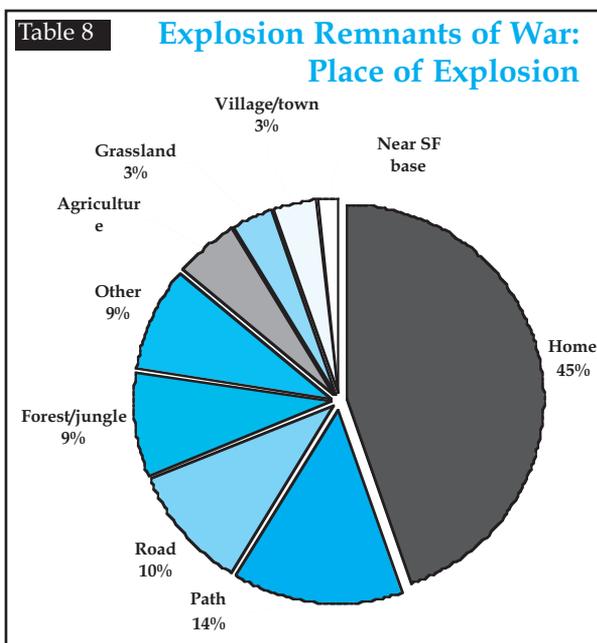
One of the main issues to tackle during the arms and armies monitoring, as the country moves through transitional period from violence to peace, is to locate, identify and dispose the ERW. For this, former warring parties should inform each other about their devices. The Agreement on Monitoring of the Arms

and Armies deals with the issue under provision 4.1.2 where it is said that, "Both sides shall assist each other to mark landmines and boobytraps used during the time of armed conflict by providing necessary information within 30 days and to defuse and remove/lift and destroy them within 60 days. Taken as over ambitious statement, it did address the serious condition owing to ERW in the country.

According to United Nations Children's Fund (UNICEF), Nepal is one of the countries seriously affected by the problem of explosive devices. But, there was lack of reliable information related to incidents which, in turn, has hampered the proper initiation towards dealing with the problem.

INSEC joined the initiative to relieve the people of such indiscriminating weapons by best utilising its over-10 years of experience of Human Rights information collection and dissemination. It is clear from the information gathered by INSEC- ERW is a big problem for today's Nepal which is heading for lasting peace.

Data from INSEC Surveillance System operational from June 1 and UNICEF media reports reveal that in 2006, there were 169 civilian casualties in 98 victim activated explosion. A total of 38 were killed while 131 were injured.



**Table 9****S.N. Major Treaties that Need to be Ratified by Nepal**

1	Optional Protocol to the Convention on Rights of the Child on the Involvement of Children in Armed Conflict, 2000
2	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, 2002
3	Rome Statute of International Criminal Court, 1998
4	Protocol Additional to Geneva Conventions of 12 August 1949 and Relating to the protection of victims of Non- international Armed Conflicts, 1977
5	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 2000
6	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990
7	Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, September 18, 1997

Fifty-four percent of the casualties were children and 'house' was the place where most of the incidents occurred. The data shows 51 of the 75 districts were affected in 2006. (See Table 8, Explosion Remnants of War: Place of Explosion)

### 13. Conclusion and Recommendations

The then king Tribhuvan in his address to the nation on February 18, 1951 for the first time in Nepal had announced that the government would go for the election of Constituent Assembly. The issue then was a major concern time and again. But, the political forces in Nepal were not committed to its necessity. Even the large and popular political parties were not agreed upon the justification of the Constituent Assembly when CPN (Maoist) raised this issue last time. But, this time, the eight political parties have agreed to go for Constituent Assembly so as to sketch a new Nepal, which made people's movement a success. Thus, with the election of Constituent Assembly, there are many ways to sustainable peace in Nepal. The whole nation is agreed upon making the Constituent Assembly a success so as to establish Human Rights and social

justice. At the same time, one should not neglect the fact that the new constitution in its substance should be inclusive. Hence, the government should concentrate itself to create the environment that will ensure the election of Constituent Assembly for inclusive constitution.

Effective mechanisms are necessary to protect and promote Human Rights in Nepal. At present, the democratic government has the main responsibility to form an effective National Human Rights Commission (NHRC). Essential mechanisms are equally necessary to be form to providing justice to victims of the incidents of Human Rights violation. Likewise, the national and international Human Rights organizations have been demanding the government for the immediate ratification of the seven mechanisms related to Human Rights and Humanitarian Laws. (See Table 9, Major Treaties that Need to be Ratified by Nepal) The national as well as international Human Rights community expects with the democratic government of Nepal to show its due respect towards such international mechanisms.

It is necessary that the government should assure transitional justice with ways to sustainable peace. It is equally necessary to address the roots of structural violence so as to strengthen *Lokatantra*. The state should include indigenous people, *Madhesi*, Dalits and women to make *Lokatantra* a real inclusion. The meaning of peace and *Lokatantra* for deprived community is respect, identity, opportunity and rights. Democratic government should be aware of this all.

**Kundan Aryal**  
Editor-In-Chief