

# INFORMAL

Vol. 9 No. 1 July 1999

## Kosovo

## Kargil

## Kathmandu





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**Yearly Subscription Rate**South Asia US\$ 5<sup>00</sup>Rest of the World US\$ 10<sup>00</sup>**Contents**

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- Raghu Lamichhane

In the last nine years, five major elections, general and local, have been held under democratic politics in Nepal. Year 1992 saw the first general election, 1994 the second and last May and June the third. Throughout this period, all political parties have used certain political catchwords— good governance, strengthening democracy, social justice, development, stable government, and so on, to influence voters. With the end of every election, however, all promises have lost their meaning. Raghu Lamichhane makes his points (p. 39) to justify that general elections 1999 also “passed as a ritual rather than an occasion to correct wrongs” pending from history.

Since the US-led NATO air forces began to pound the Federal Republic of Yugoslavia (FYR, Serbia and Montenegro), including Kosovo, the crisis has occupied a sizeable space in international politics. We, like many others in the world, have been swept and shocked by the terror it has created, and have been remorseful for what the war champions ordered their military men to perform. Although the masterminds of the bombing have declared this a “just war”, one astounds whether any act of killing in the hands of the powerful can amount to a “just” act. Professor Noam Chomsky and analyst Stephen R. Shalom offer answers to such and other related questions in a greater detail. Power hypocrisy does not end there: the ‘Kargil’ agony is reverberating right on our doorstep. We also have a story ‘Kargil and Badal’ (p. 24) to offer.

Kosovo and Kargil draw our particular attention not only because they are ‘mad’ wars but also because in each case the Gurkha soldiers, as mercenaries in Indian and British army, have been involved one way or another. As the basic rule of war-- either to kill or to be killed-- applies to everyone on the battlefield, Sergeant Balaram Rai died near Pristina while clearing cluster bombs dropped during NATO aerial campaign, and Ram Kumar in Kargil fighting around the Lion of Control. At this time, against all odds, we have an only option left to join bereaved family members to mourn the death.

‘Poverty is human rights violation’ Scholar Grahame Russell, therefore, calls on all actors (p. 17) to hold accountable for their actions that contribute to violation. Nepalese scholar Dev Raj Dahal succinctly reviews the problems facing Nepalese women and suggests them (p. 21) to take up a new form of political movement aimed at ‘reinventing one’s own conception of reality.’

In addition, this issues of INFORMAL introduces two major conferences, and some grassroots activities, organised by INSEC in the last six months.

Finally, we would like to record our heartfelt tributes in honour of Senior politician Man Mohan Adhikari who passed away at the age of 78 on April 26.

July 1999

Digitized by : Bimal Chandra Sharma



# Kosovo Peace Accord



- Noam Chomsky

On March 24, U.S.-led NATO air forces began to pound the Federal Republic of Yugoslavia (FYR, Serbia and Montenegro), including Kosovo, which NATO regards as a province of Serbia. On June 3, NATO and Serbia reached a Peace Accord. The U.S. declared victory, having successfully concluded its "10-week struggle to compel Mr. Milosevic to say uncle," Blaine Harden reported in the New York Times. It would therefore be unnecessary to use ground forces to "cleanse Serbia" as Harden had recommended in a lead story headlined "How to Cleanse Serbia." The recommendation was natural in the light of American history, which is dominated by the theme of ethnic cleansing from its origins and to the present day, achievements celebrated in the names given to military attack helicopters and other weapons of destruction. A qualification is in order, however: the term "ethnic cleansing" is not really appropriate: U.S. cleansing operations have been ecumenical; Indochina and Central America are two recent illustrations.

While declaring victory, Washington did not yet declare peace: the bombing continues until the victors determine that their interpretation of the Kosovo Accord has been imposed. From the outset, the bombing had been cast as a matter of cosmic significance, a test of a New Humanism, in which the "enlightened states" (Foreign Affairs) open a new era of human history guided by "a new internationalism where the brutal repression of whole ethnic groups will no longer be tolerated" (Tony Blair). The enlightened states are the United States and its British associate, perhaps also others who enlist in their crusades for justice.

Apparently the rank of "enlightened states" is conferred by definition. One finds no attempt to provide evidence or argument, surely not from their history. The latter is in any event deemed irrelevant by the familiar doctrine of "change of course," invoked regularly in the ideological institutions to dispatch the past into the deepest recesses of the memory hole, thus deterring the

threat that some might ask the most obvious questions: with institutional structures and distribution of power essentially unchanged, why should one expect a radical shift in policy — or any at all, apart from tactical adjustments?

But such questions are off the agenda. "From the start the Kosovo problem has been about how we should react when bad things happen in unimportant places," global analyst Thomas Friedman explained in the New York Times as the Accord was announced. He proceeds to laud the enlightened states for pursuing his moral principle that "once the refugee evictions began, ignoring Kosovo would be wrong...and therefore using a huge air war for a limited objective was the only thing that made sense."

A minor difficulty is that concern over the "refugee evictions" could not have been the motive for the "huge air war." The United Nations Commissioner for Refugees (UNHCR) reported its first registered refugees outside of Kosovo on March 27 (4000), three days after the bombings began. The toll increased until June 4, reaching a reported total of 670,000 in the neighboring countries (Albania, Macedonia), along with an estimated 70,000 in Montenegro (within the FYR), and 75,000 who had left for other countries. The figures, which are unfortunately all too familiar, do not include the unknown numbers who have been displaced within Kosovo, some 2-300,000 in the year before the bombing according to NATO, a great many more afterwards.

Uncontroversially, the "huge air war" precipitated a sharp escalation of ethnic cleansing and other atrocities. That much has been reported consistently by correspondents on the scene and in retrospective analyses in the press. The same picture is presented in the two





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major documents that seek to portray the bombing as a reaction to the humanitarian crisis in Kosovo. The most extensive one, provided by the State Department in May, is suitably entitled "Erasing History: Ethnic Cleansing in Kosovo"; the second is the Indictment of Milosevic and associates by the International Tribunal on War Crimes in Yugoslavia after the U.S. and Britain "opened the way for what amounted to a remarkably fast indictment by giving [prosecutor Louise] Arbour access to intelligence and other information long denied to her by Western governments," the New York Times reported, with two full pages devoted to the Indictment. Both documents hold that the atrocities began "on or about January 1"; in both, however, the detailed chronology reveals that atrocities continued about as before until the bombing led to a very sharp escalation. That surely came as no surprise. Commanding General Wesley Clark at once described these consequences as "entirely predictable" — an exaggeration of course; nothing in human affairs is that predictable, though ample evidence is now available revealing that the consequences were anticipated, for reasons readily understood without access to secret intelligence.

One small index of the effects of "the huge air war" was offered by Robert Hayden, director of the Center for Russian and East European Studies of the University of Pittsburgh: "the casualties among Serb civilians in the first three weeks of the war are higher than all of the casualties on both sides in Kosovo in the three months that led up to this war, and yet those three months were supposed to be a humanitarian catastrophe." True, these particular conse-

quences are of no account in the context of the jingoist hysteria that was whipped up to demonize Serbs, reaching intriguing heights as bombing openly targeted the civilian society and hence required more fervent advocacy.

By chance, at least a hint of a more credible answer to Friedman's rhetorical question was given in the Times on the same day in a report from Ankara by Stephen Kinzer. He writes that "Turkey's best-known human rights advocate entered prison" to serve his sentence for having "urged the state to reach a peaceful settlement with Kurdish rebels." A few days earlier, Kinzer had indicated obliquely that there is more to the story: "Some [Kurds] say they have been oppressed under Turkish rule, but the Government insists that they are granted the same rights as other citizens." One may ask whether this really does justice to some of the most extreme ethnic cleansing operations of the mid '90s, with tens of thousands killed, 3500 villages destroyed, some 2.5 to 3 million refugees, and hideous atrocities that easily compare to those recorded daily in the front pages for selected enemies, reported in detail by the major human rights organizations but ignored. These achievements were carried out thanks to massive military support from the United States, increasing under Clinton as the atrocities peaked, including jet planes, attack helicopters, counterinsurgency equipment, and other means of terror and destruction, along with training and intelligence information for some of the worst killers.

Recall that these crimes have been proceeding through the '90s within NATO itself, and under the jurisdiction of the Council of Europe and the European Court of Human Rights, which continues to hand down judgments against Turkey for its U.S.-supported atrocities. It took real discipline for participants and commentators "not to notice" any of this at the celebration of NATO's 50th anniversary in April. The discipline was particularly impressive in light of the fact that the celebration was clouded by somber concern, over ethnic cleansing — by officially-designated enemies, not by the enlightened states that are to rededicate themselves to their traditional mission of bringing justice and freedom to the suffering people of the world, and to defend human rights, by force if necessary, under the principles of the New Humanism.

*The cost of the "Just War" in Kosovo*





These crimes, to be sure, are only one illustration of the answer given by the enlightened states to the profound question of "how we should react when bad things happen in unimportant places." We should intervene to escalate the atrocities, not "looking away" under a "double standard," the common evasion when such marginalia are impolitely adduced. That also happens to be the mission that was conducted in Kosovo, as revealed clearly by the course of events, though not the version refracted through the prism of ideology and doctrine, which do not gladly tolerate the observation that a consequence of the "the huge air war" was a change from a year of atrocities on the scale of the annual (U.S.-backed) toll in Colombia in the 1990s to a level that might have approached atrocities within NATO/Europe itself in the 1990s had the bombing continued.

The marching orders from Washington, however, are the usual ones: Focus laser-like on the crimes of today's official enemy, and do not allow yourself to be distracted by comparable or worse crimes that could easily be mitigated or terminated thanks to the crucial role of the enlightened states in perpetuating them, or escalating them when power interests so dictate. Let us obey the orders, then, and keep to Kosovo.

A minimally serious investigation of the Kosovo Accord must review the diplomatic options of March 23, the day before "huge air war" was launched, and compare them with the agreement reached by NATO and Serbia on June 3. Here we have to distinguish two versions: (1) the facts, and (2) the spin — that is, the U.S./NATO version that frames reporting and commentary in the enlightened states. Even the most cursory look reveals that the facts and the spin differ sharply. Thus the New York Times presented the text of the Accord with an insert headed: "Two Peace Plans: How they Differ." The two peace plans are the Rambouillet (Interim) Agreement presented to Serbia as a take-it-or-be-bombed ultimatum on March 23, and the Kosovo Peace Accord of June 3. But in the real world there are three "peace plans," two of which were on the table on March 23: the Rambouillet Agreement and the Serb National Assembly Resolutions responding to it.

Let us begin with the two peace plans of March 23, asking how they differed and how they com-

pare with the Kosovo Peace Accord of June 3, then turning briefly to what we might reasonably expect if we break the rules and pay some attention to the (ample) precedents.

The Rambouillet Agreement called for complete military occupation and political control of Kosovo by NATO, and effective NATO military occupation of the rest of Yugoslavia at NATO's will. NATO is to "constitute and lead a military force" (KFOR) that "NATO will establish and deploy" in and around Kosovo, "operating under the authority and subject to the direction and political control of the North Atlantic Council (NAC) through the NATO chain of command"; "the KFOR commander is the final authority within theater regarding interpretation of this chapter [Implementation of the military Agreement] and his interpretations are binding on all Parties and persons" (with an irrelevant qualification). Within a brief time schedule, all Yugoslav army forces and Ministry of Interior police are to redeploy to "approved cantonment sites," then to withdraw to Serbia, apart from small units assigned to border guard duties with limited weapons (all specified in detail). These units would be restricted to defending the borders from attack and "controlling illicit border crossings," and not permitted to travel in Kosovo apart from these functions.

"Three years after the entry into force of this Agreement, an international meeting shall to be convened to determine a mechanisms for a final settlement for Kosovo." This paragraph has regularly been construed as calling for a referendum on independence, not mentioned.





With regard to the rest of Yugoslavia, the terms for the occupation are set forth in Appendix B: Status of Multi-National Military Implementation Force. The crucial paragraph reads: 8. NATO personnel shall enjoy, together with their vehicles, vessels, aircraft, and equipment, free and unrestricted passage and unimpeded access throughout the FRY including associated airspace and territorial waters. This shall include, but not be limited to, the right of bivouac, maneuver, billet, and utilization of any areas or facilities as required for support, training, and operations. The remainder spells out the conditions that permit NATO forces and those they employ to act as they choose throughout the territory of the FRY, without obligation or concern for the laws of the country or the jurisdiction of its authorities, who are, however, required to follow NATO orders "on a priority basis and with all appropriate means." One provision states that "all NATO personnel shall respect the laws applicable in the FRY..." but with a qualification to render it vacuous: "Without prejudice to their privileges and immunities under this Appendix, all NATO personnel...."

It has been speculated that the wording was designed so as to guarantee rejection. Perhaps so. It is hard to imagine that any country would consider such terms, except in the form of unconditional surrender.

In the massive coverage of the war one will find little reference to the Agreement that is even close to accurate, notably the crucial article of

Appendix B just quoted. The latter was, however, reported as soon as it had become irrelevant to democratic choice. On June 5, after the peace agreement of June 3, the New York Times reported that under the annex to the Rambouillet Agreement "a purely NATO force was to be given full permission to go anywhere it wanted in Yugoslavia, immune from any legal process," citing also the wording. Evidently, in the absence of clear and repeated explanation of the basic terms of the Rambouillet Agreement — the official "peace process" — it has been impossible for the public to gain any serious understanding of what was taking place, or to assess the accuracy of the preferred version of the Kosovo Accord.

The second peace plan was presented in resolutions of the Serbian National Assembly on March 23. The Assembly rejected the demand for NATO military occupation, and called on the OSCE (Organization for Security and Cooperation in Europe) and the UN to facilitate a peaceful diplomatic settlement. It condemned the withdrawal of the OSCE Kosovo Verification Mission ordered by the United States on March 19 in preparation for the March 24 bombing. The resolutions called for negotiations leading "toward the reaching of a political agreement on a wide-ranging autonomy for Kosovo and Metohija [the official name for the province], with the securing of a full equality of all citizens and ethnic communities and with respect for the sovereignty and territorial integrity of the Republic of Serbia and the Federal Republic of Yugoslavia." Furthermore, though "The Serbian Parliament does not accept presence of foreign military troops in Kosovo and Metohija," The Serbian Parliament is ready to review the size and character of the international presence in Kosmet [Kosovo/Metohija] for carrying out the reached accord, immediately upon signing the political accord on the self-rule agreed and accepted by the representatives of all national communities living in Kosovo and Metohija.

The essentials of these decisions were reported on major wire services and therefore certainly known to every news room. Several database searches have found scarce mention, none in the national press and major journals.





The two peace plans of March 23 thus remain unknown to the general public, even the fact that there were two, not one. The standard line is that "Milosevic's refusal to accept...or even discuss an international peacekeeping plan [namely, the Rambouillet Agreement] was what started NATO bombing on March 24" (Craig Whitney, *New York Times*), one of the many articles deploring Serbian propaganda — accurately no doubt, but with a few oversights.

As to what the Serb National Assembly Resolutions meant, the answers are known with confidence by fanatics — different answers, depending on which variety of fanatics they are. For others, there would have been a way to find out the answers: to explore the possibilities. But the enlightened states preferred not to pursue this option; rather, to bomb, with the anticipated consequences.

Further steps in the diplomatic process, and their refraction in the doctrinal institutions, merit attention, but I will skip that here, turning to the Kosovo Accord of June 3. As might have been expected, it is a compromise between the two peace plans of March 23. On paper at least, the U.S./NATO abandoned their major demands, cited above, which had led to Serbia's rejection of the ultimatum. Serbia in turn agreed to an "international security presence with substantial NATO participation [which] must be deployed under unified command and control...under U.N. auspices." An addendum to the text stated "Russia's position [that] the Russian contingent will not be under NATO command and its relationship to the international presence will be governed by relevant additional agreements." There are no terms permitting access to the rest of the FYR for NATO or the "international security presence" generally. Political control of Kosovo is not to be in the hands of NATO but of the UN Security Council, which will establish "an interim administration of Kosovo." The withdrawal of Yugoslav forces is not specified in the detail of the Rambouillet Agreement, but is similar, though accelerated. The remainder is within the range of agreement of the two plans of March 23.

The outcome suggests that diplomatic initiatives could have been pursued on March 23, averting a terrible human tragedy with consequences that

will reverberate in Yugoslavia and elsewhere, and are in many respects quite ominous.

To be sure, the current situation is not that of March 23. A *Times* headline the day of the Kosovo Accord captures it accurately: "Kosovo Problems Just Beginning." Among the "staggering problems" that lie ahead, Serge Schmemmann observed, are the repatriation of the refugees "to the land of ashes and graves that was their home," and the "enormously costly challenge of rebuilding the devastated economies of Kosovo, the rest of Serbia and their neighbors." He quotes Balkans historian Susan Woodward of the Brookings Institution, who adds "that all the people we want to help us make a stable Kosovo have been destroyed by the effects of the bombings," leaving control in the hands of the KLA (Kosovo Liberation Army). The U.S. had strongly condemned the KLA as "without any question a terrorist group" when it began to carry out organized attacks in February 1998, actions that Washington condemned "very strongly" as "terrorist activities," probably giving a "green light" thereby to Milosevic for the severe repression that led to the Colombia-style violence before the bombings precipitated a sharp escalation.

These "staggering problems" are new. They are "the effects of the bombings" and the vicious Serb reaction to them, though the problems that preceded the resort to violence by the enlightened states were daunting enough.

Turning from facts to spin, headlines hailed the grand victory of the enlightened states and their leaders, who compelled Milosevic to "capitu-





late," to "say uncle," to accept a "NATO-led force," and to surrender "as close to unconditionally as anyone might have imagined," submitting to "a worse deal than the Rambouillet plan he rejected." Not exactly the story, but one that is far more useful than the facts. The only serious issue debated is whether this shows that air power alone can achieve highly moral purposes, or whether, as the critics allowed into the debate allege, the case still has not been proven. Turning to broader significance, Britain's "eminent military historian" John Keegan "sees the war as a victory not just for air power but for the 'New World Order' that President Bush declared after the Gulf War," military expert Fred Kaplan reports. Keegan wrote that "If Milosevic really is a beaten man, all other would-be Milosevics around the world will have to reconsider their plans."

The assessment is realistic, though not in the terms Keegan may have had in mind: rather, in the light of the actual goals and significance of the New World Order, as revealed by an important documentary record of the '90s that remains unreported, and a plethora of factual evidence that helps us understand the true meaning of the phrase "Milosevics around the world." Merely to keep to the Balkans region, the strictures do not hold of huge ethnic cleansing operations and terrible atrocities within NATO itself, under European jurisdiction and with decisive and mounting U.S. support, and not conducted in response to an attack by the world's most awesome military force and the imminent threat of invasion. These crimes are legitimate under the rules of the New World Order, perhaps even meritorious, as are atrocities elsewhere that conform to the perceived interests of the leaders of the enlightened states and are regularly implemented by them when necessary. These facts, not particularly obscure, reveal that in the "new internationalism...the brutal repression of whole ethnic groups" will not merely be "tolerated," but actively expedited — exactly as in the "old internationalism" of the Concert of Europe, the U.S. itself, and many other distinguished predecessors.

While the facts and the spin differ sharply, one might argue that the media and commentators are realistic when they present the U.S./NATO version as if it were the facts. It will become The Facts as a simple consequence of the distribution

of power and the willingness of articulate opinion to serve its needs. That is a regular phenomenon. Recent examples include the Paris Peace Treaty of January 1973 and the Esquipulas Accords of August 1987. In the former case, the U.S. was compelled to sign after the failure of the Christmas bombings to induce Hanoi to abandon the U.S.-Vietnam agreement of the preceding October. Kissinger and the White House at once announced quite lucidly that they would violate every significant element of the Treaty they were signing, presenting a different version which was adopted in reporting and commentary, so that when North Vietnam finally responded to serious U.S. violations of the accords, it became the incorrigible aggressor which had to be punished once again, as it was. The same tragedy/farce took place when the Central American Presidents reached the Esquipulas Accord (often called "the Arias plan") over strong U.S. opposition. Washington at once sharply escalated its wars in violation of the one "indispensable element" of the Accord, then proceeded to dismantle its other provisions by force, succeeding within a few months, and continuing to undermine every further diplomatic effort until its final victory. Washington's version of the Accord, which sharply deviated from it in crucial respects, became the accepted version. The outcome could therefore be heralded in headlines as a "Victory for U.S. Fair Play" with Americans "United in Joy" over the devastation and bloodshed, overcome with rapture "in a romantic age" (Anthony Lewis, headlines in New York Times, all reflecting the general euphoria over a mission accomplished).

It is superfluous to review the aftermath in these and numerous similar cases. There is little reason to expect a different story to unfold in the present case — with the usual and crucial proviso: If we let it.

(Credit: The Chomsky Archives, Znet:  
[www.zmag.org](http://www.zmag.org))

(Photographs: Internet Sources)



# A Just War?

- Stephen R. Shalom

On June 17, 1999, the editors of the New York Times explained that the "signs of mass killing and wanton destruction" throughout Kosovo "ought to give pause to those who fault NATO for confronting Slobodan Milosevic." "[I]t is not too soon to conclude," wrote the editors, "that the air offensive was just."

But why would further evidence of Serbian atrocities during the war strengthen the pro-war case? Principled critics of the NATO war did not doubt that Milosevic's forces had committed horrible atrocities before the bombing and even more monstrous crimes once the bombing began. Indeed, a major argument raised by these critics against the war was precisely that the bombing unleashed a humanitarian catastrophe for the Kosovar Albanians on a scale far worse than what was going on before the bombing. Inevitably and depressingly further evidence of post-bombing Serbian atrocities will come to light. Such evidence, however, will not weaken the anti-war case. On the contrary, it strengthens the view that alternatives to the bombing should have been pursued — as imperfect as they may have been. It seems to me that the moral burden is on the supporters of the war to show that NATO's resort to violence mitigated to some degree the suffering of the ethnic Albanians. This is not a sufficient condition for justifying the war — for the war surely had other costs — but certainly it is a necessary one.

The war's supporters have tried to meet this burden by making three different arguments. First, they have argued that what was going on before the bombing was not significantly different from what came later. Second, they have argued that the accelerated ethnic cleansing began shortly before the bombing, so that the bombing was a response to the ethnic cleansing, rather than a contributing factor. And, third, they have argued that the post-bombing ethnic cleansing was going to happen in any event so the bombing played no role in causing it. Each one of these

arguments is unconvincing. I will consider them in turn.

## Before and After

How does Kosovo before the bombing compare with it after? Before there were some 2,000 deaths. This is a very rough figure, including deaths of Serbs and Albanians, military and civilian, with Albanian civilians being the main victims.<sup>1</sup> After the bombing, we don't know the total death toll, but it is surely far higher.

Before the bombing there was a clear Serbian intention of driving people out of border villages and KLA strongholds, but no effort to expel ethnic Albanians from the cities or from Kosovo as a whole. After the bombing, however, as NATO spokesperson Jamie Shea stated, "it's no longer simply a matter of small villages being affected, or those areas which had links with the Kosovo Liberation Army, it's now the entire territory and towns and cities too...."<sup>2</sup>

On March 31, a U.S. State Department report declared:

For the past year, Serb tactics in Kosovo were dominated by attacks by the security forces on small villages. While as many as 300,000 people were displaced either internally or abroad at the height of last summer's fighting, the bulk of them left their houses voluntarily, out of legitimate fear for their safety.

Yugoslav Army units and armed civilians have now joined the police in systematically expelling ethnic Albanians from both villages and the larger





towns of Kosovo. Many of these places had not been the scene of any previous fighting or UCK [KLA] activity...<sup>3</sup>

The May 1999 report of the U.S. State Department, "Erasing History: Ethnic Cleansing in Kosovo," stated: "In contrast to last fall, when attacks on civilians by Serbian security forces generally occurred in small villages, this spring VJ and MUP units have apparently joined with recently armed Serb civilians to expel their neighbors from both villages and the larger towns of Kosovo." According to the report, "In late March 1999, Serbian forces dramatically increased the scope and pace of their efforts, moving away from selective targeting of towns and regions suspected of KLA sympathies toward a sustained and systematic effort to ethnically cleanse the entire province of Kosovo."<sup>4</sup>

Or consider this pre-bombing report from the U.S. element of the Kosovo Diplomatic Observer Mission on March 1, 1999:

According to humanitarian observers, a large group (estimates range from several hundred to some 3,000) ethnic Albanian Kosovars have flocked to the Macedonian border over the weekend attempting to flee the latest violence in the far south of Kosovo. Those with passports and proper papers are apparently being permitted to pass into Macedonia. Most of those trying to flee, however, are being prevented by Serbian authorities from leaving Kosovo.<sup>5</sup>

Compare this with the post-bombing situation where people were driven out and their identity documents confiscated or destroyed.

The International War Crimes Tribunal for the Former Yugoslavia, in its indictment of Milosevic and four others, says that actions resulting in "forced deportations" began "on or about 1 January 1999." But the indictment lists ten cases of forced deportations of ethnic Albanians by FRY and Serb forces, every one of which took place no earlier than late March.<sup>6</sup> Any good prosecutor will choose the best documented instances of criminal actions for presentation in an indictment; that no cases of forced deportations are listed for the period when the

international verifiers were present in the province (and hence when atrocities are more readily documented) shows the lack of significant forced deportations out of Kosovo earlier.

## Was Ethnic Cleansing in Progress?

A second line of argument by supporters of the war is that ethnic cleansing was already in progress when the bombing began, not months before, but in the week or two before. To have failed to bomb, Madeleine Albright has said, would have meant "we would be negotiating while they were carrying out their 'village a day keeps NATO away.'"<sup>7</sup>

But it is important to keep clear the chronology here. On March 15, the ethnic Albanian delegation at Rambouillet agreed to sign the accord. As U.S. and NATO officials had warned Milosevic, if the Albanians signed and Belgrade did not, there would be NATO bombing. On the 15th Clinton warned Milosevic again. Thus, it is not surprising that Serb forces increased their activity on the 15<sup>th</sup> — since Milosevic knew he wasn't going to sign and that NATO bombing was thus more likely. Some of this Serbian military activity involved, in the words of a State Department spokesperson, "positioning themselves in such a way that one could infer that they are anticipating NATO military action" and some was attacks on areas of KLA strength.<sup>9</sup> But still, Serb actions in this period were different from what they would soon become. The OSCE reported on March 17 that "Serb forces were escalating their military activities gradually while keeping a careful eye on Western reaction. Belgrade seems to be controlling the situation to avoid huge losses of civilian lives that would leave the West with no option but to take military action." A report by the UN High Commissioner for Refugees, said OSCE, agrees with their own "observation that civilian casualties have been 'relatively light' in the recent fighting. The report says that in at least some places, VJ [Yugoslav army] forces have apparently made deliberate attempts to avoid targeting non-combatants."<sup>10</sup> And the State Department's "Chronology of Recent Ethnic Cleansing in Kosovo" begins on March 19.<sup>11</sup>

March 19 was the date on which the OSCE observers were withdrawn — a precondition, as everyone knew, for the bombing. And U.S. and

“  
Is Clinton  
morally capable  
of having his  
nemesis

Kenneth Starr  
assassinated?  
No doubt: if one  
is indifferent to  
the deaths of  
hundreds of  
thousands of  
Iraqi civilians  
as a result of  
U.S.-imposed  
sanctions, then  
killing an addi-  
tional Special  
Prosecutor  
would not pres-  
ent a moral  
dilemma.

”



NATO officials traveled to Belgrade to make sure that Milosevic knew the bombing would soon commence.<sup>12</sup> So that Milosevic might have “responded” to the bombing before it actually began would not be unexpected. The violence sharply increased — “The racial hatred was unleashed,” said one senior Administration official. ‘Albanians began to kill Serbs; Serbs were shooting up villages.’” — but still in most places the crucial turning point was March 24, the day the bombing began. “There was fighting near here all the time,” an Albanian woman in Stimlje told Steven Erlanger of the New York Times after the war. “But with the bombs, the Serbs turned on the people.”<sup>13</sup> The Times’ John Kifner reported that “The Serbs began attacking Kosovo Liberation Army strongholds on March 19, but their attack kicked into high gear on March 24, the night NATO began bombing Yugoslavia.”<sup>14</sup>

It is clear, of course, that a Serb offensive was beginning, but even this may not have been unconnected to the threatened NATO strikes. Washington made clear that its threat to begin bombing would not be put off by a cease-fire on the ground, so long as Milosevic refused to sign the Rambouillet accord. At a State Dept. press briefing on March 22, a questioner asked “how the United States and NATO would react if Mr. Milosevic offered a cease-fire and just a cease-fire?” Spokesperson James Foley replied:

... I refer you to what Secretary Albright stated yesterday: we’re looking for two things, not one thing. We’re looking for an end of military activity and a return to compliance with his October commitments, and we’re looking for a “yes” to peace - in other words, a “yes” to the Contact Group peace plan [i.e., the Rambouillet accord].<sup>15</sup>

Thus, there was hardly much incentive for Milosevic to accept a cease-fire since, as long as he rejected Rambouillet, the bombing was coming in any event.

### Was It Going to Happen Anyway?

The third argument advanced by the war’s proponents is that the catastrophe was going to happen anyway. For example, in a recent interview with Jim Lehrer, President Clinton declared:

I absolutely reject the theory that some people have advanced that what [Milosevic] did was worse than he would have done if we hadn’t bombed as early as we did. I just simply don’t believe that. He had this plan laid out; he was going to carry it into effect last October. He didn’t do it because of the threat of bombing.<sup>16</sup>

The editors of the New Republic went even further “Had NATO not intervened, ... this blood-bath would have been worse.”<sup>17</sup>

The inevitability argument is based on two kinds of evidence: first, evidence showing that the mass ethnic cleansing was planned and organized, and second, Milosevic’s grim record over the previous decade elsewhere in the former Yugoslavia.

That the expulsion of a large fraction of the ethnic Albanian population was methodically planned seems largely true,<sup>18</sup> but irrelevant. That an action is planned in advance does not show that it was going to happen under any circumstances. NATO, for example, planned its bombing campaign long in advance. That doesn’t mean though that the bombing would have taken place even if Milosevic had signed on to Rambouillet. Likewise, NATO surely developed contingency plans in the event that Milosevic invaded Albania, Montenegro, or Macedonia. But these plans were not invoked when no Serbian invasion of its neighbors took place. All military organizations develop contingency plans. That they carry out these plans under some circumstances does not demonstrate that they would have done so under other circumstances.

So the efforts of NATO spokesperson Jamie Shea to address “whether this appalling humanitarian situation is a response to NATO action or is something that was planned well beforehand”<sup>19</sup> were quite beside the point. The ethnic cleansing was both a response to NATO and planned well beforehand. Needless to say, in arguing that Milosevic’s actions were a response to NATO is not to justify or excuse them: his actions were grotesque crimes. When terrorists threaten to kill their hostages in the event of a police attack, and then do so, we do not justify or excuse the killing by pointing out that the attack



may have showed reckless disregard for the welfare of the hostages.

Since NATO had threatened bombing as early as October 1998, it would not be surprising that authorities in Belgrade would have worked out their response well before March 24. Still, some of the specific pieces of evidence adduced to show Milosevic's long-term intention to engage in wholesale ethnic cleansing are consistent with other explanations — many of them quite ugly, but not the same as what ultimately transpired.

For example, NATO officials have pointed to the augmentation of Serbian forces in Kosovo starting in December 1998 as proof that Milosevic had long planned his policy of expelling the ethnic Albanian population.<sup>20</sup> But then what are to make of the build-up of the KLA during this same period (and before)? The fact is that both sides violated the October agreement and prepared their forces for renewed fighting in the Spring.<sup>21</sup>

Likewise, Milosevic's sacking of General Momcilo Perisic as Yugoslav army chief of staff on November 24, 1998 is said to prove that the population expulsions were intended all along since Perisic had made clear his distaste for ethnic cleansing.<sup>22</sup> But Milosevic had other reasons for wanting to get rid of Perisic: Perisic had refused to take Milosevic's side in his conflict with the elected government of Montenegro. By ditching Perisic and another top official, wrote the Economist, "Milosevic has sent an ominous signal to Mr. Djukanovic in Montenegro and has perhaps averted an immediate threat of a coup against himself."<sup>23</sup>

The Washington Post cited what it referred to as some subtle early signs that Milosevic intended his ethnic cleansing. "In January and February [1999], for instance, a newspaper in Kosovo's capital, Pristina, reported that Yugoslav officials were collecting key documents and records from different villages in central or western Kosovo — for safekeeping, the government said."<sup>24</sup> But this evidence is not inconsistent with an expectation of renewed fighting in the Spring; if the plan were to ethnically cleanse all of Kosovo — villages and towns, east and west — why were records secured only from the usual areas of KLA strength?

So neither the troop build up nor Perisic's firing nor the document collecting prove that the ethnic cleansing would have taken place in the absence of the NATO bombing.

German officials claim that their intelligence services have discovered the Serbian plans for the ethnic cleansing, Operation Horseshoe. The documentation regarding this plan is rather thin — neither the subsequent U.S. State Department report on ethnic cleansing nor the ICTY indictment refer to it<sup>25</sup> — but, in any case nothing in the German claims shows that the Operation was to have been put into effect no matter what. As Dejan Anastasijevic of the London-based Institute for War & Peace Reporting put it, "It is now clear that Belgrade prepared the ethnic cleansing of Kosovo — code-named Operation Horseshoe — months in advance. It was to be executed in the event of NATO bombing."<sup>26</sup>

The second sort of evidence that is claimed to show that the post-bombing catastrophe would have happened anyway is that relating to Milosevic's character. For example, NATO spokesperson Jamie Shea declared on April 5, 1999:

...there are three and a half million people who have been displaced by nationalism in the former Yugoslavia, most of it generated by Milosevic since 1991. And for 99.999 per cent of that time, NATO has not been conducting air operations. So the historical record is that President Milosevic doesn't normally wait for force to be used against him before either starting, or indeed accelerating, ethnic cleansing.<sup>27</sup>

Milosevic's record was indeed grisly. Even if Shea conveniently ignored those population displacements generated by others, particularly by Franjo Tudjman with United States backing, Milosevic has certainly been responsible for criminal behavior. To conclude that Milosevic was morally capable of massive ethnic cleansing is undoubtedly accurate. But this is a far cry from proving that therefore he intended to do what he did even in the absence of the bombing. Consider an analogy. Is Clinton morally capable of having his nemesis Kenneth Starr assassinated? No doubt: if one is indifferent to the deaths of hundreds of thousands of Iraqi civilians as a

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In considering  
whether  
Milosevic  
would have  
“done it any-  
way,” we need  
to look at what  
he stood to  
gain by whole-  
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cleansing after  
the bombing  
and what he  
would have  
stood to lose by  
wholesale eth-  
nic cleansing in  
the absence of  
bombing.

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result of U.S.-imposed sanctions, then killing an additional Special Prosecutor would not present a moral dilemma. But showing that an actor is morally capable of an action is hardly proof that the actor will carry out the action. One needs to look at all the circumstances and judge assessments of costs and benefits.

With regard to Milosevic and ethnic cleansing, note first that none of those officials who presumably were well aware of the Serbian leader's level of morality expected ethnic cleansing on the scale that occurred.<sup>28</sup> Second, there were many warnings — ignored by U.S. decision-makers — that the bombing might set off a tidal wave of ethnic cleansing. For example, according to Porter Goss, chair of the U.S. House Intelligence Committee, "In February 1999, the head of the CIA, George Tenet, briefed congressional leaders ... that military action could include the chance of ethnic cleansing." Summarized Goss: "if we stuck a stick in this nest, we would stir it up more."<sup>29</sup> The New York Times reported that "Pentagon planners, for example, said they warned the Administration publicly and privately that Milosevic was likely to strike out viciously against the Kosovo Albanians as soon as a possibility of military actions was raised...."<sup>30</sup> And Italian Prime Minister Massimo D'Alema told Clinton that the result of a failed bombing campaign would be 300,000 to 400,000 refugees moving into Italy.<sup>31</sup>

And there were warnings as well — threats actually — from the Serbs.<sup>32</sup> Of course they were trying to manipulate the NATO response, but any hostage taker knows that you need to keep the hostage alive as long (but only as long) as the action you want to deter doesn't occur.

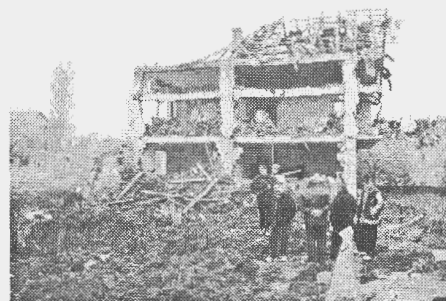
In considering whether Milosevic would have "done it anyway," we need to look at what he stood to gain by wholesale ethnic cleansing after the bombing and what he would have stood to lose by wholesale ethnic cleansing in the absence of bombing.

From Milosevic's point of view, the ethnic cleansing was a rational response to the bombing. ("Rational," of course, does not mean moral or in any way justified.) The Washington Post reported that "Western officials said the mass urban expulsions were meant not only to empty cities of ethnic Albanians but also to provoke a

humanitarian crisis that would overwhelm and distract NATO forces stationed on the other side of the border. 'They were pointed decisively towards Macedonia, in a very intentional way, like the old Westerns where they used to send a cattle stampede against the Indians,' said a NATO official."<sup>33</sup> And the New York Times reported "Forcing the refugees over the borders, NATO intelligence experts believe, served another purpose: overwhelming NATO troops stationed in Macedonia with an unmanageable relief crisis, calculating that the task of feeding, housing and caring for hundreds of thousands of refugees would consume the alliance's energies and divert it from preparing a military campaign."<sup>34</sup> This tactic was certainly callous and criminal, but it suggests that the threat of NATO intervention provided an additional incentive for the ethnic cleansing.

Moreover, if NATO was going to try to force a settlement militarily, there was considerable incentive for Milosevic to make sure he was in the strongest possible bargaining position when the fighting ended: i.e., to try to totally wipe out the KLA, uproot its mass base, and remove Albanians from as much territory as possible in preparation for any partition.

So why wouldn't Milosevic have ordered massive ethnic cleansing in the absence of bombing? The bombing provided Milosevic with the perfect cover for the expulsions. Unsympathetic though much of the Serbian population was toward the Kosovar Albanians, they would not have openly and knowingly endorsed mass atrocities. This is why Serbian propaganda constantly denied that atrocities were being committed and insisted that the plight of the refugees was the result of people fleeing NATO bombs. Anyone looking at the evidence carefully would have seen that NATO bombs could not have been the chief cause of the flight, but the bombing allowed those who wanted to be deceived — whether in Serbia or abroad — to ignore the grotesque Serbian atrocities. NATO bombing also provided an excuse for even more extensive controls on the Serbian media, permitting Milosevic to further hide his crimes.





Milosevic needed to obscure his atrocities not just from his domestic population, but from world opinion as well. The Serbian leader could expect some diplomatic support from the Russians and the Chinese only as long as they could plausibly claim that it was the bombing that caused the refugees. Without the cover of the bombing, they would find it difficult to ignore Milosevic's actions.

It is true, as supporters of the bombing have noted, that unarmed observers on the ground are no guarantee that atrocities won't be committed, as was seen in Bosnia, and Kosovo too. But the observers did provide some restraint because their presence made it much more difficult to kill in secret. The NATO bombing, therefore, by requiring the withdrawal of the observers, made the massive ethnic cleansing more likely. The day the observers were pulled out "was the day all hell broke loose," a NATO intelligence official told the Washington Post. "The Serbs were spring-loaded to go when the last observer left Kosovo."<sup>35</sup> And the Guardian reported on March 20, that the "departure of international monitors from Kosovo will spur a humanitarian crisis in the Serbian province as tens of thousands of ethnic Albanians flee their villages fearing that a Serbian offensive will now be unleashed," adding that "Once the ubiquitous orange OSCE vehicles go, NATO air strikes will be of little comfort to Kosovo's ethnic Albanians if the Serbian security forces take their gloves off as they did last year."<sup>36</sup>

Of course, no one can say for certain what would or wouldn't have happened in the absence of NATO bombing. But those who urged and now cheer a policy that saw many thousands of deaths and more than a million displaced people have certainly not made a compelling case to convince us that their policy helped its supposed beneficiaries.

## Notes

1. Some sources make it seem as if few if any ethnic Albanian civilians had been killed. For example, Regis Debray writes: "1700 Albanian fighters, 180 policemen and 120 Serb soldiers have been killed. The UCK has kidnapped 380 persons and released 103 of them, the rest being dead or disappeared, sometimes after torture - among them 2 journalists and 14 workmen." (Regis Debray, "A Letter from a Traveler to the President of the Republic," *Le Monde*, 13 May 1999, [www.lemonde.fr/actu/international/exyougo/kosovo/](http://www.lemonde.fr/actu/international/exyougo/kosovo/)

articles/990513/debray.htm Translated by: Chavdar Naidenov, available at the ZNet website: <http://www.zmag.org>); and the British Helsinki Human Rights Group states, "only 1700 Albanians (mainly fighters) 180 Serb policemen and 120 Serb soldiers were killed in Kosovo last year." ("NATO targets Yugoslavia: Report of a visit to Belgrade, 10th-13th May, 1999," also available at the ZNet website, <http://www.zmag.org>. Neither of these sources explains where these numbers come from, but both made trips to Yugoslavia in May 1999. Human rights sources, however, tell a very different story: Amnesty International's 1999 Annual Report states that "more than 1,500 people, predominantly ethnic Albanians, were reported to have been killed in the armed conflict by the end of the year. Evidence suggested that many of the killings were extrajudicial executions by the police, army, or civilians armed by the authorities." In addition, "hundreds" of ethnic Albanians were reported missing by the end of the year and "some 100 people, predominantly Serbs and Montenegrins" were missing and unaccounted for in KLA-controlled areas. Another Amnesty report (Amnesty International - News Release - EUR 70/05/99 18 January 1999, "YUGOSLAVIA - Kosovo Province: The truth behind the killings of 45 ethnic Albanians in Kosovo must be found") states "Over 2,000 people died after armed conflict erupted in Kosovo province in February 1998. Many of them were extra-judicially executed or deliberately and arbitrarily killed. Some 700 people, the majority ethnic Albanians but also including over a hundred Serbs, remain unaccounted for." Human Rights Watch reported "Most of the estimated 2,000 people killed through September were civilians." ("A Week of Terror in Drenica: Humanitarian Law Violations in Kosovo," 1999), and its annual report stated that "The majority of those killed and injured were civilians." The ethnic Albanian Council for the Defense of Human Rights and Freedoms in Pristina reported that in 1998 1,934 Albanians were killed, of whom 837 were women, children, or elderly (Council for the Defense of Human Rights and Freedoms, "Report on the Violation of Human Rights and Freedoms in Kosova in the Course of 1998," Pristina, 22 Jan. 1999, [www.kosovainfo.com](http://www.kosovainfo.com). NATO spokesman Jamie Shea stated that the death toll had "already spiralled well in excess of 3,000 before NATO even got to the point of using force" (Transcript Press Conference NATO HQ by NATO Spokesman, Jamie Shea 26 Mar. 1999 and Air Commodore David Wilby, SHAPE), but the usual U.S. figure was 2,000: "we were carrying a figure of about 2,000 people who had been killed in this conflict." Julia Taft, Assistant Secretary of State for Population, Refugees and Migration, White House Press Briefing, The Briefing Room, 2 April 1999.

2. NATO HQ Press Conference 6 Apr. 1999 by NATO Spokesman, Jamie Shea and Air Commodore, David Wilby, SHAPE. A Jan. 12, 1999 intelligence report from the German Foreign Office to the Administrative Court of Trier (Az: 514-516.80/32 426) stated: "The East of Kosovo is still not involved in armed conflict. Public life in cities like Pristina, Urosevac, Gnjilan, etc. has, in the entire conflict period, continued on a relatively normal basis." See "Important Internal Documents >From Germany's Foreign Office Regarding Pre-bombardment Genocide in Kosovo" translated by Eric Canepa from documents obtained by IALANA; available on the ZNet website, <http://www.zmag.org>.



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3. U.S. Department of State, Bureau of European Affairs, "Ethnic Cleansing in Kosovo," Washington, DC, 31 March 1999, [www.state.gov/www/regions/eur/fs\\_990331\\_ksvo\\_ethnic.html](http://www.state.gov/www/regions/eur/fs_990331_ksvo_ethnic.html).
4. U.S. Department of State, "Erasing History: Ethnic Cleansing in Kosovo," Washington, DC, May 1999, [http://www.state.gov/www/regions/eur/rpt\\_9905\\_ethnic\\_ksvo\\_toc.html](http://www.state.gov/www/regions/eur/rpt_9905_ethnic_ksvo_toc.html).
5. KDOM Daily Report Released by the Bureau of European and Canadian Affairs, Office of South Central European Affairs, U.S. Department of State, Washington, DC., Compiled by EUR/SCE (202-647-4850) from daily reports of the U.S. element of the Kosovo Diplomatic Observer Mission, 1 March 1999.
6. The International Criminal Tribunal For The Former Yugoslavia, Indictment, Slobodan Milosevic, Milan Milutinovic, Nikola Sainovic, Dragoljub Ojdanic, Vlatko Stojiljkovic, 22 May 1999, the Hague, the Netherlands, paragraph 97. Specific dates are given for 9 of the 10 incidents, the earliest being "on or about March 25." The tenth instance, in Kosovska Mitrovica, is said to have begun "in late March 1999." The U.S. State Dept. report ("Erasing History...") states that Serbian forces have reportedly expelled all Kosovar Albanians from Kosovska Mitrovica "since March 23." A Washington Post story (Daniel Williams, "Long-Hidden Troops Emerge to Start Pullout," 11 June 1999, p. A1) states that "Serbian police and militia units rampaged through the main ethnic Albanian commercial district" of Kosovska Mitrovica "[a]fter the NATO bombing began on March 24."
7. Quoted in Elaine Sciolino and Ethan Bronner, "The Road to War: a Special Report, How a President, Distracted by Scandal, Entered Balkan War," NYT, 18 April 1999.
8. State Department spokesperson James Foley said on March 18: "anecdotally, it seems to have been in the last number of days that they've really stepped up the military action on the ground." U.S. Department of State Daily Press Briefing DPB #34 18 March 1999, 2:45 P.M.
9. U.S. Department of State Daily Press Briefing DPB #34 18 March 1999, 2:45 P.M.
10. Kosovo Update Released by the Bureau of European Affairs, Office of South Central European Affairs, U.S. Department of State, Washington, DC, 17 March 1999. Two days earlier, the observers reported that according to the UNHCR "over 5,000 residents of villages around Dus fled Sunday morning's fighting. Most had returned to their villages, however, once the shooting stopped in the afternoon," suggesting that at this point the refugees were incidental to the fighting, rather than their intention as would soon be the case. Kosovo Update Released by the Bureau of European Affairs, Office of South Central European Affairs, U.S. Department of State, Washington, DC, 15 March 1999.
11. U.S. Department of State, "Erasing History: Ethnic Cleansing in Kosovo," Washington, DC, May 1999.
12. "Holbrooke later described parts of his conversation with Milosevic. 'I said to him, "Look, are you absolutely clear in your own mind what will happen when I get up and walk out of this palace that we're now sitting in?" And he said, "You're going to bomb us."'" (Sciolino and Bronner, "The Road to War," NYT, 18 April 1999.)
13. Sciolino and Bronner, "The Road to War," NYT, 18 April 1999; Steven Erlanger, "Reporter's Notebook When 'Fear Ate Everything,' and There Was No Place to Hide," NYT, 20 June 1999. Erlanger adds: "That is not a popular view in Washington and London, but Fehmi Baftiu, the director of the Mother Teresa charity in Stimlje bears it out. 'Before, the whole population of Stimlje, perhaps 13,000 and 35,000 with the villages, was here, and all the villages were full,' he said." return
14. John Kifner, "Emptying a City of All but Bodies," NYT, May 29, 1999.
15. U.S. Department of State Off-Camera Daily Press Briefing DPB #35 Monday, March 22, 1999.
16. Interview of the President by Jim Lehrer, PBS, White House Press Release, 11 June 1999. Clinton's claim raises another question. If Milosevic was going to conduct massive ethnic cleansing in October except for the threat of bombing, then why did he do it in March under the same threat?
17. The Editors, "Mean Business," The New Republic, April 12, 1999
18. The particular means of expelling the population, however, seemed to be left to local discretion, which is why some villages had horrific massacres, while others did not. See John Kifner, "Expelling Refugees for a Relief Crisis," NYT, 29 May 1999: The paramilitaries "'were in there with Belgrade's blessing,' a NATO intelligence official said. 'What they would be allowed to do is up to the local commander.'" Of course, just as we should hold NATO officials morally responsible for unleashing bombs that they knew would kill civilians, even though the deaths were unintended, so too Milosevic cannot escape moral responsibility for unleashing known killers in Kosovo, whether or not he ordered the killings. return
19. NATO HQ Press Conference 29 Mar. 1999 by NATO Spokesman, Jamie Shea and Air Commodore David Wilby, SHAPE. The State Department report, "Erasing History," is far more cautious: "The speed with which the campaign was conducted and the breadth of the operation appear to indicate that there was a plan to ethnically cleanse at least the KLA strongholds, if not the entire province, of its ethnic Albanian population."
20. Jamie Shea, NATO HQ Press Conference 29 Mar. 1999 by NATO Spokesman, Jamie Shea and Air Commodore David Wilby, SHAPE.
21. For example, UN Secretary General Kofi Annan wrote on Nov. 12, 1998: "While welcoming reports of the withdrawal of Government forces in Kosovo to agreed levels, I urge all the parties concerned to honour their commitments and to comply fully with the Security Council resolutions. In this regard, reports of the return of Kosovo Albanian paramilitary units to positions vacated by Government forces and particularly by their continued attacks against security forces and civilians are disturbing." (Report of The Secretary-General Prepared Pursuant to Resolutions 1160 [1998], 1199 [1998] And 1203 [1998 of The Security Council, S/1998/1068, 12 Nov. 1998, para. 48.) And CIA Director George Tenet testified on Feb. 2, 1999: "The KLA used the cease-fire and the presence of international verifiers to reoccupy all the territory it lost last year, and it has kept up a continuous series of small-scale attacks against Serb security forces. Belgrade, for its part, has failed to comply with many of the provisions of the October agreements, including those pertaining to troop withdrawals.... (Statement of the Director of Central Intelligence George J. Tenet, As Prepared for Delivery Before the Senate Armed Services Committee Hearing on Current and Projected
22. Craig R. Whitney with Eric Schmitt, "NATO Had Signs Its Strategy Would Fail Kosovars," NYT, 1 April 1999. See also Michael R. Gordon and Thom Shanker, "How



- Yugoslav Military Planned and Mounted Kosovo's Ravaging," NYT, 29 May 1999; R. Jeffrey Smith and William Drozdiak, "The Anatomy of a Purge: Milosevic's Intimate Understanding of His Enemies Facilitates His Campaign of Terror Against the Kosovars," Washington Post, 11 April 1999, p. A1.
23. "Will Slobodan Milosevic Fall?" The Economist, 5 Dec. 1998, U.S. Edition, p. 57. See also Richard Bassett, "Balkan Endgame?" Jane's Defence Weekly Briefing, 13 April 1999, <http://www.janes.com/defence/features/kosovo/endgame.html>; Radio Free Europe/Radio Liberty, Balkan Report, vol. 2, no. 47, 2 Dec. 1998, available at <http://rferl.org/balkan-report/index.html>.
  24. R. Jeffrey Smith and William Drozdiak, "The Anatomy of a Purge Milosevic's Intimate Understanding of His Enemies Facilitates His Campaign of Terror Against the Kosovars," Washington Post, 11 April 1999, p. A1.
  25. The German organization IALANA has quoted the reply of ICTY Chief Prosecutor Louise Arbour to the question of whether the documents on Operation Horseshoe given her by the German government were useful: "As to Operation Horseshoe, I have my doubts as to its capacity to prove anything. If it were a document with cover, date and signature, it would be fantastic. But mostly such things [referring to documents given her by various NATO countries] look more like verbal descriptions and conclusions." (Der Spiegel, No. 17/1999 [April 27], p. 152, quoted in IALANA Press Information, Marburg, Germany, 29 April 1999, translated by Eric Canepa and available on ZNet, <http://www.znet.org>, under the title "Further German Documents.") IALANA further notes that "the documentation on Operation Horseshoe" has not yet been presented to the public for critical scrutiny; it is merely claimed to exist. It is still impossible to know whether it can adequately prove that already before the NATO air attacks the Yugoslav state and its organs had introduced measures for ethnic cleansing of Kosovo...."
  26. Dejan Anastasijevic, "How Milosevic Won The War," Institute for War & Peace Reporting, 12 May 1999, <http://www.iwpr.net>.
  27. NATO HQ Press Conference 5 Apr. 1999 by NATO Spokesman, Jamie Shea and Air Commodore, David Wilby.
  28. For example, State Dept. spokesperson James P. Rubin told a press briefing on March 16, 1999: "we face the prospect of a new explosion of violence if the international community doesn't take preventative action. Humanitarian suffering and destruction could well exceed that of the 1998 offensive." (U.S. Department of State Daily Press Briefing DPB #32 Tuesday, March 16, 1999, 12:35 P.M.) CIA Director George Tenet testified on Feb. 2, 1999: "Heavier fighting also will result in another humanitarian crisis, possibly greater in scale than last year's...." (Statement of the Director of Central Intelligence George J. Tenet, As Prepared for Delivery Before the Senate Armed Services Committee, Hearing on Current and Projected National Security Threats, February 2, 1999). General Wesley Clark said in an interview: "We thought the Serbs were preparing for a spring offensive that would target KLA strongholds, which had also been reinforced in previous months." "But we never expected the Serbs would push ahead with the wholesale deportation of the ethnic Albanian population." (R. Jeffrey Smith and William Drozdiak, "The Anatomy of a Purge Milosevic's Intimate Understanding of His Enemies Facilitates His Campaign of Terror Against the Kosovars," Washington Post, 11 April 1999; Page A1.) And Jamie Shea, six days before his words quoted at note 27 above, acknowledged that Milosevic's previous record wasn't sufficient to explain what was then going on: "We all know President Milosevic's record but I think that even we have been shocked by the sheer proportions of what we see happening in Kosovo today. I don't think anybody could have anticipated that it would be quite as bad as it seems now to be becoming (NATO HQ Press Conference 30 Mar. 1999 by NATO Spokesman, Jamie Shea and Air Commodore David Wilby, SHAPE).
  29. BBC Friday, 23 April 1999, published at 23:13 GMT 00:13 UK, World: Europe, "Did NATO miscalculate?, Operation Horseshoe: How much did NATO know?" See also Thomas W. Lippman, "Albright Misjudged Milosevic on Kosovo," Washington Post, 7 April 1999, p. A1.
  30. Craig R. Whitney with Eric Schmitt, "NATO Had Signs Its Strategy Would Fail Kosovars," NYT, 1 April 1999.
  31. Elaine Sciolino and Ethan Bronner, "The Road to War: How a President, Distracted by Scandal, Entered Balkan War," NYT, 18 April 1999.
  32. "As the journalists departed, and with the NATO bombing already begun, a deepening sense of fear took hold in Pristina that the Serbs would now vent their rage against ethnic Albanian civilians in retaliation, a threat the Serbs themselves had issued often in the past." (Carlotta Gall, "Ethnic Albanians Now Fear Wrath of Serbs," NYT, 26 March 1999) Yugoslav General Pavkovic "made no secret of his intentions, warning publicly that his troops were poised to take care of 'internal enemy' if NATO went through with its threats to bomb." (Michael R. Gordon and Thom Shanker, "How Yugoslav Military Planned and Mounted Kosovo's Ravaging," NYT, 29 May 1999). "While diplomats negotiated in Rambouillet, Pavkovic made boisterous public comments denouncing the 'creators of the new world order,' threatening war and pledging that if NATO bombed, he would move quickly and forcefully against the rebel army, so that Yugoslavia could eliminate its internal enemies and prepare for external attack." (R. Jeffrey Smith and William Drozdiak, "The Anatomy of a Purge Milosevic's Intimate Understanding of His Enemies Facilitates His Campaign of Terror Against the Kosovars," Washington Post, 11 April 1999, p. A1.) German Foreign Minister "Fischer added that he deeply regrets that he did not take Milosevic seriously when the Serbian leader told him in early March that Serbian forces could empty Kosova 'within a week.'" (Radio Free Europe/Radio Liberty, Balkan Report, vol. 3, no. 14, 14 April 1999.)
  33. R. Jeffrey Smith and William Drozdiak, "The Anatomy of a Purge Milosevic's Intimate Understanding of His Enemies Facilitates His Campaign of Terror Against the Kosovars," Washington Post, 11 April 1999, p. A1.
  34. John Kifner, "Emptying a City of All but Bodies," NYT, 29 May 1999.
  35. R. Jeffrey Smith and William Drozdiak, "The Anatomy of a Purge Milosevic's Intimate Understanding of His Enemies Facilitates His Campaign of Terror Against the Kosovars," Washington Post, 11 April 1999, p. A1.
  36. Chris Bird, "Kosovo villagers flee as monitors leave," The Guardian, 20 March 1999.

(Credit: Znet- [www.zmag.org](http://www.zmag.org))

*All Rights Guaranteed—all actors accountable:*

## Poverty is a Violation of Human Rights

- Grahame Russell

This viewpoint is a call to organisations that work on development, environmental, social justice, and human rights issues to work more closely together, arguing that many of the issues these organisations are addressing are one and the same. It is a call to reflection, debate, and action concerning the protection and guarantee of all human rights, and the holding accountable of all actors for actions that contribute to their violation.

But first, a poem:

*The earth is a satellite of the moon*

*Apollo 2 cost more than Apollo 1.  
Apollo 1 cost plenty. Apollo 3 cost  
more than Apollo 2. Apollo 2 cost  
more than Apollo 1. Apollo 1 cost plenty.  
Apollo 4 cost more than Apollo 3.  
Apollo 3 cost more than Apollo 2.  
Apollo 2 cost more than Apollo 1.  
Apollo 1 cost plenty. Apollo 8 cost a  
fortune, but no one minded because  
the astronauts were Protestant, they  
read the Bible from the moon,  
astounding and delighting every  
Christian, and on their return Pope  
Paul VI gave them his blessing. Apollo  
9 costs more than all these put together,  
including Apollo 1, which cost  
plenty.*

*The great-grandparents of the people  
of Acahualinca were less hungry than  
their grandparents were. The great-  
grandparents died of hunger. The  
grandparents of the people of  
Acahualinca were less hungry than  
their parents were. The grandparents  
died of hunger. The parents of the people  
of Acahualinca were less hungry  
than their children were. The parents  
died of hunger. The people of  
Acahualinca are less hungry than their  
children are. The children of the peo-*

*ple of Acahualinca are not born to be  
hungry. They hunger to be born, only  
to die of hunger.*

*Blessed are the poor, for, because of  
them, we send rockets to the moon.*  
(Leonel Rugama)<sup>1</sup>

It ought to be considered criminal in all jurisdictions—national and international—that at the end of twentieth century, states and other powerful political and economic actors<sup>2</sup> have not taken the decisions and actions necessary to end systematic and historical violations of the wide range of human rights (economic, cultural, civil, social, and political) of huge sectors of humanity who struggle, survive, and die in varying degrees of endemic poverty and misery. Since World War II, many more people have been killed by malnutrition, hunger, and disease (that is, by the systematic violations of human rights) than by the combined effects of all the wars and repressive regimes that have systematically violated political and civil rights.

'Seventeen million people in developing countries die each year from such curable infectious and parasitic diseases as diarrhoea, measles, malaria and tuberculosis.'<sup>3</sup> Many times more people struggle and survive in perpetually violatory conditions; even by World Bank estimates, over three billion people 'survive' on a daily income of US\$2, or less.<sup>4</sup> A disproportionate percentage of the victims of these violations are women, children, indigenous peoples, and other vulnerable social sectors.

This death and suffering, due to imposed conditions of poverty, are rarely analysed or understood as violations of human rights.

### UDHR: 50th Anniversary

The 50th anniversary of the Universal Declaration of Human Rights (UDHR), the most widely known international human rights agree-





ment, was on 10 December 1998. Governments, inter-governmental agencies (such as the United Nations), and national and international non-governmental organisations (NGOs) carried out activities to mark the date.

This anniversary provided, it can be argued, a time to celebrate the major advance in universalising the notion that all human beings have rights. Since World War II, tens of thousands of citizens' organisations have emerged to promote this notion, and to undertake education and advocacy work.

The importance of these advances can not be understated. However, the 50th anniversary was a time to focus on important questions that governments, other international actors, and the 'human rights movement' have yet to address properly.

### All Rights

Most human rights work to date has focused on certain political and civil rights, to the exclusion of others and of many economic, social, and cultural rights.<sup>5</sup> This work has ignored the fact that the UDHR itself enshrines a broad range of economic, social, and cultural rights; implicitly, it has ignored the principle of international law that all human rights are indivisible.

Human rights work has also avoided investigating the often organic relation between poverty (the over-lapping violations of numerous rights) and repression (a systematic violation of certain political and civil rights). In many countries there has existed, or continues to exist, a vicious cycle between poverty and repression.

A common scenario is that poor people, together with social justice, development, and religious workers educate themselves about their rights. They then organise to protest and fight against the rights violations that characterise their lives. Then the state, often with the support of powerful private sector interests and foreign governments, responds with repression, in order to preserve the undemocratic, unjust status quo.

What has been lacking in much human rights work is that while it has investigated and denounced the use of repression (that is, political and civil rights violations), it has not examined

the prior economic, social, and cultural rights violations, nor the wide range of actors who contribute to all violations.

### All Actors

Most human rights work has aimed only at holding the state accountable for rights violations (political and civil, for the most part) that occur within its borders. The actions of other states, inter-state, and private actors often contribute directly and indirectly to a wide range of human and environmental rights violations, whether in their home countries or elsewhere. Often acting with impunity, these other actors are rarely held accountable to those whose rights they may have violated.

An example of an inter-state actor contributing to human rights violations in a country would be that of the International Monetary Fund (IMF) pressing the government of a dependent, probably indebted nation, to impose political, legal, and economic programmes on its people that will increase violations of their rights. An example of a non-state actor would be that of a transitional company or bank contributing through its actions, whether directly or indirectly, to violations of human rights in a foreign country. An example of a state actor contributing to human rights violations in another country would be that of its providing funding, training, and/or weaponry to a foreign government (and/or private sector para-militaries) that is systematically violating the rights of its own people.

Investigating and determining the human rights responsibility of other actors does not negate the responsibility of the state for its own contribution to such violations, but rather focuses attention on, and apportions responsibility to, all other actors that also play a direct or indirect part in them.

Whether or not the state was the only actor capable of violating or guaranteeing respect for the rights of its citizens in 1948, it is clear today that other actors have as great or even greater impact on human rights than do most existing nation-states. While the state will continue to play a central role in how citizens' rights are respected, or not, other actors must be held accountable to those citizens world-wide whose rights are often negatively affected by their actions.





It is incumbent on the wide range of development, environmental, social justice, religious, and human rights organisations both to understand, and to bring human rights analysis and pressure to bear on, the many actors involved, holding each accountable for their proportion of responsibility for human rights violations.

### Challenges: Common Cause, Common Language

The 50th anniversary of the UDHR thus provide a focal point for creative activities in the North, South, East and West, designed to open debate and discussion on the numerous challenges before us. One such challenge is for organisations working on human rights, development, and environmental and social justice issues, at all levels, to work more closely together.

To see how human rights work has been compartmentalised we might take the example of 'defending the rain forest' in a country such as Guatemala. 'Environmental groups' might focus on 'saving' the forest and the atmosphere, ignoring why it is that poor people of Guatemala are obliged to slash and burn forests just in order to survive; and ignoring how the actions of national and international actors, controlling the unjust economic and development model, contribute directly to the destruction of the environment.

'Development groups' might focus in turn on how the prevailing development and economic model creates and perpetuates poverty, but do not analyse poverty as a systematic violation of economic, social, and cultural rights, which often lead, organically, to systematic political and civil rights violations.

'Human rights groups' might focus exclusively on the use of state repression (political and civil rights violations) against activists working to end poverty (violations of numerous rights), ignoring the prior and systematic violations of economic, social, and cultural rights (poverty) of the poor, and ignoring how other actors (the international financial institutions, other governments, etc) contribute directly and indirectly to the entire range of human rights violations.

For these intertwined issues, the international human rights regime does provide agreements, law, analysis, and language that can help over-

come the often false separations between these areas of work.

A huge cultural and political challenge, for all groups working on these interrelated issues, is to educate people about, and to overcome, the accepted 'truth' that 'there always has been poverty and there always will be'; that poverty is somehow a natural (if lamentable) phenomenon, as opposed to being the result of economic, legal, political, and military decisions taken by human beings, states, and their many different institutional actors. And it is also a basic challenge to make more funding available for groups that are working on the wide range of human rights issues, and holding the many different actors accountable.

### Conclusion

*Human rights work makes it clear that the wide range of violations are neither inevitable nor natural, but arise from deliberate policies, decisions, and actions. In its demand for explanations and accountability, the human rights movement, conceived in the broad sense as set out in this article, exposes the hidden priorities and power structures behind the violations. Thus, addressing all rights, in terms of their economic, political and social context, and holding all actors accountable, constitute critical steps towards challenging the conditions that create and tolerate poverty.<sup>6</sup>*

There is much human rights work to be done—at community, national, and international levels—to address and reform national and international legal, economic and political systems that remain profoundly unjust.

Now is the time for development, social justice, religious, human rights, and environmental groups to form working alliances to address these issues. Now is the time to plan creative educational and political activities in order to give meaning to the celebration of the 50<sup>th</sup> anniversary of the UDHR.



## Acknowledgement

This article has been reproduced from Development in Practice, Volume 8, Number 3, August 1998, published by OXFAM (UK and Ireland), 274 Banbury Road, Oxford, OX2 7DZ, UK. We are grateful to the author and the publisher for their permission to use.

## Notes

1. Nicaraguan killed in 1978 fighting the Somoza dictatorship that was kept in place both militarily and economically by the USA. Translated by author.
2. By 'other powerful political and economic actors' I refer among others to inter-governmental financial and commercial institutions (such as the World Bank, the International Monetary Fund, the World Trade Organisation, the proposed Multilateral Agreement on Investments, etc.); to other states and their various military, security, economic, and aid agencies; and to private, non-government entities such as trans-national companies, banks, and financial investment institutions.
3. UNDP, Human Development Report 1997, Oxford; OUP, p. 28.
4. Cited in La Jornada, a Mexican daily, 2 February 1998
5. In recent years, women and indigenous peoples have made real advances in having their issues of systemic violations dealt with, albeit not fully or properly, by a growing range of national and international human rights institutions. Women's and indigenous people's organisations have made important critiques of the traditional, narrow focus of 'human rights' work, pushing it to overcome cultural biases and move towards addressing all actors, and all rights.
6. This slightly altered passage is from 'Unleashing human rights to address global poverty', an unpublished paper by Chris Jochnik, legal director of the Centre for Economic and Social Rights.

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*(Feel free to copy, distribute and publish the article advising the author.)*

# "Human Rights Year Book 1999" Released!

On 10 April, 1999 INSEC released its 'Human Rights Year Book 1999' at a programme here in Kathmandu. This is the 7th issue of Human Rights Year Book which is being published from 1992. Paged-498 (Nepali Version; and 232-paged English), the Book deals with "Political Corruption in Nepal" as the main event of year 1998. "Formation and Dissolution of Political Parties" has been another major topic of the Year Book.

## Other topics in the Year Book :

'Judiciary and Human Rights', 'His Majesty's Government and Human Rights', 'Parliament and Human Rights', 'Fiftieth Year of UDHR', 'Typical Incidents of the Year 1998', 'Maoist Activities and

the Treatment of the Government', 'Economic, Social and Cultural Rights in Nepal', 'Women in

## Ramananda to Receive Prakash HR Award

On the Year Book release occasion, Ramananda Prasad Singh was announced to be the recipient of Prakash Human Rights Award 1998, instituted in commemoration of Late Prakash Kaphley, the founder member of INSEC. Former Attorney General and noted senior human rights activist Mr. Ramananda Prasad Singh, aged 65, has been selected as the recipient of the Award which carries a purse of Rs. 25'000 and a commemoration letter.

Nepalese Mass Media', 'Child Rights in Nepal', 'Composite Summary of Human Rights Situation in 1998', 'Views of Political Parties and Other Concerning Authorities', and 'Reactions to the Year Book 1997.'

## Book Release Ceremony

Former Chief Justice of the Supreme Court Mr. Om Bhakta Shrestha, the Chief Guest of the programme, released the Book at a function which was participated in by human rights defenders, journalists and other dignitaries. On the occasion, an audio cassette of human rights songs, jointly produced by INSEC and Music Nepal, was also released. The cassette contains various 8 human rights songs.



# Women and Politics

- Dev Raj Dahal

The Nepali society continuous to remain patriarchal, revolving around male power. Women's grievances against inequality, injustice and neglect underscore the motive of an emerging feminist movement in Nepal. Feminism as a social movement, it is fair to say, has been a self-consciously adopted stance. An enormous amount of critical literature has been amassed on the topic today. Production of knowledge in social science does not generally imbibe the experiences of women. Tradition in general has expected the "feminine ideal" to be submissive, quiet and accommodative, a tradition of stoicism that has gone on for centuries. The impact of women's participation in Nepali politics so far has merely benefited individual women than the society as a whole. Their number remains too small and they are less articulate in assuming instrumental role in advancing their rights and executing social transformation. Their subordinate ranking in social life has prevented them from performing the rights and duties of a citizen.

In this context, women's social movement that is emerging for gender equality and social justice has been acclaimed. The movement has been able to ingeniously conceptualise new synergy for their gradual emancipation from the roles prescribed by classical texts, their exploitation as sex objects, the domination by the male sex in public and private life, their own lack of consciousness and domestication. At a broader level, this is also a movement against feminisation of poverty and the transfer of hereditary wealth only to male members of the family independent of any reason or rationale. There is a temptation among Nepali legislators to be pragmatic and incremental. They even argue that the present Constitution can reasonably absorb their needs and aspirations. Feminist authors, in contrast, claim that in this attitude of the legislators, masculine ego is writ large and they, therefore, are less interested in redressing inequalities than genuflecting before the altar of *real-politick*. Like orthodox priests, lawyers also quibble over the legal conceptions and doctrines. The realities

of rules do not do much either to change attitudes or to do justice unless models of association and organisation are transformed. Both the approaches tend to confuse the *characteristics* of Nepali society with the *prerequisites* of a framework of democratic development.

Economists, too, thinking at the superstructural level, skirt the need for normative and institutional change for socio-political justice. Nepali economists, like their political science counterparts, are mainly trained in mainstream discourse and consequently, are short of educational foresight. They therefore shy away from anything so value laden and "unscientific" that is out of sight for the one vision that is not trained to see beyond the established frontiers of theory, law, tradition, and faith.

The women's movement, though national, is, therefore, being underplayed by officials in the name of preserving tradition. The reason is, for them, that women's self assertion would disrupt the societal stability built on vertical integration of women. And, it would violate the "prescriptive obligations" which have remained one of the major instruments for the maintenance of the culture of silence and resignation. This misconception froths at the family level. Decisions concerning family matters are taken in an authoritarian model where the chief householder, who is also the eldest living male, rules supreme. The legitimate order of the society, it is held, also lays down the main role for the patriarch-led family structure by subordinating women at the same time. It is an order based on customary authority, not reason, science and modernity. Masculinity is based more on maleness, which is purely biological, than on upbringing, socialisation, education and social conditioning. Being kept in such a situation, it is practically impossible for most women to achieve the necessary self-awareness.

Women's social movements, therefore, essentially oppose hierarchic and authoritarian social structures that support inequality, social stagna-

“  
Like orthodox priests, lawyers also quibble over the legal conceptions and doctrines. The realities of rules do not do much either to change attitudes or to do justice unless models of association and organisation are transformed.”



tion and obsolete religious and cultural rites and practices devoid of any re-negotiation of their social contract with the political parties, government and the state on the basis of rational will. In one sense, it is a paradigm shift—a paradigm of natural will governing the Nepali society so far. The tradition of *Badi* (dancing girls seduced into prostitution), *Deuki* (girls offered to temples), forced prostitution, domestic violence, etc particularly deface the democratic image of the nation itself. Such practices not only inflict injustices on women but also grossly degenerate their productive potential, human freedom and democratic way of life.

The patriarchal norms tend to give males of the family a clear advantage in access to and use of resources, including several entitlements. The *Manusmriti*, *Muluki Ain* (Civil Code) and several constitutional provisions, many feminist scholars claim, discriminate women in many aspects of their civil and political rights, including property rights. *The Muluki Ain* is largely based on the *Mitakshara* school of thought, according to which, the spouse and sons are defined as heirs of the father, thus excluding the daughters from these rights and access to decision-making. This regime has trapped Nepali women into an authoritarian culture thus providing a rationale for branding their movement decontextual, West inspired and, therefore, asocial.

Women activists believe that custom and tradition have become the language of domination, which conceals a regime of force. Nonetheless, it has softened with time, with the growing political consciousness and democratisation of the society. Unlike many nations of the world, enfranchisement of men and women started in Nepal at the same time. But the gender division of labour has largely led to a one-sided development of men. Another grim fact is that women are not expected to have any individuality, as those who do not tie the knot of marriage run the risk of social disapproval. By law, an independent personality in a woman requires three basic rights; independent identity, right to enter into social contract and property rights.

And women of Nepal consider that their being deprived of property rights has meant depriving them of an internalised sense of personal dignity, self-esteem and “separate identity” to be able

to negotiate a social contract. Though identity formation appears highly individualistic, it is important to recognise that individual, gender-specific, class or national identity can be gained from the social context. Identity should be conceptualised not in relation to isolation but in relation to embeddedness in a shared form of life.

The participation of women in Nepal is constrained by a number of factors, including the rivalry between the state and civil society, by corrupt politicians seeking to preserve their monopoly over power and keeping politics as a male prerogative. The movement of women for social justice has, therefore, been for a constitutional right. The constitution guarantees equal rights to all citizens irrespective of their sex, caste or class. The question of women’s empowerment has, therefore, been the *leitmotif* of Nepali politics.

Men’s power to shape social relations in their own image means that women too must compete to overcome the masculine dynamics of the political structure and political culture. While female folks make up more than fifty per cent in the national population, their participation in public administration and institutions of governance above the officer level is marginal, less than five per cent. At the local level, however, a mandatory provision of electing one woman in each Wada Assembly has substantially increased their inclusion, about nineteen per cent of the total elected members. The increase in the proportion of women’s involvement at all levels of polity would bring about a gender balanced politics. The emerging policies of empowerment must subsume reforms in the marriage laws, educational opportunities and rights providing them equality so that they can search their own capacities and needs. Women as a social group must have a conception of the world implicit in their social practice and struggle politically without being manifestly partisan in the vision they conceive.

One paradox of the Nepali political culture is this: the constitution lays down the possibility for women’s participation in governance, and political leaders sloganise this, while it does not remove a raft of obstacles to realise such a possibility. Females’ disempowerment, in this sense, is caused by a kind of socialisation that forces them to accept their traditional roles with-

“Masculinity is based more on maleness, which is purely biological, than on upbringing, socialisation, education and social conditioning. Being kept in such a situation, it is practically impossible for most women to achieve the necessary self-awareness.”



out resentment. The imperative, however, is re-education and reflection that inculcate consciousness and confidence in them for their self-development. Is it possible without their broad-based coalition and resistance to the government's authoritarian imposition of a pattern of social development and the accompanying ideological system of market, efficiency and competition?

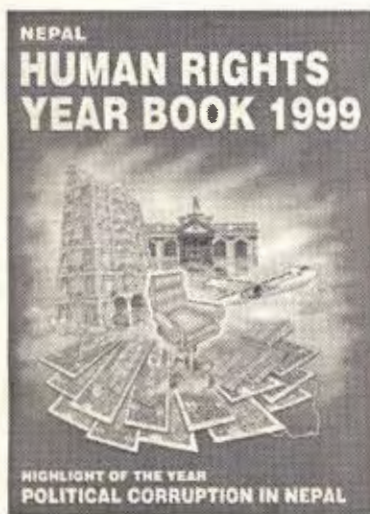
Certainly not, unless women as a social group begin to act in a unified fashion, with the critical understanding of self, and take up the struggle in

opposing directions, first in the national and legal sphere and then in that of politics, in the process of reinventing one's own conception of reality. Such a struggle may ultimately feed the growing realisation that gender balanced politics is the only realistic response to current problems and that women, like me, can participate in the same collective self-consciousness of national space.

## New Publications

### Human Rights Year Book 1999

(Covers the period January to December 1998)



Page: 233

Price: Nrs. 500.00

South Asia US\$ 20.00

Others 30.00

The book deals with-

- *Political Corruption* as the highlight of the year
- *Formation and Dissolution of Political Parties* as the main event
- *Maoists Activities and the Treatment of Government*
- *Economic, Social and Cultural Rights*
- *Women in Nepalese Mass Media*
- *Child Rights in Nepal*
- *Composite Summary of Human Rights Situation in 1998*
- *Fiftieth Year of UDHR, etc.*

### A Decade of Human Rights Movement in Nepal, 1998

Page: 80 Price: Free (for organisations)



An independent assessment of INSEC activities undertaken by Dr. Devendra P. Chapagain, a former National Planning Commission member, assesses INSEC activities carried out during the past decade. It mainly builds on the impact and effectiveness of Centre's programmes, and makes suggestions regarding its future course of action.

#### Chapters-

- Part A: Purpose and Plan of the Study
- Part B: Human Rights in Nepal
- Part C: INSEC Mandate and Performance
- Part D: Case Study - Kamaiya Education and Awareness Programmes
- Part E: Conclusion and Recommendations

#### Annexes-

1. Terms of Reference for the Evaluation Study
2. Area Coverage of INSEC Programmes (map)
3. Summary of Income and Expenditure of INSEC
4. List of Donors
5. INSEC Network Organisations
6. Agencies and Individuals Contacted



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July 11, 1999

*Dear Friends in India and Pakistan, posted below is a story received from India. Please share it with all who are opposed to this 'mad' war between India and Pakistan. (South Asia Citizens Web)*

(Thus it was received through an e-post. Editor).

## Kargil and Badal

- Anonymous

Now my lunch is ready on the table 'rohu' fish that I had cooked last night, and rice. And I remember my brother, my cousin, who is now in the army. For a long time now I have had no contact with him.

He was then very small. He had just started going to school. Everybody used to gaze at him when he ate. Because he ate a lot. He is always hungry. He looks at anyone eating anything with his eyes protruding, and saliva drooling down his tongue. His mother, my aunt, scolds him and catches him by ear, you eating-monger, would not let others eat. Go away. Go! Water the plants in the yard or go study. He would cry and leave.

Ours was a joint family of fifteen members. All of us stayed in the village except my father who worked in a small distant city. He was the only earning member of the family. We did not always have much food to eat. So we never willingly shared our *thali* (a dining plate) with my little cousin, Badal. He could eat away everything!

We all grew together. Till I finished my secondary education we shared our poverty in that huge joint family. Then I obtained a National Scholarship. My father began to see a bright future in me and wanted me to study in the city. We moved to the city and left behind our uncles, aunts, cousin brothers and sisters in the village. My eldest cousin brother, by then, had got a job, a job as a schoolteacher. My eldest uncle takes care of the paddy fields. We have a few small paddy fields in the village. My uncle and brothers work in the fields and grow vegetables in our small yard. Harvest does not last round the year and vegetables are never sufficient. My brothers often catch fish and my auntie sets crab-traps in the rainy season. Since my father has now to run a family in the city he is not in a position to send as much money as he used to send earlier. Once in a year he sends clothes for the entire family.





Whenever we go to the village or somebody comes from the village, we talk of so many things, of paddy fields, vegetables, each other's schools, marks in the half-yearly exams, final exams, and many other things. But whenever we speak of Badal it is the same old story, nowadays he is eating like a horse. His meal is equal to a meal of three or four people! Nobody can feed him! Everybody laughs, so does Badal. I have seen him when he was hardly twelve years old. He was growing up a healthy boy. Unbelievable even to my eyes, he could work in the sun for hours together without showing any sign of fatigue. A small child as he was, he never complained about food. And everybody liked this quality in him.

He was never good at studies. No one was bothered about his education, and neither was he. He failed once in the matriculation exam but just managed to pass in the next attempt. That remained his only qualification in this world of technology and progress! Now he is eighteen, tall and strongly built. No one can feed him anymore. No one can clothe him anymore. He is a man. He has to look for his own food and clothing.

Meanwhile I was selected by IIT [Indian Institute of Technology], Bombay to continue my higher studies. Before leaving for Bombay I visited my village. I came to know that Badal had left for Bombay to work in a factory. Wonderful! I will be there as well. I ask for his address. But nobody knows. Strange! What the matter is! I inquired. It is for sure that he will work in a factory. But which factory and where it is we don't know. The contractor says that the boys will be kept in different locations. Only when they are given proper accommodation will the address be communicated, my family members inform me. The story sounds weird. One of my brothers tries to convince me, We have asked him to write to us immediately after he reaches Bombay. I have given him some self-addressed inland letter cards. I want to know the matter in detail. So I am told. Badal looked desperately for a job; he moved from place to place but was disappointed wherever he went. In his desperation he saw a ray of hope. A contractor from a nearby village was looking for young boys for recruitment in a factory at Bombay and Badal went to meet him. The contractor gathered some twelve to fifteen boys in all and took

them to Bombay for a negotiated salary of Rs.1,000/- per month. I realised that too long a time with a half-empty stomach and unending drudgery had pushed him into this uncertain future. I leave my contact address with my family members and instruct them to communicate it to Badal as soon as possible. They should also not delay in sending me his address. It was not even a couple of months in Bombay that I received a letter from home about Badal. I went through the contents with utter dismay. Badal had managed to come back home half-dead. After my semester exams, I went to the village and heard the rest of his story.

All these boys were given accommodation in a small single room in a slum. They worked in a factory, lifted iron rods and plates from morning till night. Loading and unloading iron, sometimes they worked at construction sites. They worked for two and a half months. At the end of the first month the contractor gave them only half a months salary. The reason given for not paying the full amount was that they might run away. For the whole of the second month they did not see the contractor. At the end of the month they spoke to the operating manager about their salary. He informed them that their salaries were already given to the contractor. The young men were at a loss. They felt terrorised. They were new to the city. They were all from villages. They had never seen a city before. And this was a huge metropolis. They could not even talk of their state to anyone, as they didn't know how to speak in Hindi. They did not have enough money to buy the return ticket. And home - two thousand kilometres away!

Without money, without ticket they boarded the train. The little money in their pockets was soon gone. No food to eat. Got caught by the ticket checker thrice. At Bhusaval they were jailed for two days, and for eight days at Secunderabad. When Badal reached home he was beyond recognition, no flesh on his body, sunken eyes; he had lost his speech. What remained was only a drooping skeletal body. With a faint voice he had gasped, I have not eaten anything for the past





three days. Give me something to eat. I do not see Badal around. I inquire after him. I am informed that he has opened a tailoring shop in a nearby village. He gets enough work. He remains so busy that he does not find time to come home.

I go to see him. His shop is a small cottage with mud walls and thatched roof. It is by the side of a *kachha* motorable road near a grazing field. Not a single person, no one, around. I entered the shop. He was working with a paddle sewing machine. I managed to control myself when I saw him he was yet to recover. He stood up to greet me. I could not dare ask 'how are you?' The whole story was clearly visible on his body. I ask him, How long do you work? Till late night. There is enough work. Do they pay? I inquired. No, not really. But I think the business will pick up. Not a single tailor around. he said. His voice was low, yet convincing. He inquired about my studies. We talked for sometime. I mildly joked, Are you eating heavily now? He chuckled. I asked him to come home for lunch. He said, 'no, not now.' I will come in the evening. I left the place. I could hear only the noise of his sewing machine in that lonely sunny deserted place.

After a year or so I met him once again in the village. Looking healthier, though he was not at his best. He was never jovial again. His face was dry and pale. He said, I have to work hard. No rest since I have opened the shop. People pay very little. I am not able to give even a handful of coins at home. Very difficult to sustain. I notice that there are many stitches on the seat of the trousers that he is wearing.

Later I come to know that he has joined the army.

It is almost three years now since I saw him last. That was the time when my brother died in a road accident. He had rushed home after getting the news. While discussing his job he expressed his unhappiness. He did not like the life he was leading at the army camp. He spoke with frustration when he described the hardship he had to undergo and the routine humiliation he had to face. But on killing in a war, he spoke with passion and heated blood, "If the Pakistanis attack us we will kill them." I ask him, "Who are the Pakistanis that attack you? Are they not like you who have joined the army in search of a job? For a meal?, And to send money home? Do they attack you of their own? Or, do you attack them of your own?" He kept quiet. I continued, "The news of the death of your brother has shattered you. And has brought you instantly from Kashmir to Cuttack. Have the Pakistani soldiers a different heart?" He looked at me strangely. He stayed home for as long as a month. Before he finally left for Kashmir he told me, "When I become eligible for pension I will leave the job. I myself do not like to kill anybody."

Now I miss him and I remember him. Once he had returned home half-dead. This time? I do not know. I am afraid. War is on. Hundreds are dying. I see Badal in each and every one of them. They are dying. They are dying because most of them did not have enough food to eat at home. What a life. And now you ask me for donation in the name of Kargil? Enough. You humiliate them in their daily lives and adore them publicly as patriots. You garland them after having killed them and name them martyrs. You have used them and are using them still. What is the reason for? You lie when you say that they are born patriots and love to be martyrs. Stop this. I cannot take it anymore. Bring them back home. Bring them back alive. There is enough food on my table I have cooked it last night.

Bombay, 8 July 1999

(Photographs: Internet sources)





# Composite Summary of Human Rights Situation in 1998

The year 1998 was observed as a special occasion throughout the world in the context of the 50th anniversary of the Universal Declaration of Human Rights. Government as well as non-government agencies/organisations launched various programmes to make people aware and informed of human rights issues.

In Nepal, year 1998 was observed as a 'Visit Nepal Year'. The Human Rights Year 1998 National Committee was formed to launch and co-ordinate programmes to celebrate the 50th anniversary of the UDHR. Though formed at the state level, the committee had the participation of representatives from social and human rights organisations as well. The committee co-ordinated numerous awareness and publicity programmes, such as symposiums, discussions and interaction on human rights issues.

Though the year received much propaganda space in the state-owned media, it failed to observe any improvement in human rights situation in the country. Speaking in composite terms, the year has rather been noted as the year of crime, murder and violence. In the name of 'People's War' and in the pretext of controlling it, both the Maoists and the government contributed to the increase in the incidences of human rights violation in an unprecedented manner. The activities of the Maoists and the police resulted even in a number of incidences of mass killings.

The government did not however initiate any concrete steps for the investigation into such incidences. The act was passed for establishing of a Human Rights Commission two

years ago, the institution was not set up even in 1998. Nor did the government execute the Torture Compensation Act to compensate to torture victims.

Human Rights Organisations launched various movements calling upon the concerned parties to stop the killing, initiate peaceful dialogues to sort out the increasing problems and set up human rights commission in the country. Thus this year forced the people to take to street in order of creating pressure to make the government abide by its promises, such as to set up human rights commission and compensate the torture victims. Some facts have been presented below to show the state of human rights situation in Nepal throughout the year 1998.

## RIGHT TO DIGNIFIED LIFE KILLINGS/FIRINGS

The right to life guaranteed by the Constitution of the Kingdom of Nepal, 1990 was violated in a larger scale this year as compared to the facts observed in the preceding years. Many citizens were killed by the governments on charge of supporting the Maoist 'People's War'. Many of those killed as the Maoists were not found involved in the 'People's War'. Killing of anyone innocent in the name of controlling the state of terror created by any group does not form a part of state responsibility. From human rights standpoint this is the gravest crimes of all. The 'People's War', begun from 13 February 1996 by the CPN (Maoist), is pushing the nation to a mire of violence.

In 1998 alone, 311 males and 39 females were killed in 178 incidents of killings at the hand of the state. Of them, 334 were killed on suspicion of their involvement in the Maoist activities. As a result of personal or organised clashes (where the state is not involved) 424 murder cases occurred in which 371 men and 98 women were killed. In addition, 5 women were killed after rape. The state used its law enforcing machinery to disrupt various protest rallies, meetings and so on in the name of controlling the Maoist activities. In such 27 incidents, 23, including 3 females, sustained bullet injuries. Similarly, as a result of personal or organised clashes, 37 males and 2 females were victimised, 45 cases of firing, bombardment, and placement of ambushes occurred.

## PRISON

Of 73 jails in Nepal, more than 90 percent are already in dilapidated situation. All the jail reform reports presented by Jail Reform Commissions formed at various times in the past have not been implemented; no jail reform efforts were made even this year. Even the basic facilities were not provided. In some prisons, the prisoners are compelled to live in dark rooms even in the daytime. Many jails still lack pure drinking



Laxman Neupane shot by Police in Panchthar District



water; lack toilets forcing the prisoners to urinate or defecate in their rooms. In many instances the prisoners organised protest programmes; such as sit-ins, fast and strike programmes demanding basic facilities, such as electricity, drinking water, health treatment, sanitation, newspapers, and so on in jails. Ten such events were noted this year. Eight prisoners, including 2 women, died while in custody in lack of necessary treatment. Mr Dipak Rai, a prisoner in Udayapur Jail, attempted to commit suicide at the news that his sister was seriously ill in his home. His failure to pay off the debt he had borrowed also added insult to injuries. Five prisoners were reportedly kept chained in a single room in the Mustang Jail. At the end of 1998, the Mugu Jail remained empty after the release of a prisoner.

The delay in the administration of justice also continued this year, many arrested for investigation were kept in police custody for a prolonged period of time. The policy of launching 'skill development training' for prisoners was not implemented even this year. Prisoners thus were deprived of income generating works and thus collect the minimum amount of money they were required to deposit for their release. In lack of a minimum amount of sum, some prisoners have been kept in jails for a long time.

#### ARREST AND TORTURE

Also this year, the cases of arbitrary arrests were observed. The law

enforcing agencies violated the constitutional right regarding criminal justice (Art. 14) by not presenting the persons (not charged under public crimes) arrested before a judicial authority within 24 hours. Many of those arrested were severely tortured in police custody. Many of so arrested, however, did not claim torture compensation; and those who made claims were not provided with. In 577 cases of torture and arrests, 2665 were victimised. As compared to the year 1997, the year 1998 saw the double cases of torture and arrests. Many of those arrested could not be released, despite such legal provision, because of their failure to deposit the sum required by the law.

Mr Ganesh Rai, a worker in the Kathmandu Guest House, was arrested and beaten dead by police this year. It was heard that an investigation commission was set up by police to look into this case. It was also heard the commission has recommended for appropriate action against the perpetrator. It was also informed that police personnel tortured a 17-year old student in Rukum by thrusting a stick into her vagina.

#### DISAPPEARANCES

Many cases of disappearances have been reported at the hand of police authority, and most of those disappeared are the suspected Maoists. The Maoist group also reportedly abducted people holding different political ideology, manhandled and threatened them. In 47 cases of disappearances caused by the state, 54 males and 9 females were victimised. Similarly, in 11 such cases caused by the Maoists, 18 males and 1 female were victimised. Many of those disappeared by the state are still missing. It is suspected that, some of them have been killed.

#### BEATING/DEATH THREATS

Cases of beatings were also committed by those responsible for law and

order in the nation. Directly or indirectly, the state involved in 57 cases of beating resulting in the victimisation of 157 males and 39 females. Many of the victims were accused of supporting the Maoists by providing them with shelter, giving food and so on. Similarly, in 708 cases of beatings occurred due to personal or organised clashes, 824 males and 130 females were victimised.

A man of Dudhbanjyang VDC-2, Sindhuli got his both hands cut off by the Maoists. Another one of Bhimkhori VDC-9, got his both legs cut off by the Maoists. Similarly, a 50-year old man of Baranja VDC-2, Myagdi got the veins of his ankle cut.

State involved, directly or indirectly, in 28 cases of intimidation, 58 men and 5 women were victimised. In such 70 cases occurred due to personal or organised clashes, 98 men and 9 women were victimised.

#### FUNDAMENTAL RIGHTS

##### RIGHT TO EXPRESSION, ASSEMBLY AND ASSOCIATION, INCLUDING, POLITICAL FREEDOM, FREE AND FAIR ELECTION

The Constitution provides for peaceful assembly and demonstration, and guarantees the freedom of expression of opinions. These provisions were however violated by the state using force against those in peaceful protests and rallies. In 34 such cases, 154 men and 46 women were victimised in 1998. Similarly, the organised clashes victimised 427 people in 46 cases.

##### FREE AND FAIR TRIAL

No doubt the court is the last resort to provide justice to the victims of human rights violation. However, many have suffered due to delay in administering justice. In many outlying districts, the absence of judges victimised many people. Similarly those detained for investigation were forced to stay under police custody



Prisoners of Rukum District Jail



even more than a year. In Rolpa district, the judges remained absent for over 10 months this year, resulting in many cases undecided.

#### TRANSFER/DEMOTION ETC

Many civil servants working in different sectors were transferred to outlying places due to personal and political prejudices and so on. In 24 such cases, 109 men and 24 women under government institutions were victimised. Similarly, 8 men and 14 women working in private sectors were victimised in 9 cases of its kind.

#### LANDLESS/SQUATTER PROBLEMS

Despite the formation of commissions in the districts to resolve the problems of the landless and squatters, the problem remained unsolved. Due to political instability resulting in the frequent changes of governments, the commissions formed remained defunct. It was also reported that, in some cases, such commissions distributed lands based on favouritism.

Many landless people residing in certain places for long time were evicted in the name of urban development or declaring the land as a reserve area. Directly or indirectly, 530 were victimised in such cases.

Around 220 huts of the landless residing at Rajpani of Gajehada VDC-3, Kapilvastu were demolished. This directly affected 1500 landless people. In many districts, the allowances for the aged and disabled were not released in time. In many districts, it was found that the sum was stopped because some districts failed to send necessary documents and reports in time to the centre.

#### WOMEN'S RIGHTS

##### WOMEN TRAFFICKING/RAPE

Women who are in majority in the society have been the victims of exploitation, violence, illiteracy and so on. As a result of poverty and illit-

eracy, every year Nepalese women are being trafficked to Indian brothels. This year 55 cases of women trafficking occurred which victimised 104 women.

In a case, a baby girl of 10 month was raped this year. The cases of rapes are increasing year after year as a result of an unhindered import of such print and electronic media which promote vulgarism in the society. In such cases the teachers, who teach moral education in schools, and those responsible for maintaining law and order in the society have been involved. This year 160 women and girls were raped; 20 of them were victimised with the involvement of law enforcing officials. Similarly, 25 women and girls suffered from attempted-rape cases. All this confirms that Nepalese women are suffering increased cases of violence

A girl, aged 9, of Uralbari VDC-9, Morang was raped by her grandfather, aged 57. Similarly, a 17-year old lady of Anarmani VDC-5, Jhapa was raped by her intoxicated father, aged 36. A girl, aged 12, studying in class 6, of Biratnagar Sub-metropolitan-5, Morang was raped by a teacher of Gograha Higher Secondary School within school time.

##### JARI/POLYGAMY/DOMESTIC VIOLENCE

In the mid-west and far-west regions of Nepal, the cases of polygamy were observed even this year. In 17 cases of its kind, 17 women as well as 17 men were victimised.

The law stipulates that no one is allowed to marry a second wife, except in some specified conditions. However, the terms of punishment in such cases are quite negligible; hence are unable to check such practices. Many who indulge in such cases of polygamy, refuse to maintain the first wives, mistreat and manhandle them.



*Govinda Poudel,  
killed by Maoist*

Ninety-three of such cases were noted this year.

Even within the family, incidences of violence have been observed between husbands and wives; between daughter-in-laws and in-laws, and so on. The incidences of domestic violence have increased due to dowry cases, the cases of polygamy, and the cases on property share and other domestic cases e.g. burns. In 42 such cases, 43 women were victimised this year.

A woman, aged 25, of Bishnupur VDC-6, Siraha was killed by her husband and his brother as she could not bring dowry from her parental house. A woman of Bhawanipur VDC-3, Bara was beaten unconscious and poisoned to death as she was not beautiful and did not bring dowry. Similarly, a lady, aged 20, of Kuskot VDC-8, Achham was tortured by putting chilly dust in her vagina.

##### ABORTION

In lack of clear legal provisions on abortion, many such cases are treated as murder cases. Therefore, many such cases are not reported. Many cases of abortion occurred voluntarily. However, cases of forced abortion have also been noted. Some cases of miscarriages as a result of beating have also been reported. Some women have argued that legal provisions allowing abortion on rape cases should be made. This year 34 rape



cases were came to public notice. A women of Baliya VDC-9, Kailali was beaten to miscarriage by a man of the same place.

### **WOMEN SPECIFIC TORTURE/ OTHER INHUMAN TREATMENT**

The degree of gender discrimination is on the rise in the Nepali society. On this ground, many women are victimised. Every year many of them are accused of witchcraft; many have been the victims of traditional practices, such as, Jhuma, Dewaki and so on. Forced marriage, forced pregnancy, rape, beating etc. are other forms of discrimination against women being practiced in the Nepali society. This year, 20 women were victimised in 19 such cases.

A 24-year old lady of Nigaul VDC-1, Mahottari was nearly sacrificed by a man of the same VDC on a charge of witchcraft.

### **CHILD RIGHTS**

Various international human rights instruments and national laws stipulate that the children should be allowed to entertain a dignified life free of physical and mental exploitation. The state and the guardians should take the custody of the children and ensure that their rights as guaranteed by national laws and international instruments are not violated. A global march against child rights was organised this year. But in our case these efforts have made a little impact. Still around 36 percent children are compelled to do a hard labour; 40 per cent are deprived of education, and every year 30 thousand children die in lack of adequate health facility and nutrition. Some girls are introduced to prostitution as a result of poverty and illiteracy. In some cases, girls killed immediately after the birth. This year in various forms of 28 such cases, 19 boys and 17 girls were victimised.

Two children of a family of Sidin VDC-8 died this year in lack of food.

### **ECONOMIC RIGHTS**

Cases of denial of wages, termination from jobs, facility cuts, discrimination on grounds of faith, deprivation of joining unions and organisations, and so on have been observed. Many workers in factories and industries running under government as well as private ownership were deprived of their rights this year. Despite the legal provisions, women workers were not paid remuneration equal to the men for the same work. The cases of the exploitation of children were also noted. In 30 various such cases, 112 were victimised.

In many districts teachers and solicitors were not paid their salaries in time. Similarly, in many state-owned industrial institutions, the officials and workers were deprived of their rights. In many cases of its kind, 106 men and 70 women were victimised.

### **SERVITUDE/BONDED LABOUR/HALIYA ETC.**

Though the slavery system was officially abolished in the Rana regime, its remnants are also practised in many districts in the Terai. In the mid-west and far-west regions of Nepal, the bonded labour system still prevails in Dang, Banke, Bardiya, Kailali, Kanchanpur, Rupandehi, Kapilvastu and Nawalparasi districts. Similarly in some hilly and Terai districts, the Haliya system still prevails. Those entrapped in these systems, do not live a dignified life in political, social and economic terms.

### **OTHER INHUMAN TREATMENT/ UNTOUCHABILITY**

Conservative practices and traditions have also contributed to different types of violence. The feeling of 'high' and 'low' by birth and social discrimination on this ground have resulted in oppression and exploitation in the society. And cases of this

kind do hardly get legal redress. In 58 cases of its kind, 118 males and 121 females were victimised this year.

A man, aged 58, of Chhetrapa VDC-1, Dolakha was maltreated on the charge of being wizard. He was forced to take stool. Similarly, the co-operatives in Parbat denied to buy milk from the so-called low caste people.

### **PRESS RELEASE/PROTEST PROGRAMMES**

Numerous protest programmes were organised this year to protest against the violation of human rights committed by the state as well as the other organised groups. Such programmes also concentrated on the state interventions in many peaceful protest programmes, such as rallies, assemblies and so on. Political parties, professional organisations and human rights organisations organised such protest programmes for drawing attention of the concerned on a number of political and economic issues.

### **ADDITIONAL INFORMATION**

Many people commit suicide because of economic hardships, humiliation, love tragedy, family violence, caste discrimination and so on. Social neglect and rape cases have also caused many to suicide. In addition, cases of suicides have also been reported. Only this year, 1236 committed suicide.

In addition, in 790 cases of natural calamities and accidents 1561 were victimised. Similarly, 57 dead bodies were found but the cause of these deaths could not be identified.

In 31 cases of abductions committed by personal reasons, 9 males and 2 females were victimised. Hundreds lost their lives, and got their property destroyed, due to looting, landslide, flood and fire.

*(This article has been reused from INSEC Human Rights Year Book 1999).*

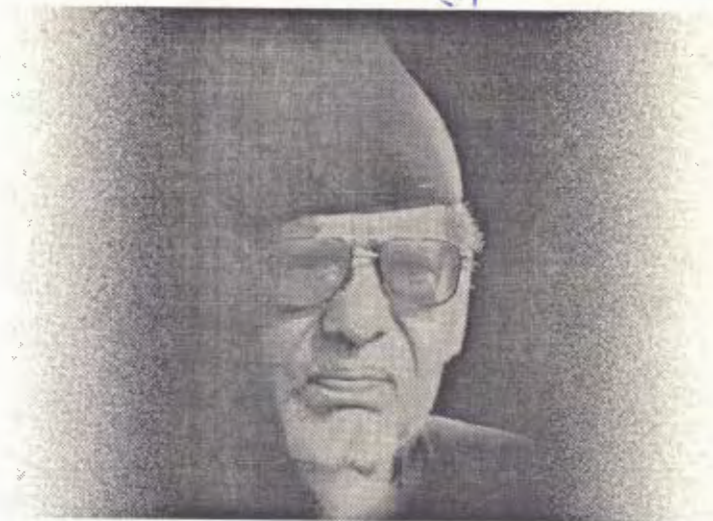
## Man Mohan Adhikari Passed Away

Communist Party of Nepal (UML) Chairman and the senior-most leader of democratic struggle in Nepal Man Mohan Adhikari passed away at the age of 78 on 26 April. A week earlier, he suddenly slipped into a state of coma after attending a mass meeting in his election campaign and remained in a comatose state, which the doctors described as 'hypoxiya', until he passed away.

Man Mohan Adhikari was possibly the first elected communist prime minister in the world after the end of Cold War. Right from his student life in India, Adhikari became active in politics. He was jailed for several times: for 3 years in India during the movement against the British raj, he was a fervent participant of Indian independence movement, the Quit India movement. Back home, Adhikari became the general secretary of the Communist Party of Nepal in 1953, the year the first general convention of the party was held. However, after the royal coup of democracy in 1960, he was jailed for over a decade. He however continued his struggle against all odds.

An active supporter of the multi-party system, Adhikari remained instrumental to form the United Left Front in 1990 to forge alliance with the Nepali Congress and lead a joint Mass Movement that toppled down a thirty-year old repressive Panchayat system. Following the successful conclusion of the 1990 Movement, two largest communist factions— CPN (Marxist Leninist) and CPN (Marxist), which Adhikari was heading then, merged into CPN (UML). Adhikari, then on, continuously headed UML as its Chairman until his death.

He was elected to the House of Representatives in 1991 and 1994. As CPN (UML) became the largest party in 1994 mid-term election, he was elected prime minister for nine months.



### Adhikari and Human Rights Movement

Man Mohan Adhikari had a profound respect and commitment to democracy and human rights. He placed high priorities on them in his active political life.

"It was only his party that had committed to protecting and promoting human rights in the election manifesto of the 1992 general elections. In subsequent years, he stood firm to establish human rights commission, and to bring the violators of human rights in the Panchayat regime to book. He frequently suggested human rights activists to stand beyond the limits of party interests." So recalls INSEC Chairman.

When Mon Mohan was elected prime minister, his cabinet initiated ground-breaking activities to protect and promote human rights in the country. With a view to establishing a powerful human rights commission, Human Rights Commission Bill was tabled in parliament and efforts made to pass Torture Compensation Act. During his tenure, unlike the preceeding and the following ones, not a single citizen was killed at the hand of the state. A High Level Land Reform Commission was set up, a 20-year Agricultural Prospective Plan was developed, a political commitment to bringing about reforms in the agricultural system. Adhikari's cabinet thus recognised the rights of agricultural labourers.

When parliament was discussing on an issue concerning women's right to property, Adhikari, as the leader of the main opposition party, whipped UML MPs to vote for the right.





## Adhikari with INSEC movement

Adhikari addressed three major programmes organised by INSEC in different times.

### Opening a

#### Conference

"Until the Kamaiya system prevails in Nepal, it cannot be said that we have democracy," remarked Adhikari at the 'National Conference of Kamaiya Liberation Campaign' on 24 January 1999. "People trapped into the Kamaiya system are living a miserable life. I would like to

thank INSEC colleagues for holding such a grand conference which aims to establish *Kamaiya Liberation Forum* as a permanent movement organisation of Kamaiyas. It is to declare that our party will render every support to the Forum in the days ahead. We will also strive to gather international solidarity and support to your cause."

#### Realising a book

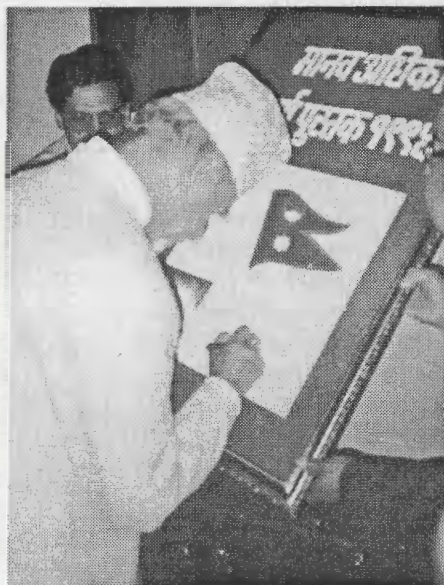
"Human rights institutions should create pressure against government and parties," Adhikari opined while releasing INSEC Human Rights Year Book 1996 on 9 April 1997. He candidly expressed on the occasion that political instability was contributing to human rights violations. "Comparatively, we have a better human rights

record now. A human rights commission bill has been adopted, compensation to torture victims has been decided. However, we have no room for complacency. In the name of the so-called 'people's

war' violation of human rights has been on the increase. INSEC has compiled all the cases justifying human rights violation in this Year Book. I would like to welcome INSEC efforts, they are doing a commendable job for the protection and promotion of human rights."

#### Unveiling Statues of Women

"We should learn from martyrs," Adhikari insisted on 9 November 1998 at a programme organised to unveil and install statues of women martyrs at Jadhukuwa, Janakpur. In honour of martyrs Janaki Devi Yadav, Sonawati Yadav and Muneshwari Yadav, who were shot dead on 18 February 1990 — the third day of the commencement of the Mass Movement 1990 — the statues were made by INSEC. As a chief guest of the programme, Adhikari called on all to sort out minor/personal differences and stick to the path the martyrs had paved for the liberation of the people and the nation.



## INSEC Press release

We are shocked by the demise of the forefront leader of Nepal's Democratic movement. Man Mohan Adhikari was strong advocate of Human Rights in Nepal. A tireless fighter of democracy and good-governance, Mr. Adhikari played a crucial role for the passage of Torture Compensation Act and Human Rights Commission Act. The demise of Mr. Adhikari causes a permanent loss to the country's democratic and human rights movement.

We express our profound respect to the deceased soul and express our heartfelt condolence to his family and the people.

Sushil Pyakurel  
Chairman, INSEC





# National Conference of Elected Women Representatives

## The Inaugural Session

INSEC organised a three-day national conference in Kathmandu on 24-26 November 1998. The theme of the conference was chosen to be "Women's Participation in Development: Women Leadership in Local Bodies".

The Conference was organised with a view that unless women, who make more than a half of the nation's population, are capable to handle local problems, identify local needs and mobilise local resources, development will only be a dream never fulfilled. One hundred and sixteen elected women representatives from 53 (of 75) administrative districts participated in the conference.

Former Prime Minister Sher Bahadur Deuba inaugurated the conference with lighting three candles to honour the martyrs, remember those disappeared and commemorate struggling women and their predecessors.

Addressing the conference Mr. Deuba reminded that a decentralisation commission had been set up in his tenure with a view that women empowerment would be impossible until they were politically mature.

INSEC Chairman Sushil Pyakurel held that women rights could not be separated from human rights movement. "This is the reason why we prioritise on women issues and programmes. If we fail to develop women-centred plans, no change can occur in the status of women. We have now a changed political system, but our thinking has not." He called upon all political parties to create such an environment where women could mobilise themselves and express their full potentiality. "The government should take a concrete policy to develop and empower women."

Ms Shanta Shrestha, member of INSEC Women Rights Task Force, hailed the initiatives taken by INSEC to

gather women representatives from all corners of the country.

Urmila Shrestha, Special Secretary of Women and Social Welfare Ministry, thanked INSEC for inviting her to the programme which approximated the activities of her ministry. "Women should be politically, socially, and economically empowered to channel their energy to development" she said. "We should be mentally as well as physically capable. We should get informed of constitutionally guaranteed rights."

Shanta Manawi, National Assembly Member, called upon all elected representatives to mind towards their responsibilities. "Most of us feel relaxed when our male counterparts do all the work. We tend to escape our responsibilities. This is the main impediment to our progress." She focused on the balanced need of asserting the rights as well as handling the responsibilities to the best of their capabilities.

Member of Parliament Bidya Bhandari regreted for women issues and concerns being marginalised. "Women problems are discussed only with women and at programmes organised particularly for women issues. This is rather a wrong trend. We need to regard women issues and problems as national problems affecting each Nepali

society." MP Bhandari played all the showy activities— speeches, slogans, declarations— so far directed on women and demanded a genuine commitment, instead of high-sounding slogans, to a real choice attainable within our command and authority.

MP Bhandari also called on all to fight patrilineal legacies keeping women degraded and treating them as the second class citizens.

## Papers Presented at the Conference

Three papers were presented in the conference. INSEC Women Section Chief Kamala Parajuli presented on "Women's Participation in Politics and the Role of Elected Women Representatives". UML leader and Upper House MP Pradeep Nepal on "Governance and the Role of Women at the Local Level", and Sulochana Manandhar on "Elected Women Representatives: their Roles and Challenges".

## Pasang Lhamu Pledge 2

The conference adopted Pasang Lhamu Pledge 2 as an addendum to the Pasang Lhamu Pledge adopted by the First National Conference on Women held in 1994. The Pledge has been named after Pasang Lhamu Sherpa who died in the Himalaya when coming back home after climbing Mt. Everest. Realising national and international laws/provisions the Pledge also enumerates key activities to undertake as future responsibilities.

## Human Rights Song Conference

INSEC and Music Nepal Pvt. Ltd. co-hosted a human rights song conference in Kathmandu on 7 March 1999 with a view to spreading human rights message through electronic means. The programme which included 18 songs on various human rights issues was broadcast live by the Radio Nepal.

Former Prime Minister Man Mohan Adhikar had inaugurated the programme. He hailed INSEC initiatives of its kind. Chairman of the programme INSEC Chairman Sushil Pyakurel apprised the aim of the programme as "a campaign to

promote human rights awareness, consciousness and civic duties by way of art and songs which immediately appeal the listeners." He thanked Music Nepal for joining hands with INSEC to make the programme a success. Music Nepal Manager Shantosh Sharma expressed happiness that INSEC and Music Nepal could come to the point of holding such a conference focused on human rights issues.

The artists/singers for the programme were drawn from all over the country.



# UDHR National Conference

A two-day national conference was held at the Local Development Training Academy, Jawalakhel, Lalitpur on 23/24 February 1999 to celebrate the 50th Year of UDHR and the 10th year

of INSEC. As part of INSEC two year programme designed to mark the 50th Anniversary of UDHR and 10th Year of INSEC, the conference was held as a convergence of grassroots dialogues. Earlier, UDHR had been translated into 13 local languages and grassroots dialogues held in each community. Experiences and inputs gained through grassroots dialogues and community interactions reflected in the National Conference.

Former Chief Justice of the Supreme Court, Trilok Pratap Rana,

inaugurated the assembly as the Chief Guest. INSEC Chairman Sushil Pyakurel chaired the Inaugural Session. Over 121 representatives involved in human rights movement from all five regions participated in the assembly.

Madhav Poudel, Joint-Secretary of Law and Justice Ministry, INSEC Executive Board Member Badri Prasad Khatiwada, INSEC Treasurer Deepak Kafle, People's Rights Concern Centre Chairman Dr. KB Rokaya, CVICT

## Kathmandu Declaration

The conference has adopted an addendum to the Kathmandu Declaration adopted by the 1996 National Human Rights Conference.

### PREMBLE:

Encouraged by the declaration of rights as inherent human rights in the Universal Declaration of Human Rights, Mindful of the state obligation arising from international human rights treaties towards the rights of citizens, Conscious of the achievements made in the Vienna World Conference on Human Rights, Rio Earth summit, Copenhagen Conference on Social Development, Beijing World Conference on women, Cairo International Conference on Population and Development and other international conferences, and considering the importance of Human Rights Education Decade (1995-2004) declared by the United Nations, Respecting the sentiments of sacrificial 1990 movement of the Nepalese people, under the combined leadership of the United Left Front and the Nepali Congress, for the restoration of democracy and human rights, Gratified at the ratification of important international treaties by the Interim government formed in 1991, Gratified at the 1992 constitution guarantying most of the sentiments of the Mass Movement 1990, Mindful of the achievements of the many conferences organised after the restoration of democracy by human rights organisations on various issues of human rights, Concerned with a number of hindrances and problems still pending in human rights sectors despite the numerous achievements listed above, Committed to the 1996 Kathmandu Declaration on Human Rights,

We, 150 participants present at the National Conference, which is a convergence of various local level programmes

held under the Grassroots Dialogue throughout 1998 by INSEC, an organisation working for human rights and social justice, arrive at the following conclusion-

- a. Priorities of human rights at the grassroots
  - Awareness
  - Minimum livelihood
  - Equal wage for women
  - Minimum wage for agricultural labours
  - Co-ordination
  - Upliftment and protection of women, children, underprivileged groups and communities and disabled
  - Environment and development
- b. For the protection of human rights at the grassroots
  - Awareness raising programme
  - Disseminating programme
  - Creation of organised pressure
  - Relief programme and material
- c. For the creation of human rights friendly environment (by the state)
  - Implementation of human rights education formally as well as informally
  - Formation of Human Rights Commission and Child Court
  - Provision of adequate compensation to end impunity
  - Practical elimination of anti-human rights laws
  - Modernisation of investigation system
  - Social reservation for minorities, underprivileged and socially victimised
  - Voters Identity Card in all constituencies
  - Human rights education for security and administrative personnel and elected representatives
  - Equal pay for equal work
  - Jail reform, control on the trade of liquor, gambling and dowry system
  - Strong punishment for the guilty of women trafficking
  - Labour permission for non-citizens



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Chairman Dr. Bhogendra Sharma, DIG Chuda Bahadur Shrestha were some of senior dignitaries to participate in the programme.

#### Remarks:

Addressing the Inaugural Session, Chief Guest Mr. Rana called on governmental and non-governmental organisations and individuals to protect human rights. "Or else, the constitution will only remain in papers", said Mr. Rana. "The dilapidated jail conditions prove that Nepalese government is weak in protecting human rights." He also focused on the need of formal human rights education.

Badri Prasad Khatiwada held "aimless political leaders" responsible for "increasing political irregularities" in the country. Similarly, Dr.

KB Rokaya blamed those in power for failing to observe human rights principles. Dr. Bhogendra Sharma informed the participants of prevailing practices of torture. "No torture but scientific methods should be employed in investigating a crime", he suggested. Police DIG Chuda Bahadur Shrestha informed that though aware of human rights principles, policemen were sometimes to work under pressure. "However, police administration is working for human rights through a separate cell in police headquarters."

Chairman of the Session, Sushil Pyakurel, reiterated INSEC commitment to human rights. "UDHR has been accepted as a common declara-



tion, in spite of a few nations rejecting it." Mr. Pyakurel demanded an end of caste discrimination as well as a stop of barbarous treatment against Maoists. He also insisted on practical implementation of torture compensation law.

After the inaugural session, three papers were presented to further the discussion.

## Grassroots Activities

### Leadership Development Training

Human Rights and Environment Development Centre, Udayapur and the Local Trust Fund Committee jointly organised on 10-11 November 1998 a Leadership Development Training for local organisations at Dhrubaraj Higher Secondary School, Bahunitar. The training aimed to assist the operation of community organisations established in rural areas. Chairmen of 22 such organisations participated.

### Awareness Assemblies

INSEC network in Rasuwa organised an awareness assembly at Parbati Kunda Secondary School, Goljung on 10 April 1999. 'Challenges before mass election' was the main theme of the meeting which was attended by elected representatives, district administrative chiefs, and others.

Similar meeting was also held by Sindhupalchowk network to discuss on "protection of mass movement 1990 and human rights" in Padambas VDC 1 on 25 March 1999.

### Mass Movement Day

Sindhupalchowk network organised a programme to observe the

Mass Movement Day at Sanobari VDC 2 on 7 April 1999. Different speakers, representing NGO professionals, administrative officials, politicians, legal practitioners and ordinary citizens, shed light on the importance of Mass Movement.

### Speech Contest

Social Service Programme, Sindhuli organized a speech contest on "Child Rights and Children's Development" at Bhagawati English Boarding School Madibazaar. Fourteen students from four local English boarding schools participated in the contest. Chief guest Phalguni Sharma gave away prizes and certificates to winners.

### Essay Competition

Senthur, a network in Nuwakot organized an intra-municipal essay competition on "50 years of Human Rights movement, challenges and possibilities" among Higher Secondary Schools and Campuses of the Bidur Municipality. Badri Binda Gajurel, Binda Tiwari and Rabindra Aryal stood first, second and third respectively. The winners were awarded prizes by the District Judge Tirtha Raj Devkota.

### Women's Leadership Development Training

INSEC Dhankuta network organized on 12 February a Women's Leadership Development Training at the Triveni Resource Centre, Dhankuta. The three day training brought together 25 women, and it covered themes such as the concept of human rights and women's rights, women's participation in social development, Nepalese law and women's rights.

### Child Rights Day Celebrated

INSEC Morang network organized a symposium on "Child Rights Awareness Groups in the Protection of Child Rights" in the auditorium of Sukunda Campus Indrapur, on the occasion of the Child Rights Day.

Similarly, the Panchthar network organized a debate competition on "The role of a boy is more significant than that of a girl in nation building." Students from Shrajing Secondary School, Phidim Secondary School, Ranitar Secondary School, Janakalyan Secondary School, Phaptek and Pithvi Secondary Schools, Yashok participated in the programme. The winners were given away prizes and certificates.



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## Chairman Pyakurel in Indonesia

*INSEC Chairman Sushil Pyakurel participated in recently held Indonesian elections co-ordinated by Asian Network for Free Elections (ANFREL)— a Bangkok based regional organisation monitoring elections in the region. Election observers further set up a five-member delegation to meet Indonesian President JS Habibie. Mr. Pyakurel was also in the delegation.*

*After the meeting with the President, a press release was made. The press release:*

9 June 1999

### XANANA TO BE FREED AFTER 7th AUGUST - HABIBIE

A five-member Asian delegation headed by General Sayud Kerdphol from Thailand, Cambodia, Nepal, Japan and the Philippines belonging to the Asian Network for Free Elections (ANFREL), met today with President Habibie at the Presidential Palace. The delegation is among the 75 international observers deployed by ANFREL to 20 provinces during the June 7 election.

When asked about the release of political prisoners like Xanana Gusmao, East Timor opposition leader and Budiman Sudjatmiko, president of PRD, one of the political parties contesting in the election, President Habibie said that upon his assumption as president, he already released a number of political prisoners based on five criteria including the prisoners allegiance to the constitution. He said that Xanana has been accused of criminal offense and sentenced to life imprisonment, then it was reduced to 20 years so he has 13 years more to serve. The ANFREL delegation asserted that he should be freed before the August 7 Referendum so he could participate freely in the negotiation process. Habibie committed to the group that Xanana will be released after the people of East Timor vote for their independence and East Timor becomes a friendly neighbor then, we can reduce his sentence to 7 years so he will be automatically released.



ANFREL General Assembly held in Jakarta, on completion of election observation, elected Mr. Pyakurel its vice chairman.

the post-election scenario like the possibility of violence and instability, he assured the group that everything is on the pipeline until the next president, whether it is a he or a she will be elected. Asked if there is possibility to elect the new president earlier than November as demanded by the opposition political parties, he said that is against the constitution and he will not do anything against the constitution. He said democracy is just a technique so this election only serves this function towards a long-term democratization process. The post-election challenge he considers important is the socialization of the values of democracy where the lessons learned of the past will be experienced by everyone.

Expounding on East Timor, he said it is something that will have to be decided by the people and he hopes whoever wins in the election will respect the will of the East Timorese people. He emphasized the role of the MOU signed by Portugal, Indonesia and East Timor under the auspices of the UN- that this is binding as far as the parties involved are concerned. With regards to small arms, they will be gathered and deposited by the police with the assistance from the UN and those who use small arms will be punished under the law by the UN police.

Habibie told the ANFREL delegation his administration accomplishments as far as human rights are concerned. He mentioned Indonesia's ratification of the ILO conventions and how, through the decrees and laws passed during his short time as president he was able to address the economic issues of the country. He cited the increase in currency exchange from a low of 16,000 to a dollar to the current 7,800 to a dollar and the positive change in the interest rate.

The meeting was attended by his cabinet including Armed Forces Commander General Wiranto and nine other ministers and advisers. The delegation consisted of Prof. Suto from Japan, Sushil Prakuyel from Nepal, Evelyn Balais-Serrano from the Philippines and Thun Saray from Cambodia.

*For more information, call up or visit the ANFREL Secretariat at Hotel Indonesia, M.H. Thamrin, Jakarta, tel. no. 2301003 or 3906262 ext. 1588.*

Asked how his government intends to address



## INSEC General Secretary Reports to UN Working Group

INSEC General Secretary Dr. Shiva Sharma presented a report about debt bondage in Nepal existing within the Kamaiya and Haliya/Haruwa Systems to the UN Working Group on Contemporary Forms of Slavery at its 24<sup>th</sup> Session (23 June - 2 July 1999) in Geneva. The report follows.

UNITED NATIONS  
ECONOMIC AND SOCIAL COUNCIL  
Commission on Human Rights  
Sub-Commission on Prevention of Discrimination and  
Protection of Minorities  
Working Group on Contemporary Forms of Slavery  
Twenty-Fourth Session

Geneva, 23 June - 2 July 1999

Report by- Dr. Shiva Sharma, General  
Secretary, informal Sector Service Centre  
(INSEC), Kathmandu, Nepal

### Nepal - Debt Bondage within the Kamaiya and Haliya/Haruwa Systems

Of a total six million agricultural labourers in Nepal, about two million are waged workers. Half of these waged workers are totally landless. One-sixth of them work as permanent labourers. There is a wide variation in the terms and conditions under which permanent labourers work. Because of rampant poverty and low wages, debt bondage is found within permanent labour relationships and it operates in the form of i) extraction of excessive hours of work ii) extraction of labour service from family members, and iii) indebtedness. Specifically, bondage exists in two forms of permanent labour relationships, the Haliya/Haruwa system and the Kamaiya system. There are 46,000 labourers under the Kamaiya system and 260,000 in the Haliya/Haruwa system.

The Haliya system is practised in the hill districts of Nepal. The labourers are advanced cash in the region of Rupees 10,000 (\$149, £88) at the beginning of the labour contract and they continue to work for the same employer until the advance is repaid. Such labourers are required to do all the ploughing work of the employer, and are paid an annual wage for the work. The amount taken as a loan is much larger than the annual wage and generally beyond the capacity of the labourers to pay back. Thus a debt bondage situation ensues.

In the Haruwa system which is in practice in the terai (plain) districts of Nepal, an advance taken at the beginning of the contract is not the norm. Labourers do incur debt within the contract period, but such debt is generally

paid back within the contract period. It is possible to do so because Haruwa labourers receive a share of the harvest from the plot of land allocated to them as part of the wage payment. Yet, a different element of exploitation is present in the system which causes Haruwa labour to be bonded. That is, the family members (in particular, the wives) must work for the same employer, and are paid a fixed daily wage, which, in peak farming seasons is lower than the market wage rate. Thus, they have to forgo the opportunity of earning higher wages, at least in the peak seasons.

The Kamaiya system is well researched, and there is a clear evidence that debt bondage exists within it. As for the Haliya and Haruwa systems, what little research has been done suggests that debt bondage does exist, with wages being systematically depressed and control exercised over family labour.

Informal Sector Service Centre (INSEC) has, over the past eight years, conducted two comprehensive research studies in 1992 and 1998 into the Kamaiya system. INSEC has systematically, and successfully, lobbied policy makers politicians and donors to put the Kamaiya issue at the top of their agenda. The Government has allocated a budget for a program among Kamaiya in the past four years. International agencies such as the International Labour Organisation (ILO) have been assisting the government and civil society to work on the Kamaiya problem, and more than half a dozen international Non-Governmental Organisations are now working with Kamaiya. In 1997, INSEC and Anti-Slavery International (ASI) jointly published a research report on debt bondage, which included the Haliya and Haruwa systems. Subsequently, INSEC has been engaged in further research into these systems. INSEC is determined to take up the challenge using the experience accumulated in dealing with the Kamaiya issue in terms of research, advocacy, lobbying, and action.

The Kamaiya system is prevalent in five Mid West and Far West terai Districts. There are 26,000 adult male, 15,000 women and 5,000 children working under the system. Kamaiya labourers differ from others working under permanent labour relationships in terms of debt bondage. 'Saunki' (the debt incurred from the employer), binds Kamaiya and deprive them of basic human freedoms, i.e. mobility, freedom to choose employer, and to take decisions about their work. Excessive hours, low wages and the requirement of family labourers to work for the same employer, constrain Kamaiya and make their exit from the system impossible.

Kamaiya labourers come largely from the Tharu community, an ethnic group indigenous to the area. Traditionally, they used to be landholders. Their traditional rights to land were systematically squeezed when the state began to allow the establishment of legal property rights in the early 1960s. Migrants from the hills, and those with connections to the state machinery, manipulated the provisions for land registration and displaced Tharu from their tradi-



tional control of land. Loss of access to land alongside the continuation of exploitative socio-cultural practices forced landless Tharu into a state of dependence on employers for wage work and credit. Illiterate Kamaiya are systematically subjected to the dictates of the employer-landowners who are well off socially and economically, and in whose favour the state machinery operates.

The Kamaiya issue has now been accepted as a national issue of concern, and both the government and non-governmental agencies (NGOs) are presently working to emancipate Kamaiya from bondage. There are about one dozen NGOs and INGOs working on the Kamaiya cause. The programs are targeted at individual Kamaiya, and there

has been no concern to reform the system itself, or to address structural issues germane to the system. The majority of government and NGO interventions prioritise awareness raising and literacy classes. However, the reality is that Kamaiya are so exploited in terms of hours of work, that they do not have time to attend classes. Therefore the coverage of these programmes within Kamaiya villages has been limited. Consequently, in spite of Government and NGO efforts in the past seven years, there has been little impact in terms of Kamaiya emancipation. The current approach is focussed on the effects of the system and fails to address the causes that evolve and sustain the system.

There has been little effort on the part of NGOs and Government to really address the issues germane to the Haliya and Haruwa systems. Indeed, the plight of labourers in these systems are not fully researched and are less understood. But the available information suggests that bondage does exist through indebtedness and control over family labour. There are seven to eight times more labourers in these systems compared to the number in the Kamaiya system. And unlike Kamaiya labourers, Haliya and Haruwa labourers are found throughout the country.

Solutions to the existence of bonded agricultural labour within the Haliya, Haruwa and Kamaiya systems need to be sought in structural issues - land distribution, regulation of working hours and wages, credit availability, and legal provisions to protect the basic rights of the labourers. Such reforms would enable bonded farm labourers to be transformed into free individuals. The following are recommended as appropriate Government actions for maximising the impact of targeted programs. International agencies should motivate and facilitate the Government of Nepal to respond to these recommendations as a matter of urgency.

### A Minimum Wage for Agricultural Labours

For the first time in Nepal, a minimum wage has been fixed for agricultural workers. Naubasta Village Development Committee in Bankey district, a mid-western district in Nepal, has taken this bold decision.

At a mass meeting organised jointly by INSEC and the Committee on June 18, which was participated in by the Chief District Officer, police officials, representatives from HMG labour office, District Development Committee Chairman, Local Development Officer and many neighbouring VDC Chairpersons, the Committee Chairman announced that Rs. 60 (around US\$ 0.90) per day with no meals or Rs. 40 (around \$0.60) with three meals has been fixed for a wage labour. It should be noted that no fixed wage has been set so far for the workers in agricultural sectors by the government, it is largely arbitrary and dependent upon the will of masters. When it comes to Kamaiyas (bonded labours), the discrepancy is such that a woman Kamaiya (*bukrahi*) rarely gets any wage when it is given to a male Kamaiya (generally the household chief). Unlike this, now on both male and female will get their wage.

INSEC Chairman Sushil Pyakurel hailed this step taken by the VDC. "Though the amount so fixed is relatively less, this marks a positive beginning. This is the first step of its kind worth copying by other VDCs. I am sorry to share with you that the state is failing to fulfil its basic obligation, to protect the people, to guarantee their wages. It is quite disgusting to see our governments doing nothing in this sector for a decade. INSEC which is fighting for human rights and social justice cannot wait when injustices are permeating in our society. Therefore we are coming in, we ask your help to break the silence, to reclaim justice. INSEC has set plans to mobilise VDCs, the people through out the country."

It is to be noted that INSEC is fighting for the abolition of the bonded labour system for over a decade and the fixation of a minimum wage for bonded labours is high on its agenda. This marks an initial victory of INSEC movement which it wishes to take to other parts of the country. In the upper level, INSEC is working with experts to set an ideal minimum wage.

- a. Ratify the ILO Forced Labour Convention No 29, and make commensurate legal arrangements to suppress the use of bonded labour, and forced or compulsory labour, within the shortest possible time.
- b. Define bonded labour for legal and practical purposes, and evolve legal arrangements to penalise employers using bonded labour practices.
- c. In land redistribution programmes and employment schemes, give preferential treatment to identified bonded labourers.
- d. Give preference to labourers in the systems prone to bondage in terms of access to rural and micro credit schemes targeted to poor and disadvantaged.
- e. Fix the minimum wage and maximum working hours for agricultural labourers, and create mechanism to enforce them.
- f. Encourage and facilitate unionisation of farm labourers.
- g. Gradually create social security schemes to encompass all farm labourers



# Election Practices in Nepal

- Raghu Lamichhane

Nepal entered into democratic politics on the onset of the nineties. Ever since, Nepali people have participated in five major elections—three general (for parliament) and two local. However, election practices have yet been trustworthy.

General elections 1999 passed as a ritual rather than an occasion to correct previous wrongs. The Election Commission, entrusted with holding free and fair elections, is to blame for its failure to make political parties abide by the Election Code of Conduct. On the face of election results, many political parties/ contestants attributed their defeat to the failure of the Commission in its administrative and security measures: many ballot papers were administered without the signature of Polling Officer, polling symbol was placed oppositely, inadequate supply of officials and so on. The lack of security measures rather encouraged malpractice and wrongdoing. Home and other ministries are also to blame for many irregularities, such as the use or reluctance to control of hooligans, favouritism in the mobilisation of police personnel, one-sided use of government media.

In many districts, such as Dhading, Mahottari, Mugu, Dhanusha, etc. miners as old as 10 were observed casting votes. These children merely followed instructions of the 'rich' candidates for whom it was easier to entice children than adults to ensure a victory.

Manhandling, mostly charging with *khukuri*, the weapon of the Gurkhas, explosion of bombs and psychological intimidation formed part of 'peaceful election'. New forms and style of rigging employed in this election reflected the Bihar style of politics where bombs matter more than ballots to decide a victory, thanks to impotent election machinery and security measures.

Almost all political parties invested less to educate the people, politicise them and convince to caste their votes. Instead efforts were made to entice and intimidate them—a violation of their conscience. The Election Commission completely lacked motivational mechanism to invite as many people as possible to participate in election. People were called to vote but they were not informed why.

Election Code of Conduct prepared by an all-party consensus was brutally shattered by all. The Election Commission, as a mere onlooker, fulfilled its duty simply issuing a call to 'observe' the Code, a carefully worked out tactic.

The fairness of election can be judged in meaningful observation of election booths, election environment and participation of people. It is therefore election observation has been a part and parcel in emerging democracies. As far as the 1999 general election monitoring is concerned, Nepalese Election Commission played a trick. The institution tried its best to keep some specialised organisations, specially the NEOC (National Election Observation Committee, a co-ordinating body of various organisations in Nepal) out of business possibly because it had issued a strong call in earlier elections against election rigging and prejudiced stances taken by responsible institutions and persons. The Commission granted authority of observation to many, quite a few of them newly created, so that the Commission could escape blames for its failure to hold elections in free and fair manner. Conflicting reports prepared by each would give latitude to the Commission to make its own logic of defense.

In the Maoist affected areas, the turnout was quite low, thanks to the Maoist death threats. On the other extreme, it was reported that in some booths, police and election officials forced some voters to vote so that, it can be argued, voting would not be nil. Both ways violate the right to conscience, the very essence of democracy, which, from its birth, is dedicated to protecting the life and conscience of the people.

*A minor also casts his vote*



(Mr. Lamichhane is with INSEC)



**NEPAL**

# **HUMAN RIGHTS YEAR BOOK 1999**



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