

258 Dark Days

JIT MAN BASNET

ASIAN HUMAN RIGHTS COMMISSION - HONG KONG

ADVOCACY FORUM - NEPAL

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Foreword to the Second Edition

Lessons of the Past for Nepal's Future

Nepal in 2004—the year in which the inhumanity in this book takes place—was in the eighth year of a civil war that had claimed the lives of thousands of people. With much of the countryside controlled by the Communist Party of Nepal (Maoist), the government was seeking to retain its power and influence in the urban areas and preserve its authority over the nation. Instead of seriously and sincerely attempting to address the poverty plaguing the country—a major issue on which the “People’s War” of the Maoists was being waged and which had been neglected by a variety of elected governments for more than a decade since the birth of democracy in 1990—the government and the military, led by King Gyanendra, responded with repression blindly directed at anyone critical of its policies. It was presumed by those trying to cling to power that their critics and the Maoists were one, that criticism equalled support for the Maoist struggle.

This environment and this mindset were ideal for promoting and sanctioning human rights violations, not human rights. Not only were such severe human rights abuses as torture and disappearance rife, but the impunity that permits and condones their continuance was embedded in the system of governance and the misguided response of those in power to the country’s civil war and the grievances of Nepal’s people.

Jit Man Basnet, a journalist and lawyer who disappeared on February 4, 2004, has exposed the violent reality of Nepal at this time through this autobiographical account of his disappearance. Although Jit Man's book about his 258 disappeared days reads like a Hemingway novel, tragically, the book is not fiction. Well documented in these pages is the excruciatingly inhuman experiences of those named and the hundreds of those unnamed who never knew when or if the nightmare they lived within the confines of the Bhairabnath Battalion barracks would end. Jit Man has catalogued the variety of human rights violations of this period—arbitrary arrests and illegal detentions, disappearances, torture, custodial deaths, and extrajudicial executions—and has in particular chronicled the methods of torture from which he and others suffered—simulated drownings, electrocution of sexual organs, rape, brutal and constant beatings as well as other forms of state-sanctioned violence—that resulted in broken backs, paralysis, unconsciousness, and death. Moreover, as this book amply illustrates, attempts to find disappeared relatives and friends were obstructed by lies to not only the families of the victims and non-governmental organisations (NGOs) assisting them but the courts, National Human Rights Commission (NHRC), and even the International Committee of the Red Cross (ICRC).

Indeed, Jit Man's book makes clear that there was no longer any legal system functioning in the country, that any pretence at upholding the rule of law was a myth. By sabotaging its legal system and thus failing to protect people's rights and dispense justice, the State's intention to honour its ratification of numerous U.N. human rights covenants and conventions, including those requiring the promotion and protection of civil and political rights and forbidding torture in Nepal, was a myth as well.

It is Jit Man's holding of truth to naked power and its disregard for human life that is the strength of his pen. His narrative of the

loneliest and most disheartening 258 days of his life offers evidence of the suffering of Nepal's people during these bleak years of conflict and omnipresent human rights violations that must be used by today's authorities to prosecute those responsible for creating and maintaining the country's illegal system of state-condoned violence as well as to confer justice to its victims and their families.

This book presents another challenge as well to the recently elected Maoist-led government of Prime Minister Pushpa Kamal Dahal, who, as "Prachanda," led the Maoist insurgency against Nepal's monarchy, for it provides a reminder of what Nepal was during some of its most violent years and what it should never become again. Jit Man's depiction of life for the disappeared in the Bhairabnath Battalion barracks should move the new government to make certain that the country has the institutions necessary to promote and protect people's rights and that these institutions should never be subverted by any component of the State. Moreover, if progress is to be made in upholding and defending human rights in Nepal, if a foundation is to be laid to ensure that the state-sanctioned violence of the past does not recur in the country in the future, then the current government must take steps to prosecute the perpetrators of past human rights violations committed by both sides—the government and the Maoists—during the civil war; for if there is no justice for past denials of people's dignity and rights and the misuse of state power that engendered them, then it is likely that history will repeat itself and there will be a future disregard for people's rights and dignity and a further abuse of state power as well. In this way, Jit Man's book links Nepal's past and aspirations for its future. It is hoped that there is never a need to retell this story in Nepal again.

While this book is based on Jit Man's experiences, it is the story of far too many others in Nepal detained by the army at the time. This second edition of the book in English contains material in

chapter 21 not included in the first Nepali-language edition and a new chapter—chapter 36—that describes his life after his release from the Bhairabnath Battalion barracks as well as additional photographs.

MANDIRA SHARMA
Executive Director
Advocacy Forum
November 5, 2008

BASIL FERNANDO
Executive Director
Asian Human Rights Commission
November 5, 2008

Foreword to the First Edition

A Heartfelt Record

Jit Man Basnet was wandering as a refugee when I first met him in India in October 2005. Kabita Menan of Amnesty International, Reshma Thapa of the International Commission of Jurists, and myself had climbed to the fourth storey of a house in the Malbiyanagar area of New Delhi to find shelter for him. Responding to the simple questions asked by Kabita, he said, “Life is too complex in Delhi, but there is no fear of death, like in Kathmandu.”

Jit Man is among the journalists who were forced into exile during the arbitrary rule of King Gyanendra that began with the royal proclamation of February 1, 2005, and the king’s seizure of political power in Nepal. Earlier Jit Man was the target of the Royal Nepal Army (RNA).

We met again in New Delhi in the Jangapura area of the city in the residence of Indian journalists Bela Malik and Thomas Mathew, who were supporting the pro-democracy movement in Nepal. During this meeting, Jit Man shared with us his heartbreaking stories that he experienced for 258 days in the barracks of the RNA’s Bhairabnath Battalion. We then discussed the structure of a book with Laxmi Murty, the South Asian coordinator of the International Federation of Journalists (IFJ), who was closely monitoring the journalists who had arrived in New Delhi after being displaced from Kathmandu. Jit Man then prepared the draft of a book after roaming all over the cyber cafés of the narrow streets of New Delhi.

258 Dark Days is thus an autobiographical story of detainee No. 97 who spent his days of misery in the Bhairabnath Battalion barracks in the Maharajgunj District of Kathmandu in 2004. It is also a story of conflict and pain and the cries of hundreds of other detainees secretly held in detention. This book then is a record of a historical stage of the armed conflict of Nepal of which almost all the pages carry the stories of army atrocities upon the civilians of the country. Hence, this memoir of the journalist and lawyer Jit Man Basnet gives a horrifying glimpse of the violent denial of human rights in Nepal at the time.

The book contains a heartrending description of the severe torture and ill-treatment meted out by the army to the detainees in the secret detention facility of the Bhairabnath Battalion. It clearly reveals the RNA's unscientific and irresponsible system of investigation and their contempt for the rule of law. In addition, this book also signals the changing subterfuges of RNA officials to subvert the response of the international community to the country's disappeared civilians. This book, prepared by a victim himself, presents important evidence that exposes the army officials involved in these serious human rights violations and thereby provides the grounds for their prosecution. The documents provided in the book's annex offer additional background about Jit Man's case as well as greater understanding of the prevailing impunity in Nepal.

This book has been written on the basis of information gathered from the whispered communication muttered among the detainees behind the backs of the sentries while they were blindfolded and handcuffed and of the conversations that took place directly or indirectly between the soldiers and the detainees. Although some of the information in this book might be inadequate and unclear, it certainly will contribute to launching investigations into the army brutalities inflicted on the detainees in the dark cells of the Bhairabnath Battalion barracks.

On the pretext of the violent conflict in Nepal at the time between the government and the Communist Party of Nepal (Maoist) and in the name of quelling it, brutal oppression was unleashed upon the general public for more than a decade beginning in 1996. There are about 30 journalists among the long list of 15,000 people who were killed during this time. Moreover, hundreds of journalists were tortured physically and mentally by both parties—the State and the Maoists. Assaults and maltreatment to the Fourth Estate during the Terai uprising in the beginning of 2007, however, have shown that threats to freedom of the press and freedom of expression continue unabated even during the transitional phase following the popular movement of April 2006.

No reliable statistics are available indicating the exact number of deaths of detainees inside the secret army detention centre when the RNA resorted to arrest and torture as a policy to squash the Maoist insurgency. The Office of the High Commissioner of Human Rights-Nepal (OHCHR-Nepal) has confirmed though the key roles played by Maharajgunj-based army battalions—the Bhairabnath Battalion and the Yuddha Bhairav Battalion—in arresting civilians, putting them in secret detention centres, and torturing them physically and mentally, especially after the dissolution of the second phase of dialogue in 2003. However, it is surprising to see the interim government fail to initiate widespread investigations and to proceed with the prosecution of those responsible based on the findings of OHCHR-Nepal.

Nepal achieved a remarkable political triumph in 2006, however. The movement has passed to us the responsibility to institutionalise this political change into a sustainable peace, social justice, and a democratic republic. The comprehensive peace agreement reached between the government of Nepal and the Maoists has ended the violent conflict. While moving the process for peace and change forward, it has begun to be felt that the issues of accountability and justice are being ignored. The delay in the formation of the

Truth and Reconciliation Commission points in this direction, for instance.

Meanwhile, the victims are uniting in the belief that the State will open the door to justice. An increasing number of people are seeking their relatives who disappeared and are demanding compensation for the families of those killed and for the victims of torture. Moreover, the trend of bringing to light documents exposing violations of human rights is also gaining speed, a phenomenon that never could have occurred during the earlier period of adversity. The State should assume responsibility to bring the perpetrators of these grave human rights violations to justice and to end the culture of impunity by conducting extensive investigations into these violent incidents. A record of this violence, like this book, will contribute to this goal of attaining justice for the victims.

PURNA BASNET
Executive Committee Member
Federation of Nepali Journalists
February 1, 2007

Preface

Born on 2 Paush 2032 (December 17, 1975) in the village of Goli in Solukhumbu District, a remote area of Nepal, I am the second of five children of my parents—Mrs. Dil Kumari and Mr. Tek Bahadur Basnet. I have one younger and three elder sisters. I completed my primary education from the Buddha Primary School and earned my high school diploma in 2050 B.S. (1993) from Himganga High School in Chaulakharka, a neighbouring village.

I came to Kathmandu in 1993 and went to law school to fulfil my desire since childhood to be a legal practitioner. After receiving a bachelor's degree in law in 2056 B.S. (1999), I began practicing the profession as an advocate. Earlier, in order to use a pen for justice, I initiated in 2054 (1997) publication of *Sagarmatha Sandesh* in Kathmandu, which became the *Sagarmatha Times* two years later. The newspaper soon reached the eastern region of Nepal, establishing itself as a publication that raises its voice against political corruption and social injustice. Over the years, it has gained a growing influence upon the readers of politics.

By 2001, Nepal was experiencing a difficult time due to the mounting ambition of the new king to be a dictator and the Maoist insurgency—the so-called People's War—that had been sweeping all over the country since 1996 that challenged the authority of the Shah Dynasty and its latest occupant on the throne, King Gyanendra. The country thus had become enmeshed in a tripartite conflict among the go-it-alone monarchy, the Maoists and their revolutionary creed as champions of the poor and oppressed, and parliamentarian political leaders in disarray. Although Nepal had a government led by Prime Minister Sher Bahadur Deuba, the people

never felt its presence. Rather, people believed that the government merely functioned under the control of King Gyanendra and his command of the Royal Nepal Army (RNA).

Meanwhile, there was a growing number of people being arrested, disappeared, killed, and severely tortured in army custody. Moreover, it was common at the time for the activities of the Maoists and the issues related to the monarchy to appear on the front pages of the newspapers and magazines in Nepal. In Mangsir 2060 B.S. (November/December 2003), an editorial entitled “A Petition to King Gyanendra” about the king’s property and a report regarding the Doramba killings in Ramechhap District appeared in the *Sagarmatha Times*. Because of the contents of this editorial and article, the RNA arrested me on February 4, 2004, and held me in the Bhairabnath Battalion barracks in the capital.

Following my arrest, I spent 258 days in the army barracks—the most difficult days of my life. I do not see any means to repair the damage done to my heart, mind, and body by the brutal torture inflicted on me by the army. The violent methods adopted by the army—purportedly in the name of conducting an investigation—do not fall under any principle of modern jurisprudence to investigate crimes.

The autobiographical account in this book covers only a part of a long and bloody series of atrocities committed against Nepal’s civilian population. Hundreds of civilians, like me, passed away from their beloved world because of the absolute brutality administered inside the army barracks while their families and friends waited for their safe return at home. Parents, whose days may have been numbered, looked forward to their children’s return with an expectation to continue life, sharing its joys and sorrows with them. Despite this suffering in the country, in the current changing political context several years later, the State has yet to take any effective steps to search for the disappeared.

While in the Bhairabnath Battalion barracks, I never imagined that I would come out of army custody and have the opportunity to share my experiences of that hell. Having returned alive from what I thought was my deathbed, I feel like I've been given another life. Afterwards, I struggled to save the lives of several others who were at the door of death. While there may have been little I could do, it makes me feel proud if I saved one life from that daily hell. Regularly, I had to witness a deeply agonising environment that included the killing of women after being raped, the death of detainees because they were not fed, people collapsing due to hunger, and the painful howls of the tortured and their slide into madness because they could no longer bear the pain. These incidents will haunt me forever.

I have written this book to share my experiences while confined in the Bhairabnath Battalion barracks. Those who have never gone through the hell of army custody may find this book unbelievable and even implausible, but it will be just a small sample of the violent insanity that was our world for those who have had to endure the loss of their freedom and any semblance of normal human behaviour and relationships. Deeper and more unbearable may be the pain of other detainees who have survived and returned from the world of detention to the world of the living. Despite its limitations, I hope this book describing the forms of army brutality that occurred daily inside the Bhairabnath Battalion barracks will contribute, even if only a little, toward pressure to conduct further investigations to reveal the truth about what occurred behind the walls of the Bhairabnath Battalion barracks and to prosecute those responsible for this state-sanctioned violence, that is, if the government finds the political and moral courage to punish the perpetrators.

All of those who rescued me from my deathbed are my begetters. I am very much indebted to everyone who helped save my life. I would especially like to express my sincere gratitude to my family,

friends, and other well-wishers and to the journalist Bal Krishna Basnet and lawyer Jyoti Baniya for their persistent search for me in spite of countless difficulties in their path. Thanks also to the Federation of Nepali Journalists (FNJ), the National Human Rights Commission (NHRC), the Nepal Bar Association (NBA), and the International Bar Association (IBA) for constantly raising their voices for my release after my arrest and to lawyer Bishnu Luitel and my brother Top Bahadur Basnet and human rights activists for filing habeas corpus petitions in court.

I am grateful to the kind-hearted people of the United Nations at the Office of the High Commissioner for Human Rights (OHCHR) and other diplomatic representatives for understanding my security needs following my release and subsequently providing me with shelter. I would like to record my thanks to the International Federation of Journalists (IFJ) and its South Asian coordinator, Laxmi Murty, the Danish Institute for Human Rights, Front Line Defenders, the International Media Fund (IMF), Amnesty International, the Media Entertainment and Arts Alliance in Australia, the Australian Journalist's Union, Aman Trust Delhi, the Committee to Protect Journalists (CPJ), the International Commission of Jurists (ICJ), the International Committee of the Red Cross (ICRC), the Asian Human Rights Commission (AHRC), Lena Barrett and the Centre for Applied Human Rights at the University of York, Institut des Droits de l'Homme des Avocats Europeens (European Bar Human Rights Institute), the World Organization Against Torture (OMCT), the International Federation for Human Rights (FIDH), the Buraku Liberation and Human Rights Research Institute (BLHRRI), and Lawyer's Rights Watch Canada for assisting my needs for security and offering other support in various ways. I would like to remember as well several senior journalists, the late Bela Malik and Thomas Mathew, and Nepalese living overseas for the help they urgently gave me. I also will cherish forever the help Marcel and Lillian Burgi Von Arx of the Swiss Agency for Development and Cooperation (SDC)

provided and will eternally be in debt to Dhan Bahadur Khadka of Bardia District and his family for all the support I received while in exile.

Last, but not least, my thanks and appreciation are extended to the director of the Asian Centre for Human Rights in New Delhi, Shuhas Chakma, for the assistance he provided to prepare the draft of this book. I am also grateful to Bhim Regmi for translating the book from Nepali to English and to Bruce Van Voorhis of the Asian Human Rights Commission in Hong Kong and Kamal Pathak, Dilli Ram Neupane, and Dev Raj Limbu of Advocacy Forum in Nepal for the editing and additional translation of the book. My sincere thanks is extended also to Johan Sørensen and the Danish embassy in Nepal, Peace Brigades International (PBI) in Nepal, and Protection Desk Nepal (PDN), which all provided me with the support necessary for my safety during difficult times. Finally, I would like to record my sincere thanks to Mandira Sharma, executive director of Advocacy Forum, and Basil Fernando, executive director of the Asian Human Rights Commission, for making the publication of this book possible and to Purna Basnet for his encouragement to compose this memoir and his editing of the Nepali version.

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Chapter I

My First Night in Army Custody

21 Magh 2060 (February 4, 2004)

It was 6 o'clock in the evening. I was sitting in a teashop that belonged to my relative in the part of Kathmandu known as Tinkune. I was talking to the shopkeeper about the political instability in the country. A middle-aged man, who seemed like he was 35 or 36 years of age, approached me and ordered a cup of milk tea from the shopkeeper. The shopkeeper told him that milk tea was not available at that time.

The middle-aged man then turned to me and said, "I think we have met somewhere before."

"We might have been introduced somewhere," I answered.

"Aren't you Jit Man Basnet?" he asked.

"Yes," I responded.

He then asked me to come outside, telling me that he had some issues to discuss with me.

In the meantime, two or three strangers came closer and heard our conversation. One of them took out an issue of the *Sagarmatha Times*, a newspaper that I was working for as an editor, and requested that I publish his article in the newspaper. I told him that I would have to read his article first.

The conversation continued for about half an hour. Afterwards, the middle-aged man disclosed that he was a member of the security forces and that he wanted to take me with him. I was shocked by what he said, and it was only then that I realised that I was being arrested.

I gave the keys to my motorbike to the shopkeeper because I wasn't sure when I would be released. On this very day, my father had come to Kathmandu from the village for his health check-up. He was staying at one of my relative's homes in Gothatar, which is in Kathmandu District. The shopkeeper came to get the keys from me, but I was warned not to speak to him. Despite the warning, I handed the keys to him and said, "The security forces are taking me. Please give these keys to my father and keep my motorbike safe."

The security personnel were furious with me because I had informed the shopkeeper about my arrest. They screamed at me using filthy language as if I had committed a grave crime. By this time, other people had gathered to watch.

In about half an hour, an army vehicle came and stopped in front of the teashop. They forced me into the vehicle and took me towards the area called Sinamangal in the capital. The middle-aged man who had been talking to me from the beginning called someone on his cell phone and said, "Boss, we have arrested him and are now taking him with us."

As the vehicle reached Sinamangal, they blindfolded me with a red piece of cloth and handcuffed me. I couldn't see a thing. The ride wasn't smooth as the driver had used a narrow gravel road. I guessed, however, that we had first crossed through Bhatkeopul in Chabahil in Kathmandu District with its numerous potholes and gone towards Baluwatar. We took many turns and finally arrived at the Bhairabnath Battalion's barracks located in Kathmandu's

Maharajgunj area. I sometimes peeped through the blindfold, and that's how I knew where we were. I was sure that I had been arrested by the Royal Nepal Army, or RNA.

After a while, they took me to a desolate area that was surrounded with a wire fence. There were some tents that served as small, temporary lodging. It was already dark. I could only hear people coughing. The group that had arrested me disappeared and handed me over to another group.

I was ordered to sit on a damp floor inside a tent. I couldn't sit comfortably with the handcuffs. I was blindfolded even in the dark so I had no clue what was going on.

In the meantime, my cell phone rang. A soldier gave me the phone. One of my colleagues from the newspaper had called.

"I am in a tense situation now," I told him. "Please help my father get his treatment."

Then I hung up. I couldn't even tell my friend about my arrest by the army because they were listening.

A little while later I received another call, but it was cut off unexpectedly. After that I did not get any other calls, and I was sure that the soldiers had switched off my cell phone.

Then the men interrogated me about the previous two callers. I told them that they had been my co-workers from the newspaper.

All of a sudden one of the men started scolding me with filthy language.

"Idiot Maoist! How many people did you kill?"

They nagged me constantly and kept interrogating me. They pressed their boots on my body and walked on my stomach. I soon lost consciousness due to the incessant torture.

I regained my consciousness after about half an hour, and they forced me to walk to a place nearby and stripped me. They asked me to tell them about the Maoists' hiding place. I told them that I knew nothing about it. They ignored my answer though and continued to ask me questions about the Maoists.

“When did you start working with the Maoists? Where do they hide? Who do you know among them?”

I defended myself by saying that I was neither a Maoist nor a supporter.

I didn't have an answer because I knew nothing about the Maoists, but they didn't believe me and started pelting me with boots, bamboo sticks, and polythene pipes, etc. I was naked and shivering. They dipped my head in a drum filled with stinky, muddy water. I kept suffocating. I was extremely cold and couldn't breathe. I was certain that they wouldn't let me live and lost all hope of living. I kept losing consciousness because I was so feeble.

After two hours, they ordered me to put on my clothes. My condition was so poor that one of them had to help dress me. Afterwards they threw me under a tent. It was probably midnight, and by then I was suffering from extreme pain all over my body. I couldn't even push myself to move to the place where they told me to sleep.

Another man approached me and repeated the instructions, that I move to where I was instructed to sleep. I recognised him from his voice and knew that he was one of the people who had arrested me. He asked me calmly the same questions that I had been asked by

the other army men who had tortured me. I understood that each played a different role and this was part of their technique. Later I found out that his name was Major Bibek Bista. I could never satisfy Major Bista though.

I was so hungry that I could have eaten a horse. They did not give me any food. My whole body was aching. I would sleep by simply wrapping myself with an old blanket. The chill could kill. I fell on the ground because the old cot was not strong enough to handle my weight and I was semiconscious. My body was covered in blood. I would wail unconsciously due to the extreme pain.

I heard the guards kick my broken cot with their boots during the night.

“You are still alive?” they said.

I had lost all hope and confidence of living. Imagining further intense and painful days ahead, I spent my first miserable night this way in army custody.

Chapter 2

Unforgettable Dreams

It was another gloomy day, and I was not able to recognise day from night. I had a dream in which I was in another world. I was unable to recollect the scene exactly, but I felt strange feelings. My head was full of peculiar and terrifying images. Many fearful shapes moved around in my head. The frightening images haunted my mind. There were men with guns, dead bodies, and pictures of drowning human beings that moved to and fro in my mind. I felt as if I was in a graveyard, or perhaps I was already in hell. Those horrible images were a result of the classical mythology in *Garudh Puran* I was familiar with, which deals with how bad people suffer in hell. Other captives had had these same kinds of nightmares and exchanged their stories of them later with me.

It troubled me for a long time and continues to haunt me. Though I was not fully conscious, I was curious about my surroundings. I heard the guards cough frequently, and I acquainted myself with a detainee who was sleeping next to my tent.

I had many nightmares. I used to cry in my sleep but would wake up with the guards kicking me.

“You terrorist!” they yelled. “You have killed many people and now you are crying at night.”

I had to remain silent as they reprimanded me. I thought their hearts were filled with stone. They never showed any sympathy. I

was tagged as a terrorist, and there were many innocent people like me who were blamed. I knew that the guards knew nothing about me.

Someone asked to use the toilet. The guard ignored him and instead kicked my cot. I guessed it was morning.

“Oh, bloody Maoist, you are not dead yet,” he said.

I didn't respond to him but instead moved my body a little. Then he left me.

Later I learned that this was their method of checking the condition of captives so they could report it to the next duty officer when their shift finished. I understood that there was a possibility of finding dead bodies early in the morning so this process was necessary to check who was dead and who was alive.

Gradually, I realised there were new guards. They would ask many unnecessary questions whenever they saw new detainees.

“Where's your house? When did you join the Maoists? Where were you arrested?” they would ask me.

I replied to all these questions.

These were the normal questions new captives were asked by the guards. They sometimes spoke in a lower voice: “A new terrorist has come!” Then I knew there were more detainees in custody.

After a while, I heard someone blowing a *shankha*, or conch shell, and some people chanting religious hymns. I even heard bells ringing. I was amazed and wondered how the army had become involved in worshipping God in such a graveyard-like place.

The barracks was actually a place for “sacrificing men and women,” and there was no point in worshipping God. I thought, What was the use of worshipping God where people cried in extreme pain?

After about an hour, the hymn stopped. Then I slept.

The next morning I heard the movement of people here and there. I also heard some crows crying as if they had found a corpse. I imagined that some person like me had lost their life.

Instantly, I thought that these crows might be broadcasting the message of my death. There were armed guards standing nearby. I heard some people weeping far away in a desolate area.

Chapter 3

My First Friend in the Camp

One of the detainees had asked to use the toilet, but the guard didn't give him permission.

“You old man, wait for a while,” he said.

Everybody used to call him “old man.” His body was swollen. He had to urinate every half an hour. He hadn't seen sunlight for many days. I realised that his body was swollen due to the extreme cold as the winter was at its frigid peak.

All of a sudden the old man screamed, and the guard called him to come nearer. The vulnerable old man hobbled like a cripple out of the room though.

“Is it in your home that you can go piss as you like?” the guard asked.

The guard finally permitted him to use the toilet but warned, “If you don't arrive within a minute, you'll be in trouble.”

I felt extremely sorry for him because of the way the guard had behaved with him.

After using the toilet, the old man quietly came close to me. He asked my name and address and the place and date of my arrest. I whispered the answer to him. He was terrified because there was

a rule that detainees were not allowed to talk to each other or they would be whipped.

I learned later that the old man was Tika Kandel from Balefi in Dhading District. He was an Ayurvedic doctor working at the Little Angel's School in Hattiban in Lalitpur District as a health assistant. The security forces had arrested him from his home. In the beginning, he was detained by the Rajdal Battalion in Lagankhel in Lalitpur District; but after three months, he was transferred to the Bhairabnath Battalion. He said he was innocent.

He was my first friend in custody. He looked like the painter Leonardo da Vinci because of his long grey hair and beard. He looked very old, but I learned later he was just 41. His hair hadn't been trimmed for three months, and consequently, his dirty appearance—the beard and moustache—made him seem older. Tika's strength had deteriorated after relentless periods of torture. I felt extremely sad at the physical condition of my first friend in custody.

I asked him to guess the number of detainees in custody.

“Perhaps 80 people right now,” he whispered to me. “There were about 150 to 200 detainees a month ago. Many of them were transferred from here, but I am not sure where they were taken.”

I felt good knowing that I was not the only detainee there, but I worried about the detainees who had been moved.

“Are they still alive?” I asked him.

I worried about our fate as well. Disappearances were common, and people had less hope these days of living a full life. There were rumours that the army did not let people live once they were taken out of custody.

After a while, Tika left me and went to his place that was nearby. In the meantime, I heard a woman cry out loud. She wanted to use the toilet. It was then that I knew there were other detainees, some of whom were women. I heard the guards beating someone mercilessly shortly after the women cried for the toilet. The guards usually said, “You are only allowed to go to the toilet after your clothes are wet with urine.”

The detainees had to do involuntary activities in order to use the toilet. Someone had to slither on the ground like a snake, someone had to stand on their head, and some people had to crawl between the legs of another person. The guards used to get a lot of enjoyment from watching such inhuman activities. I felt the guards were amusing themselves by insulting the dignity of the detainees. They played with the detainees as if they were playing with the dog in their home. The detainees, however, had little choice but to accept whatever demeaning games the guards devised. Otherwise, we had to be ready for more torture.

Chapter 4

My Tortured and Tormented Heart

Before my arrest, I had only been beaten up once in the 28 years of my life. I was assaulted once on 2058 Asoj (September/October 2001) by a sentry of the Maoists named Rabi of the Bamti Bhandar Village Development Committee, or VDC, in Ramechhap District on the charge of spying. Later the Maoist leadership apologised to me for their cadre's mistake. This time though I was getting beaten by the other side—the army.

It was a February morning, and I was shivering with cold. The guards were busy talking in a vulgar manner about young ladies. They had nicknames for each other. I understood that they were using nicknames to hide their real identity from the detainees. I felt the rays of sunlight which entered our room from the holes in the tent, but I couldn't be sure because I was still blindfolded.

The things the army officers had uttered on the previous night while they tortured me haunted my mind. "Even the almighty God doesn't know where you are kept," they had said. "Now your life is in our hands. We have already buried many people like you." The army officers were not saying these things to frighten me: their words were factual!

One of the guards ordered me to stand up. I couldn't stand up properly because I was handcuffed, and he helped me stand and then tightened the piece of cloth over my eyes. I was made to walk towards an empty tent. Another army officer sat waiting on

a chair for me with a file. The army officer offered me a seat and began asking me questions politely. At first the questions pertained to my home address and profession; but after a while, he became aggressive and questioned me about my relationship with the Maoists.

“How do you know the Maoists?” he asked me in an urgent tone. “Where do they live? What did you do for them, and when did you begin helping the Maoists?”

I told him that I was truly unaware about these issues, but the army officer refused to believe me and decided to turn to more violent means of persuasion. He ordered his fellow officers: “Go and call the others. It is only then that he will speak.”

Some young soldiers arrived in five minutes. He ordered one of them to bring a stick, and another one was ordered to fill up the drum with water. They communicated in code language. The army officer ordered me to undress, but I couldn't. I couldn't raise my hands to take off my shirt. What made it even more difficult was that my body was swollen. My clothes were stuck to my skin due to blood that had not been cleaned from the previous day. He ordered the chair on which I was sitting to be moved. They then ordered me to bend over and removed my clothes forcefully. There were cuts and bruises all over my body, and they began to bleed again.

“As a terrorist, you will get the punishment you deserve,” one of the soldiers said loudly.

I remained quiet as I was helpless. I was aching all over. One of the men even teased me, saying, “This idiot terrorist got the punishment he deserved yesterday.”

They were interrogating me mostly with questions related to the Maoists. I didn't have any new answers. I only repeated what I had said earlier.

Soon another phase of torture began, however. They indiscriminately beat me with a stick all over my body. They kicked me with their heavy boots and punched me. In a short span of time, my body was soaked with blood, and I was crying with pain, but they continued to beat me in sensitive areas. They submerged my head in the water drum after each question and took it out only after I lost consciousness. I tried to defend myself, but there really wasn't anything I could do. The soldiers would compete among themselves about who could inflict more pain upon their victim. They used different practices for a long time. I was half conscious most of the time. Because of the frequent and excessive torture inflicted upon me, I became used to it and felt less and less pain throughout my body.

They hoped to use my information to arrest more Maoist leaders. I knew by the way they posed their questions and conducted themselves. During this period, the security personnel had arrested many Maoists from the Kathmandu Valley by forcing detainees to speak by torturing them. I knew nothing about the Maoists' whereabouts, but they still brutally tortured me. I had gotten used to this torture though.

All of a sudden I received a heavy blow that sent severe pain throughout my body. I felt as if the world had stopped moving. I fell on the ground. Each time I got up after the beating. I was subjected to such severe torture for at least two hours. Eventually, they ordered me to put on my clothes. I tried to put them on myself, but the pain was unbearable. One of the soldiers helped me dress and then dragged me back to my usual place.

Chapter 5

Will They Make Me Another Krishna Sen?

I had already spent three days and two nights at the Bhairabnath Battalion's barracks. My life had become more difficult and miserable. My body was extremely vulnerable, but the torture continued. I was a journalist and lawyer, and I wondered about the extent of torture that the real Maoists received. They knew that I was not a Maoist, but they inflicted intolerable pain upon me to get any kind of information they could about the Maoists. It was for that little bit of information that they continued to torture me and accuse me of being associated with the Maoists.

I had not eaten for the last three days. The torture and investigation continued. During the three days of detention, I was interrogated 18 times. I was surprised by their method of inquiry; they had no fixed routine. They would torture me any time during the day or night. Although the team of inquirers were often different, the questions were the same. Sometimes they even asked questions about my personal life. I understood later that they would ask these sorts of questions to entertain themselves.

I was lying on the cot when a guard entered, tightened my blindfold, and took me with him. He led me 10 metres away and made me stand. Even though I was blindfolded, I guessed that it was time for another interrogation.

As soon as I reached the open field, an army officer screamed the same questions at me which I had been asked earlier. I learned

later that he was Major Padam Singh Khatri. He was a dominating character and rude. He asked questions interrupted by periods of severe beating. I answered him, but he didn't care about my answers.

“Where do the Maoists live in Kathmandu?” he repeatedly asked me.

I told him I had no idea, but he only beat me harder. I fell to the ground and fainted. Then the major ordered his fellow officers to take me into a separate tent for more questions and torture. They helped me put on my clothes, and I hobbled to the new torture chamber.

I was brought to a separate tent, and Major Singh repeated the same questions. He warned me that they would torture me continuously unless I revealed information about the Maoist safe houses in Kathmandu. When he didn't get the answers he expected, he ordered some of the guards to fill the drums with water and bring more sticks. By then, I had lost all hope of staying alive. The major ordered me to undress, but I was unable to follow his orders. One of the guards forcefully undressed me. The clothes were soaked with blood again. Sometimes they stuck to my bloody cuts and bruises. Afterwards, one of the higher ranking army officers commanded them to take me to another open field.

In the new place, they offered me a chair to sit on. I heard a small voice asking, “Who are the Maoists you know in Kathmandu?” I guessed from his tone of voice that he must be a higher ranking official. Later I learned that he was chief of the Bhairabnath Battalion and the younger brother of Colonel Kiran Bahadur Basnet, who had been killed in Baneshor in Kathmandu District in the month of Bhadra 2058 (first week of July 2001). I would later hear his voice again and again in the barracks. Sometimes the guards used to alert us by saying, “*Karsap* (colonel) is coming. Be attentive.”

It was my first meeting with Colonel Raju Basnet. Major Padam Singh, who had tortured me earlier, was also present. Colonel Basnet was the one asking the questions.

“Do you know Krishna Sen? Your fate will be similar to his,” he said.

I answered that I had heard about Krishna Sen, but I had never met him.

It was rumoured that Krishna Sen had been tortured to death in the Mahendra Police Club in the capital, but an army officer told me later that Krishna Sen was tortured by soldiers of the Bhairabnath Battalion.

All of a sudden Colonel Basnet yelled at me: “Forget your human rights and the court. They can’t do anything for you now.”

He was, in fact, telling the truth. Many people had been tortured to death in army custody just like Krishna Sen. The National Human Rights Commission, or NHRC, the courts, and human right organisations were unable to locate many innocent people who had disappeared or who had been killed at the hands of the army. Colonel Basnet was not just threatening me: he was stating the harsh reality of Nepal.

Colonel Basnet also asked me about Prachanda—the Maoist chairman—Dr. Babu Ram Bhattarai, and Kumar Dahal, who was then the Maoist leader responsible for the Kathmandu Valley.

“We have received information connecting you with the killing of Kiran Basnet,” the army colonel continued.

I told him I only knew about his death from reading the newspapers.

“This man hasn’t told us anything yet,” he said, “so boys dig a ditch to bury him.”

Colonel Basnet was extremely angry and tortured me severely. He whipped me with a plastic pipe as he repeated questions about Kiran Basnet. The other soldiers weren’t just standing there either: they also kicked and punched me. The colonel interrogated and beat me for two hours continuously.

Finally, he said, “You will die detained in a cold room.”

What he said depressed me. My life became harder in the days that followed because of Colonel Basnet’s unusual and violent behaviour.

Chapter 6

Strangers in the Toilet

On the fifth day, I encountered some detainees in a small toilet adjoining the squash courts. I hadn't come in contact with anyone except Tika Kandel. However, I could hear the voices of the people detained inside the barracks, and I was curious to know about the fate of the other captives.

When entering the toilet, the guards used to unfasten the handcuffs of the detainees. Because of my curiosity, I moved my blindfold with a vigilant mind in the toilet and peeped outside. I was frightened, however, that the guards would discover this indiscretion as there was no latch on the door.

I was shocked at seeing the condition of people that I met inside the toilet. They looked as if they were from another planet. They had long hair, beards, and moustaches. Their hair had become curly and was almost below their shoulders. Even in the severe cold, they only wore torn clothes and stood there with bare feet. They were covered with dirt, and their whole bodies were swollen. They looked like pigs because of their inflated bodies. When I encountered them for the first time, I did not have a good conversation with them.

There were many temporary tents to detain people inside the barracks. Among them, I was detained in a squash hall along with other detainees.

One day my eyes suddenly noticed a poor old man who was walking towards the toilet with the help of a stick. I asked others about him and learned that he was Birendra Jhapali. He had been arrested in the Bagbazaar area of Kathmandu District on the charge of providing treatment to Maoist cadres in the capital's Miteri Hospital. Next to that tent was a staff member of the Nepal Central Bank, Krishna Silwal, and a lawyer, Basu Dev Sigdel.

There used to be a long queue to go to the toilet as if people were buying tickets at the cinema. The frail captives had to stand in the queue for hours to use the toilet. One bathroom though was insufficient for around 80 people living in a squash hall. At least four to five people had to crowd together in the small cubicle of the toilet. There were no separate urinals, and the blindfolded detainees, squeezed together, often used to urinate on the bodies of each other in the cubicle. In the beginning, I felt uneasy about urinating among strangers, but the guards often used to shout, "Hurry up and come out."

The guards were so cruel and therefore did not just give us permission to use the toilet. Everyone in the queue had to crawl between the legs of another person next in the queue. Otherwise, they were forced to do a headstand. Almost every day they made new rules and experimented with new toilet rituals that they forced upon the detainees.

Chapter 7

Hide and Seek in the Barracks

I was spending my 22nd day at the Bhairabnath Battalion barracks. A tent was demolished by the soldiers unexpectedly on the night of 12 Falgun 2060 (February 24, 2004). I spent the entire night in an open field and wondered why the tent had been torn down. It was very difficult to sleep as I was shivering in the cold without a bed. Even though we were blindfolded, I knew that Tika Kandel was near me. After a while, I slightly peeped toward him through my blindfold. He was sleeping very poorly, shuddering in the cold with only threadbare clothes covering him. Tears filled my eyes looking at him.

Early the next morning a guard arrived at about 4 a.m. and shouted, “You terrorists, wake up!”

It was a cold and foggy morning. The guards ordered us to carry our bedding, and they took us about 10 metres. We saw other people in front of us. Every 10 detainees were guarded by a soldier. Then they ordered us to march forward.

As the birds began to chirp, I could not guess where they were taking us so early in the morning. We were not allowed to speak a single word. Each of us were forced to hold on to the person ahead of us in the line and to walk straight ahead. The guards kicked us repeatedly for making any minor mistakes while walking in the line. The health of all the detainees was very poor, and we were unable to walk very well. The guards frequently unleashed their

fury at the detainees. I also was the victim of their rage when I failed to catch the clothes of the person ahead of me in the line. One of the soldiers hit me hard on my back with a pipe. I then remembered the mule I had seen getting whipped many years ago in a village. Our condition was similar to the mule.

After walking half an hour in the barracks, we reached a ditch. I peeped and found it was covered with a wire fence. Military security was very strict. They ordered all of us to sit in a tent filled with dust. There were other tents every three metres. I guessed many people were sitting in these tents too. There were strict instructions not to make any sound or to cough and to just keep our heads straight. We were not allowed to speak when seeking permission to use the toilet. Instead, we had to stand near the guards, and they would lead us to the toilet.

Altogether, we were 65 detainees, including three females—Sarita Sharma, Bina Magar, and Tara Bhandari. All of the 65 detainees, including me, were kept in a single tent. One of the detainees, a feeble old man, Padam Nakarmi from Bunmati, a village in Lalitpur District, was lying on the ground without the permission of the guards. As a result, he was kicked and beaten with a plastic pipe for lying on the ground without permission. He vomited eight to 10 times that day.

A leader of the Communist Party of Nepal—Unified Marxist Leninist (CPN [UML]), Lok Krishna Bhattarai from Okhaldhunga District, was among us. He had been brought to the barracks the previous week. Another person in our tent was Ambir Babu Gurung from Rumjatar in the same district. The soldiers had arrested him on 2060 Falgun 3 (February 15, 2004) and had charged him with giving two pistols to the Maoists. Similarly, Jujubhai Maharjan of Kirtipur District, who had been arrested on 2060 Falgun 6 (February 18, 2004), and a boxing trainer of the National Sports Council, D. B. Raut of Khotang District, were in the tent too. Tika Kandel

also informed me that Krishna K. C. and Himel Sharma, student leaders of the All Nepal National Free Student's Union (ANNFSU-Revolutionary), were kept together with us as well. Amir Shakya, Man Bahadur Shrestha, and Dan Bahadur Magar were also with us.

We were fed much later than other days. I had the opportunity though to be in the sunlight for the first time in 22 days since my arrest.

When I went to the toilet, I, like everyone else, had to obey a strict order to keep looking straight ahead when walking to and from the toilet. Once, however, I peeped from the door of the toilet into other tents nearby and found some women lying under one of the tents on faded sacks. It is estimated that there were 82 detainees in other tents. I got this information from one of the other prisoners who had met a detainee who had been taken to the army hospital.

We were given dinner in the same tent. We heard the repeated sound of gunfire in the surrounding area. We were extremely worried and depressed by the sound of the guns.

After 13 hours, they brought all of us to the previous place in an army truck. However, the location of our tents and our partners were changed. This time they separated one tent into two rooms with Tika Kandel and I kept in one partition and Krishna K. C. and Himel Sharma kept in another.

We later learned that we were moved to a temporary place for almost a day to hide us from representatives of the International Committee of the Red Cross (ICRC) who were visiting the barracks. We speculated from this drama that the army wanted to present an immaculate image of the conditions in the barracks for the ICRC.

Thirteen days after the visit of the ICRC they moved us once more. Again, at about 4 a.m., the guards ordered us to get up and pack all of our clothes. Even the guards were shivering in the cold. In a short span of time, they pulled down all the tents. A long line of men and women carrying bundles joined us. Some of them had brought pieces of their blankets and their mats as well. Then we all got ready for a mysterious trip, and we held the clothes of the person in front of us so that we did not walk out of line. They made us march to the same place where we had been taken earlier, but they used a different route. I realised they changed the route to get to the same place to confuse us.

The setting was similar to our first visit almost two weeks earlier. Some of us were kept in tents; but since there were not enough tents for all of us, some were kept in the open field. It was excessively cold in the morning, but the afternoon was sunny. The detainees kept in the open field convulsed with the sunlight.

Despite the strict rules of the guards, I talked with Krishna K. C., who now had a long beard. The army had kept him in detention alone without access to anyone—incommunicado. However, the army officers in charge of the barracks had repeatedly denied his arrest to the courts and the National Human Rights Commission. I also met another student leader, Himel Sharma. He had become very thin after being excessively tortured. The barrack's authorities had also been denying his arrest and detention to the courts and NHRC as well. I talked to both of them about the prevailing situation. They told me that their military interrogators had asked them about me earlier. Both Krishna and Himel were hopeful about my immediate release, thinking that I was innocent. They also asked me to work hard for their release and save their lives when I was freed.

I also got an opportunity to meet many others in the barracks who were listed as disappeared. Not surprisingly, the army officials

had denied their arrest and detention to the courts. Among them were Lahano Chaudhary from Kailai District, Birendra Basnet from Jhapa, Dharma Dengol from Lalitpur District, a juvenile named Bijaya Bhattarai from Kathmandu District, Bijaya Thapa Magar, and three teachers, namely, Krishna K. C., Ganesh Dhakal, and Ramesh Guragai. As well as these people, I also met Laxman Khanal, Suryaman Maharjan, and Sagar Lama in the Bhairabnath Battalion barracks. Most of them had been arrested based on statements provided by people arrested earlier.

The second time we were moved to this place in the barracks was quit fruitful as I got an opportunity to know more about the detainees. It was a big risk to talk with each other, but we engaged in small talk numerous times, avoiding the sentries. The guards were flirting with the female detainees in the open field, flirting that we only learned about after some of them cried.

At noon, Major Bibek Bista called on Krishna K. C. and Himal Sharma one after the other and interrogated them about a Maoist leader named Sonam. They replied that Sonam was working as a regional bureau member of the Maoists. Major Bista also asked them about Swonam, a leader of the CPN (Unity Centre).

Like the previous time, the army successfully deceived the ICRC. At nightfall, the soldiers drove us back to the squash hall in a small truck. Dhanbir Khatri, one of the sergeants responsible for driving us back to the camp, was kinder than the others. However, his friend Chandra Poudel—we called him “Charley Papa”—was one of the cruellest guards. We also called him “Beard” as he had a long beard. We felt relief when Dhanbir was near us, but the remaining hours were full of fear.

This time two tents were altered at the squash hall. One tent was separated into three rooms. In the first room, I was kept with Himal Sharma, but Krishna K. C. was kept in the second room. The

third room was occupied by Krishna Bahadur Rai, a person with tuberculosis from Nuwakot District. His face was covered with a mask for others' safety, and he had his own private plates. In a painful voice, he shared with us that he had been suffering from TB after being intensively tortured without adequate food.

Chapter 8

Suicidal Signatures and Lamentations

It was 28 Falgun 2060 (March 11, 2004), and the environment in the squash hall was quite different from other days. Chandra Poudel, a leader of the guards, was quietly sitting in a chair. Tika Kandel and I were sitting very close together in a tent, and we minutely observed all the activities.

In the afternoon, some soldiers called the prisoners from the squash hall one after another. They provided each detainee with a ballpoint pen and a blank piece of paper. Everyone also received a separate sheet of paper with writing on it and was ordered to copy the words onto the blank paper and sign it. We guessed that the army authorities were planning to shift us to a jail due to intense international pressure. We thought we would be safer in jail than in the barracks.

Chandra Poudel was sitting on a plastic chair and instructing the guards, who were busy taking the detainees out of the tents and bringing them back.

All of a sudden I heard the sound of a woman screaming, “No! I am not a Maoist. How can I sign it?”

Poudel was trying to persuade her to sign the paper and threatened her again and again with filthy language.

She repeatedly yelled, “No, I won’t sign!”

Poudel became furious with her and called the other guards.

“Tell her to follow the rules,” he ordered the guards, “or otherwise make her do it at any cost!”

I heard a guard shouting, “Feed her dal.”

In the code language of the barracks, “feeding dal” to a person meant to submerge their head in a drum of water.

This drama became clear after an hour. We later learned that the woman was Sarita Sharma, sister of Himlal Sharma. She had been detained at the Bhairabnath Battalion barracks for the past five months on the charge of being a Maoist. However, she was not a Maoist but an active member of the student wing of the CPN (UML). She was charged with being a Maoist because her elder brother Himlal was an active member of the Maoists. All the detainees in the squash hall had followed the instructions of the soldiers, but she refused to sign the paper and participate in this charade of the army.

It was totally a fake confession. It was a plot to accuse innocent people. Everyone was compelled to sign the paper.

The army repeatedly threatened Sarita with more torture if she didn't sign. Thus, she signed the fake statement as there was no other way out.

“They just made a plot to trap innocent people,” Sarita used to lament later.

The army was attempting to look like they were observing the country's laws by creating such documents. However, they were really trying to push us into a trap. They manufactured these fake documents to shield themselves from national and international laws in the future.

Poudel approached Krishna K. C. and Himel Sharma with a pen and papers. He explained the procedure, but they too refused to rewrite the words that had been prepared. Perhaps they thought it would be suicidal for their careers. However, they finally signed it. Then the soldiers called Tika Kandel, and he returned after signing it. Another six detainees who had been arrested in Malekhu in Dhading District and charged with theft also signed the paper.

Sergeant Chandra Paney handed me a pen and blank paper as well as the written paper. I read it and was shocked by the words they wanted me to write: “I am a Maoist cadre and was arrested a few days ago. I am involved in violent activities and killings. I am staying in army detention for my own security, and no one has tortured me.”

I had to copy the readymade document. I thought it was a plan to detain us for years. I remembered my previous torture. Unless I signed it, they could torture me inhumanly again.

Previously, I had signed more than a dozen papers, but I thought it was harmful to me for the days ahead. However, I signed them without reading the text and gave it to the soldiers.

Chapter 9

Demise of Khadga and Padam

There were many detainees in the squash hall who had been arrested after the failure of the second phase of the peace talks that were held between the government and the CPN (Maoist). Khadga Bahadur Magar, the son-in-law of Braman Budha, who was then a member of Parliament from Rolpa District, was arrested along with a resident of Lalitpur District, Padam Narayan Nakarmi, at the end of Bhadra 2060 (mid-September 2003). Khadga, 50, and Padam, 28, were detained in the squash hall with 90 others. It was like a dungeon, and there wasn't enough room to breathe. The temperature often neared zero degrees Celsius, and the bodies of the detainees turned pale. The hands of all the detainees were tied behind their backs, and they had to sleep head to toe next to each other. Their eyes were blindfolded with a red cloth, but some black cloth was also pushed inside the red material. To distract themselves, most of the prisoners slept with their heads covered and never made a sound.

Khadga and Padam had been accused of involvement with the rebels, but they were innocent like so many others who had been detained. The people kept in the squash hall never got a proper meal, sunlight, and enough air. Khadga and Padam suffered from malnutrition. They had stopped eating for seven days and were unable to go to the toilet themselves. An army major, Bibek Bista, ordered his guards to submerge them in water if they didn't eat any food. Khadga immediately started vomiting when the soldiers tried to forcibly give him food. Khadga and Padam's bodies were

swollen due to repeated periods of torture and the cold floor of the barracks. Although Khadga had continuously asked for tea for the last 15 days, he was never given any by the army.

During the second week of Falgun 2060 (third week of February 2004), their conditions deteriorated. Finally, soldiers brought the men to the army hospital, but everyone believed it was too late as very few returned from there. As a formality, the army only took those who were about to die to the hospital. Our prediction was correct: their suffering ended, and Khadga and Padam passed away. Everyone began to think that we would all meet the same fate in the custody of the army as well.

The death of Khadga and Padam remained mysterious for a few days. However, one of the national dailies, *Kantipur*, published the news much later on 21 Falgun 2060 (March 4, 2004) about their deaths. After Khadga's death, members of the army in civilian clothes notified his wife, Bijaya Budha, on 18 Falgun 2060 (March 1, 2004) that she could see her sick husband in the Teaching Hospital in Maharajgunj, a district of Kathmandu. They warned her not to speak publicly about his death.

After news of the death of Khadga was published in the *Kantipur Daily*, army officials tried to suppress the incident with fabricated statements about the case. They tried to show that Khadga had been voluntarily staying in the army barracks, but we all knew it was just propaganda. We managed to read about his case in the army barracks. I heard that the army had failed to hand over his corpse to his family because the family was convinced that his death was not natural.

However, army officials didn't hand over the dead body of Padam. He was taken to the army hospital when he was about to die after being tortured severely, but he never returned. His whereabouts are still unknown.

Chapter 10

Assassination of Colonel Kiran Bahadur Basnet

The CPN (Maoist) defied the second ceasefire in Bhadra 2060 B.S. (August/September 2003) and subsequently killed a senior army officer, Colonel Kiran Bahadur Basnet. One weekly newspaper published a story saying that a Maoist with the last name of Rai had been arrested and charged with the murder of the colonel. I met the person with the last name Rai after seven months in the squash hall of the Bhairabnath Battalion.

The Royal Nepal Army had arrested an innocent hotel labourer, Krishna Bahadur Rai, in Baneshwor in Kathmandu District during a search and arrest operation in the capital. He was arrested while he was working in the hotel. The army tortured him as part of their investigation. Frequently, they would attempt to rip his body and pierce it with a sharp instrument. He was submerged in water as well. They also electrocuted and beat him and forced him to accept the false allegations that he had killed the army colonel. He finally confessed to save his life.

The army then forced him to reveal the name of the mastermind and others involved. The soldiers didn't stop torturing him even though he had already confessed to killing the army colonel. He was electrocuted again and continued to be tortured. Feeling like his life was almost over, Krishna Bahadur accused Raj Kumar Basnet, who was living in his own village in Nuwakot District. Krishna Bahadur only blamed Raj Kumar to escape further torture. Raj Kumar was an innocent *khalasi* (conductor) on a minibus

who used to take food to the hotel where Krishna Bahadur was employed.

After his arrest, Raj Kumar was also subjected to severe torture. He too falsely confessed to the murder in order to avoid more pain.

Through this process that passed as a criminal investigation, people accepted responsibility for a crime they had not committed and, in turn, revealed the names of others.

Raj Kumar then named Pradip Ramtel, who was a driver working on the same bus and a resident of Budhanilkantha in Kathmandu District. Pradip though never accepted any responsibility for the crime. Krishna Bahadur and Raj Kumar spoke in front of Pradip about his involvement, but he denied any role in the murder each time.

The investigators then asked Pradip, “What is your last wish?”

This was a question generally asked by soldiers before they shot a person dead.

Pradip’s hopes of living thus began to fade, and he consequently confessed as well. Even though Pradip knew he was innocent, it didn’t matter as the army formally accused him of assassinating Colonel Basnet. Perhaps the RNA felt a sense of pride after “solving” the case.

Later the army used these three people—Krishna Bahadur, Raj Kumar, and Pradip—to control the other prisoners in the barracks. Among them, Pradip had a filthy mouth. The guards encouraged him to speak in a crude manner. He also used to talk about sex and other vulgar matters which the guards used to enjoy. They liked him and used him to beat others. These three men were taken to a nearby jungle called Shivapuri to be killed around four months after their arrest.

In the meantime, the army arrested a person named Nischal Nakarmi from Kathmandu who had been working as a company commander of the Maoists in the Kathmandu Valley. Three teachers—Krishna Raj K.C., Ganesh Dhakal, and Ramesh Guragain—were also seized with Nischal Nakarmi and kept in the squash hall.

One night at around midnight the soldiers investigating the killing seized about four dozen people and took them out of the barracks. They were all slated to be killed in the Shivapuri forest on the direct orders of the RNA headquarters. There were also four other people from Rolpa District who were going abroad for work who were arrested, tortured for a long time, and disappeared.

Later a Maoist cadre by the name of Bhim Giri admitted to killing Colonel Basnet. Bhim Giri said that the colonel had been murdered according to the plan of the CPN (Maoist) and that he had been involved in planning the assassination.

After Bhim Giri had announced that he had killed Colonel Basnet, Krishna Bahadur Rai, Raj Kumar Basnet, and Pradip Ramtel were brought back to the Bhairabnath Battalion from the Shivapuri forest after eight days. They got a new lease on life and were released approximately seven months after their arrest.

Sadly, this episode was not unique in Nepal during the armed conflict. The army often solved many crimes in the country by arresting and torturing innocent suspects until they confessed, a method of criminal investigation conducted by the military that has not improved.

Chapter 11

Thirteen Hours in a Ditch

This time we secretly got a message about the visit of the ICRC to the barracks of the Bhairabnath Battalion. The ICRC had squeezed permission out of the army headquarters, which tried just as hard to keep our arrest a secret. The army had to hide us though inside the barracks before the arrival of the ICRC. The National Human Right Commission, news media, international human rights organisations, and the courts were not aware about the exact conditions of the detainees kept at the Bhairabnath Battalion barracks. The army was very conscious about hiding our real condition from the public. They also lied to the courts each time our names were brought before them through a habeas corpus case.

On 3 Chaitra 2060 (March 16, 2004), the guards woke us up early in the morning and ordered us to quickly come with our bedding. We moved too slowly for them, and they kicked us. Every one of them behaved inhumanly when we were lined up to move somewhere.

Our bodies were feeble, and the pain was intense, but we walked for 15 minutes. The soldiers used to kick all of us with their boots.

We once again came to the same place where we had been brought earlier. The tents were occupied by other detainees though so we spent the whole day in a ditch.

There I met a new detainee from Kavre District who had been

arrested very recently. The guards had given him a damp sack to sleep on. From time to time, he cried and wailed the whole day. He was shivering with cold and perhaps with fear as well. The guards treated him badly, and the frail man had to sleep in damp conditions.

We had some different experiences on this day compared to other days. This time two short guards tortured us—Shiva Kiran K. C. from Dhading District and Binod Thapa from Dharapani in Nuwakot District. Both guards were out of control, and we were afraid of the fiendish noises they made. They also didn't let us use the toilet for four hours. Dharma Dangol was one of the men who was punished by the guards and wasn't permitted to go to the toilet when he asked. That day the women detainees also cried loudly and were subjected to torture. No one dared to appeal to the authorities about these guards' brutish behaviour. Even if someone reported the abuse of the guards, they were never punished. Instead, they would beat us for reporting their brutality to the higher ranking officers.

We spent 13 hours in the ditch and then returned to the squash hall in a truck. I noticed a sign proclaiming the premises of the Himalayan Bank in front of the barracks. The truck took about 25 minutes to get to the squash hall. Fifteen of us slept that night in a garage attached to the squash hall. Among the 15 prisoners, there were three women and six others arrested from Baireni in Dhading District who had been charged with stealing.

Chapter 12

The Bhojpur Attack

After the breakdown of the second round of talks, the Maoists didn't attack the army barracks for a long time. However, on 19 Falgun 2060 (March 2, 2004), they captured the Bhojpur district headquarters, including the army barracks. It was a large attack by the Maoists and their first major success after the failure of the second round of talks, coming after they had sustained heavy losses several days earlier during an attack on the Nepal armed police base camp in Kushum in Banke District.

The army guards at the Bhairabnath Battalion barracks changed their behaviour toward the prisoners after the Maoists attacked the Bhojpur district headquarters. They began to approach us more politely. When the Maoists posed a danger from the outside, the army would change their behaviour towards us. We would even get a proper meal to eat. The changes in the Bhairabnath Battalion were brought about also due to pressure, in part, by the ICRC and the ever-increasing frail conditions of dying detainees.

Meanwhile, the chief of the battalion called on the Maoist-affiliated students Krishna K. C. and Himlal Sharma to issue a statement to hold talks even though the army repeatedly asserted that these two students were not in their custody. Indeed, the ICRC and other international and national human rights organisations believed that Krishna K. C. and Himlal Sharma had not been arrested.

With an impending crisis evolving, the army wanted more power

and needed to bring the situation under control. Perhaps they thought that this was the time to cause a rift in the discussion about the war and shift the blame to the rebel groups. The army wanted to distribute a press statement to the media to show that the Maoists were in favour of talks, but, in reality, the army was trying to create confusion among the Maoists.

Both Krishna and Himal returned after a long talk with the army officers. Major Bibek Bista had ordered them to draft a statement in favour of talks, but they initially refused to do so. They said that they didn't know how to prepare a statement.

“Don't you know how to prepare statement?” he exclaimed. “What kind of leaders are you?”

I was listening to their conversation very carefully. In the beginning, both Krishna and Himal were not ready to prepare the statement; but in the end, they drafted a statement in accordance with the major's advice. The major rechecked the statement. However, we never knew whether the corrected statement was published in the media or not.

Chapter 13

Transfer to Commando Square

Again, we saw the unusual movement of the soldiers in the barracks on 9 Chaitra 2060 (March 22, 2004). All of the detainees were clever enough to observe the abnormal activities of the guards. We wondered the whole day whether they would order us to prepare a bundle of bedding. We guessed that everyone was about to shift from this old place. They had sent us to a ditch on 13 Falgun, 26 Falgun, and 3 Chaitra 2060 B.S. (February 25, March 9, and March 16, 2004) to conceal us from the ICRC. Every time they used a new route and kept us in separate places to hide us from the ICRC. Perhaps there were a lot of detainees.

From time to time, the ICRC monitors visited our barracks, and they might have felt people were being kept there illegally. In order to mask our presence from the ICRC, they might shift us to another place—Commando Square. They wanted to show the ICRC that there were no detainees at all.

After we were brought back to the barracks for the third time, they kept some of us in an old garage next to the squash hall. On that day, the guards surrounded us, and some of them pulled down the tent erected near the garage. They handcuffed our hands and tightened the bandage over our eyes. We moved ahead, making a line. I felt that we were migrating to another place. We were not allowed to move our heads to the right or to the left. We had to keep them straight ahead. In spite of many difficulties, I guessed there were about 47 people in the line.

We crossed narrow streets in the barracks, climbed an old stairs, and had to jump over a ditch. We reached an open field by walking through the doors and rooms of old buildings. Slowly, we moved ahead and reached a playground with an iron fence around it and sat under a tent in the evening. Some women and other prisoners sat separately, but the rest of us were kept in a single tent. In this new green playground, the electric light threw a scorching beam.

I had brought my broken cot. Krishna K. C., Himal Sharma, and several female detainees had come with their cots too. Most of them had swollen bodies as they had been sleeping on the cold ground. I made my bed along with Krishna and Himal; but after a while, a guard sent me to a small tent, and I slept with nine other detainees.

Sarita Sharma, Bina Magar, and Tara Bhandari were placed in front of our tent. Next to our tent was D. B. Raut, a coach of the National Sports Council, and next to him were 31 people along with Krishna K. C. and Himal Sharma. Four surrendered Maoists from Kavre and Nuwakot Districts, who were about 20 years old, were kept in a tent behind us. Narayan Dhoj Mahat, after being arrested five months earlier, was kept with other people, and other new detainees were put around our tents.

Bricks stamped with “Shree 3 Chandra” were scattered around the tents. We then guessed we were in the old palace of Rana Prime Minister Chandra Samser Rana, an old palace that was now used as a torture house known as Commando Square.

Chapter 14

Prisoner, Dog, and Soldier

It was a sunny day during the last week of Ashadh 2061 B.S. (the second week of July 2004). It had stopped raining. We were still in Commando Square.

I had spent six months in army custody, and I didn't know when I would enjoy my freedom again. During our incarceration, we'd been deprived of our basic human rights to meet our essential day-to-day needs. All the time we hadn't received adequate food, and we lacked drinking water and medicine. Most of the feeble prisoners had survived despite the physical and mental torture. Most of the detainees were sick though.

Army officers were fond of fostering dogs. They raised a local puppy and loved it very much. The guards used to love the dogs more than their children. We feared playing with the puppy. We thought the officers would get angry, but it used to visit every tent. One day a guard tied it up on the way to the toilet, and it barked loudly.

It was time to eat, and the cooks brought rice and pulses for us at 11 a.m. in a drum. We hardly got vegetables in the camp. We formed a circle in the open field when they brought the food.

The puppy was still crying, and a guard gave him a plate of food, but he didn't eat it. Then the next guard served him milk and some biscuits from the kitchen. I was amazed as I watched the care given

to the dog by the guards. Even the dog didn't like our food though, but we had to eat it or starve. Our daily life was worse than the dog's.

I was lying on the cot after the meal. A guard stood in front of my tent. I could only see his legs from the tent. We could recognise the guards by their voice, although even the guards liked to remain silent in front of the prisoners. They had no right to speak either. However, some of the guards used to whisper with me. Some of them used to call me "Okil Saap" (Lawyer) with respect. I used to talk with them more freely. Then I recognised him and asked, "Why's that dog barking?"

"Perhaps it's not free," he answered.

"Have you covered his eyes?" I inquired.

"No, someone has tied it by the neck only," the sociable guard responded again.

"Oh, I see! It's tied by the neck only. By the way, how many days have you been here?" I was full of questions and wanted to know more about the guards.

"It's about 10 months," he replied.

Then, feeling a streak of boldness, I said to him: "You have seen the prisoners for 10 months, and we haven't got any right to see and move around freely, but no prisoner is crying like that dog."

He hesitated.

Immediately, I added, "Just try to see how much that dog barks after being tied and blindfolded!"

"Okil Saap," he said, "you have a sarcastic wit."

The guards had different words they used to address us. They sometimes would speak to me with respect but other times with very filthy words. I used to talk with the guards and ask about the other detainees whenever I got a chance.

“We have never cried loudly but have waited for a long time for our conditions to change,” I continued. “The prisoners lost their friends. The dying people lacked medicine, food, and water. Still people here are in the same situation, and their hands and legs are chained.”

Then he spoke to me politely. Certainly, some of them were kind-hearted.

“We see your problems, but we can’t do anything, sir,” he said.

“You can send us to jail and punch us according to the law,” I defiantly retorted.

Then he moved away. Maybe he heard someone coming.

Chapter 15

Sick Detainees and Indifferent Guards

It was a daydream to get out of army custody. Even ordinary citizens were kept for a long time and severely tortured. Innocent children, women, and disabled people stayed in detention for seemingly forever.

Once a child about 12 years old was brought to the barracks and was kept in the garage near the squash hall. Later she was released, but she was arrested again soon afterwards in a dubious case and eventually disappeared. I listened to her baby sounds many times.

There was also a half-dumb man from Bungmati in Lalitpur District in the barracks for the last 10 months. He could not speak and walk very well. Many times the guards beat him without any cause, saying that he didn't obey them. He was arrested at night from his relative's home with a group of other people. Everyone called him a half-dumb man though he had a good-sounding name—Amrit Man Shrestha.

Kiran Ray, a manual worker, was seized from Bhaktapur District after the second round of talks broke down between the government and the CPN (Maoist). Day to day he became weaker although he was innocent. His eyes filled with pus from the severe torture he received. Other prisoners eventually had to help lead him to the toilet. Even then he lacked medicine, and his eyes were still covered with pus. Although there was a continuous flow of pus from his eyes, no one seemed to care. He regularly wept, thinking

that his eyes would not work in the future. There was also a burn mark on his right cheek, and his head was a bit bent. Consequently, the guards called him “Bange” (Bended Head). His condition was precarious, but his eyes were still blindfolded. At last, we heard he had died because he didn’t get medication, but we were helpless to help him.

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Commando Square looked like a big jail. No air passed through easily. It was the summer season—the months of May or June—and prisoners were suffering from cholera, diarrhea, etc., because of the rotten food. There was just a single dirty toilet for the 47 people detained in Commando Square. The prisoners were crying for a toilet, but the guards remained deaf to our requests. It was a new technique to punish the prisoners, but it was just too difficult and humiliating for the inmates to wait when they suffered from diarrhea.

In the first week of Jestha 2060 (third week of May 2004), Bina Magar and Birendra Basnet were suffering terribly from diarrhea.

Early one morning a female prisoner screamed loudly. I discovered later it was Sarita Sharma. She saw the poor condition of Bina Magar, and the guards rushed towards her. Then the chief guard approached and found Bina unconscious. Sarita asked the guards to take Bina to the hospital immediately. The guards, however, didn’t care.

Sarita got angry with them: “If you don’t take her to the hospital, shoot her dead!”

The chief guard threatened Sarita and angrily barked, “Oh, boys, the lady is speaking too boldly. Bring the sticks and beat her soundly.”

The guards hesitated, but the chief of the guards again shouted, “You idiot terrorist! You forced us. The lady wants more sticks!”

Bina was lying unconscious for one hour. The guards carelessly ignored her condition and chatted about trivial matters. They lacked sympathy and a sense of humanity toward the fate of the prisoners. Instead, they mocked their poor condition. They often used to say, “It’s good! There’s no need to waste bullets!”

At last, two guards let her go to the hospital, and she was placed on a stretcher. Although she had been unconscious for a long time, she was still handcuffed and blindfolded. I peeped at her frail face. Her health was very poor as she had been suffering from malnutrition for a long time and now diarrhea.

We thought the army would hospitalise her, but they brought her back to the camp after about one hour after just general medical treatment. Two of the soldiers dragged her from the vehicle. She couldn’t stand up straight. Her friends helped her for many days get to the toilet.

I witnessed all these scenes by peeping through my blindfold.

The next day Birendra Basnet, a student, lost consciousness. He too had been suffering from diarrhea for many days, and his condition was similar to Bina’s. He was finally taken to the hospital in an unstable condition. They didn’t hospitalise him either but, like Bina, returned him to the barracks in a few hours.

Many prisoners like Bina and Birendra were waiting to go to the hospital, but human decency was absent in Commando Square, and the prisoners lacked any rights. People survived somehow in an inhuman condition in this heartless environment.

Chapter 16

Fake Drama in the Army Hospital

It was almost three months since we had come to Commando Square from the squash hall. I stayed there with eight other prisoners under a tent. I had a cot, but they had to sleep on the wet ground. Among them was Dev Raj Gurung, Govinda Ghimire, and Birendra Basnet—all were students who were innocent of any crime. They were seized by the police in Kathmandu District after the collapse of the negotiations between the government and rebels in the first week of Bhadra 2060 B.S. (third week of August 2003). The police later handed them over to the Bhairabnath Battalion. Another innocent student arrested with them, Bindod Dhakal, was kept somewhere else, and the army used him to identify Maoists.

Dev Raj, 20, was fond of singing and sang against the atrocities of the army even though he was handcuffed and blindfolded. Although the army guards ignored his words, they liked his sweet melody. Dev Raj used to murmur except when they requested him to sing. His friend, Govinda Ghimire from Bethan in Ramechhap District, used to help him sing as well.

Dev Raj fell sick suddenly on 6 Jestha 2061 B.S. (May 19, 2004) and lost consciousness. He had been suffering from diarrhea for two days and hadn't eaten for three days. One morning he fell in the bathroom, making a sound loud enough to alert the guards, who called us to help him. While the guards played all the time with the puppy of the filthy dogs, they used to hesitate to touch the sick detainees. We brought him to the tent. He was still unconscious. At

last, they called the chief guard and health workers.

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They took him to the hospital after about five hours when his condition was extremely severe. His eyes were blindfolded while he was taken to the hospital. After a short period of time, they unexpectedly brought him back to the camp. Even though he couldn't stand up very well, we weren't allowed to assist him.

Again, he lost consciousness after one hour. The health worker recommended that he be admitted to the hospital, and he was taken to the hospital again. At that time, I thought he wouldn't live.

Everyone was lying in bed after supper. Some of them in a deep sleep. The guards brought Dev Raj back to the camp again dragging him on the ground. There was a tube in his arm, and a glucose bottle was hanging above him, but his eyes were still not open. He was unable to drink water and go to the toilet. Fortunately, they gave us a plastic bucket for him urinate in and took off our handcuffs so that we could help him.

He again lost consciousness, however, and fell on the ground. We notified the guards. One of the health workers arrived, checked his pulse, and informed another health worker higher in rank. Finally, they took him to the hospital again. The whole day, I thought, was one long scene of some tragedy.

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He then was admitted to the Birendra Army Hospital in the part of Kathmandu known as Chhauni on 6 Jestha 2061 B.S. (May 19, 2004). He was in a ward on the ground floor along with Rajendra Phuyal, who the army had shot in the Chabahil area of Kathmandu District and arrested on Baisakh 2060 (April/May 2004). The army shot him because he was suspected of being a Maoist. Many

newspapers published this incident, and the army could not hide his arrest. Thus, a representative of the ICRC was with him all the time.

One day the ICRC representative saw Dev Raj in the army hospital by chance and collected some information about his stay at the Bhairabnath Battalion barracks for the past year. That day they talked to Rajendra Phuyal in detail and told Dev Raj that they would come the next day to see him. The representatives couldn't talk to Dev Raj at any length as they had only received permission from the army authorities to meet Rajendra Phuyal.

As soon as the ICRC team had left the hospital, Dev Raj's guards in the hospital called the Bhairabnath Battalion about the short talk the ICRC had had with Dev Raj. Immediately, a team of soldiers under the command of Major Bibek Bista from the Bhairabnath Battalion came to the hospital and warned Dev Raj about talking to the ICRC representatives. Perhaps Major Bista was afraid of the ICRC representatives learning about the mysterious incidents in the barracks. Maybe he thought every act of violence in the barracks—torture, killing, rape, disappearances—would be exposed by Dev Raj.

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After the ICRC team left the hospital, the soldiers watched him closely. They strictly controlled him even though he failed to move and speak a word.

Meanwhile, the ICRC sought permission from the army headquarters to see Dev Raj, which they eventually received.

The army then transferred Dev Raj to the hospital's intensive care unit, or ICU, falsely claiming that he was in critical condition. Dev Raj was dumbfounded by the devious methods of the army

even though he understood the drama of the army very well. Consequently, when the ICRC representatives came to the hospital, they were prohibited by hospital regulations from seeing Dev Raj in the ICU. Although the ICRC failed to visit him, this phoney drama helped reveal many hidden mysteries of the Bhairabnath Battalion.

The army officials were afraid that this incident would expose their whole illegal detention system and their widespread use of torture. They thus once again immediately brought Dev Raj back to the Bhairabnath Battalion barracks from the hospital after first tying his hands. He was taken in an army van to the camp in the barracks where the detainees are kept. He was again blindfolded and was helpless as they angrily dragged him to the camp. They threw him in bed, and he breathed a long sigh. His face was bright though when he spoke: “Today I became an actor in a farce!”

He meticulously explained every detail of the incident. His encounter with the ICRC in the hospital gave all of us some optimism about our future; it brought a ray of hope to our face—a victory for us over the wicked rule of the Royal Nepal Army. No doubt it was a great day!

After our arrest and detention, we had disappeared from the face of the earth. No one knew where we were or the suffering we were enduring. By any means possible, we wanted to circulate the news of our arrest, detention, and torture to the public outside the walls of the barracks. Any news about our condition in the barracks would help us get a new life. We knew we could be killed by a single decision of any army official. Thus, we were facing the equal probability of life and death. Fake encounters between the army and Maoists resulting in the death of innocent people was common news at that time. Everyone was living with fear, uncertainty, and torture.

Dev Raj was lying on his bed after he explained the incident at the hospital. Suddenly, an enraged Major Bibek Bista shouted for Dev Raj. He did not use Dev Raj's name but loudly hollered, "No. 14," Dev Raj's prison number. He scolded Dev Raj for some time with filthy language, but Dev Raj remained silent. He then threatened Dev Raj, warning him that "death is close to you," and he left.

Major Bista was really an inhuman and cruel man. The prisoners gave him a new name—"Crazy Major." He used to savagely torture the detainees until they became unconscious. When he began beating anyone, the detainees nearby would also be his victim. He was known in the barracks as a leader of the torture team.

Chapter 17

Happiness and Hope amidst Hopelessness

After Dev Raj's encounter with the ICRC in the army hospital, the army's behaviour changed somewhat. We expected one day that the ICRC would come to the army barracks to meet Dev Raj again. Days and nights passed. We continued to eat rotten food. The sunlight entered through the innumerable holes of the tent. Sometimes we got wet, and other times we felt the extreme heat of the summer. We really struggled to live and felt suffocated there. Every evening the guards checked whether the prisoners' eyes were tightly covered and they were handcuffed.

Without warning one evening, two guards entered our tents and looked at us. They pointed out three people, reading the names from a paper—Dev Raj Gurung, Binod Dahal, and Machhe Narayan Shrestha—and told them to come out of their tents. We speculated about their possible plan.

Among the three people, Binod Dahal had been a teacher in a local high school in Sindhuli District and had been inclined to support the CPN (UML). The army though had collected information that he had given money to the Maoists. Subsequently, he publicly denounced any affiliation with the CPN (UML) and left Sindhuli, staying in Kathmandu in order to be safe from the army. He was thus shocked to learn that his familiar army spy in his own village unexpectedly informed the army of his whereabouts in the capital, and he was arrested in Kathmandu in Kartick 2060 B.S. (the last week of October 2003). He was severely tortured, and his whole

body became swollen. He looked like a giant and had a big belly. He walked with difficulty, and the guards gave him a new name—“Langado” (Lame)—to tease him. He had a long beard and hair. He looked much older due to his hairy body. The army had cut some prisoners’ hair but refused to trim his hair. Perhaps Binod had the longest hair and beard among all the detainees in the barracks.

Machhe Narayan Shrestha, who was also on the list of prisoners called from their tent, was from Bungmati in Lalitpur District. He had been a prisoner in the barracks for the last 10 months. He was a simple, but honest, person. The army detained him without any cause. He had no interest in politics.

When the three of them were brought out of the tents, we guessed they were going to be released soon. They loosened their blindfolds and made them stand near the toilet. They then sat on a chair, and the barbers cut their hair and shaved their face. The guards even took off their blindfolds. We secretly watched the scene very closely. Then they bathed and felt relaxed. We could only see the backs of the three men.

The three prisoners came back to the tents at about 9 p.m. It was almost dark, and they looked quite stylish, especially compared to the rest of us. We sensed they were feeling happy as perhaps they too thought they’d be released the next day. We guessed the army administration would free them due to their poor health, although we had never felt any sympathy from the army officials in the past. We were happy, however, when we saw that they were happy. Prisoners were dying, but their hands were not tied. Everyone could get a new life if they were freed from our inhuman custody. Sometimes we used to think it is better to die than to survive the excruciating torture.

In this way, we spent that night being both happy and sad.

Chapter 18

Meeting with the ICRC

The guards woke all of us up at about 5 o'clock in the morning. The guards called Binod Dahal, Dev Raj Gurung, and Machhe Narayan Shrestha and took them away. We thought they might be transferred to a jail.

Meanwhile, they collected all the dirty and torn clothes, leaving us wearing only the rags on our bodies. They also took our dilapidated blankets, broken cots, and we lay on the floor. Even the female prisoners handed over their belongings. They took all of my meagre possessions too.

We were lying on our beds after supper. After the meal, we talked about these three men. Suddenly, we heard people talking. It was the three people who had gone with the army officers. They looked exhausted. The guards told them they couldn't speak, warning them that they would be buried in a ditch together if they exchanged a single word with any of the other prisoners. The three men consequently slept without saying anything. We eagerly wanted to know though what had transpired that day.

After a while, they woke up and looked happy. They readily gave us some news about the unexpected meeting with the ICRC. Then everyone got excited. They clearly told the ICRC about life in the camp and the condition of the prisoners. They appealed to the ICRC to address the problems of torture, illegal detention, the brutal killings, the poor food and lack of drinking water, medicine,

etc. According to them, the ICRC team had noted down the names of all the prisoners provided by them. They had even written a letter to their family members and given it to the ICRC to be passed to their relatives. The ICRC had assured them that they would return in about 15 days.

Without a doubt, it communicated hope for a new way of life, and we thought we're no longer in danger. We felt that God had finally come to the barracks. There was such joy for us to feel that our lives were no longer under threat, to know that the outside world now knew about our life in the camp.

The three men explained their meeting with the ICRC in the following way:

“The soldiers led us to the medical hall 15 minutes from Commando Square. There were two other Tamang prisoners from Nuwakot District brought from a different camp in another part of the barracks. The hall had been cleaned and renovated, and everyday items, such as combs, toothpaste, toothbrushes, shampoo, etc., were already set out. Immediately, we got a meal and felt comfortable. An army major and captain advised us not to disclose the true realities of the battalion. They instructed us to report that we enjoyed good facilities, good food, good treatment, and other services. Unless we followed these instructions, we would be punished. The army officers also warned us that they would be nearby and would listen to our discussion.”

At this time, these prisoners did not know who would come to see them that day. They dared not ask any questions. Their eyes and hands were freed for the first time. Their faces were quite pale, and there were scars on their wrists. Their face, body, hair, and demeanour easily reflected the torture they had endured. Although they were free, they did not look normal. Their feeble physical condition appealed for help.

A few Caucasian people then entered the hall accompanied by the army authorities. Truly, they were representatives of the ICRC! We used to call them the “Gods of the Detainees.”

This time there were five detainees brought from different camps in the barracks. The army officials reported that they’d just been arrested recently and that they were the only prisoners in the barracks. The army supported the prisoners as much as possible, they explained, and their human rights had not been violated. The army officers added that they had been getting medication and hygienic food and that they had not been tortured.

It was, of course, completely a false report and nothing resembling the truth.

“We keep them here in order to provide security for them,” the army officer further misleadingly asserted, “as they demanded that they stay inside the army compound as there is no security outside the barracks.”

After some time, the army officers left the medical hall, and the ICRC began to ask the detainees questions about their health, torture, their life in custody, etc. They were able to speak and write in the Nepali language. The ICRC representatives asked the prisoners many questions in Nepali and documented their answers in English.

Dev Raj recognised the ICRC officials who had visited him in the army hospital 15 days earlier. The prisoners shared every miserable detail about their life in detention. The prisoners’ melancholic story made their visitors’ eyes wet.

The ICRC representatives had brought a list of disappearances collected from various barracks, the media, and complaints made to the authorities by their family and friends and inquired about them.

Most of the disappeared people on the list were in the Bhairabnath Battalion barracks. The ICRC officials asked many detailed questions about the disappeared people on their list as well as about the food, health care, torture, and many other related issues. The ICRC representatives genuinely thanked the prisoners for helping their investigation. Both sides, of course, had mutually assisted the other.

The five prisoners were brought to the hall from different parts of the barracks, and the ICRC officials easily deduced that there were many more detainees. The prisoners exposed many problems in the barracks that had been concealed by the army and the condition of other detainees. Torture, rape, killings, and brutal punishment were normal, they explained. The ICRC officials jotted down every violent act and noted the lack of food and medical treatment. The ICRC representatives also minutely observed the bodies of the prisoners, i.e., their scars and bruises.

During the interview, the guards tried to peep through the window and later entered the room to serve tea to the ICRC representatives. The ICRC officials offered tea to the prisoners, but they refused. The prisoners hadn't seen tea during their whole period of detention. The prisoners also complained that they hadn't even been given clean drinking water since their arrest when the ICRC officials offered them tea. As a result, the ICRC visitors did not drink the tea either.

The ICRC representatives quickly realised that the medical hall was not the place where the prisoners were kept. They knew that they were being presented with a false reality by the army, especially since they had visited the camp previously and had not seen any prisoners. They assured the prisoners they would come again after 15 days and left.

As soon as the ICRC had gone, life for the prisoners reverted once

again to their usual humiliating and wretched conditions. The guards covered their eyes with blindfolds and handcuffed their hands and seized the pens and papers given to them. The day's charade was over. The medical hall was rearranged to its previous setting. That day, however, was a victory for humanity over the army's autocratic system.

* * * * *

Fifteen days after the visit of the ICRC Dev Raj, Binod Dahal, and Machhe Narayan Shrestha were taken away one evening after the meal for a bath. This time we easily surmised that the visitors would come again to see the prisoners. The men returned to Commando Square with their hair trimmed and their faces shaved. They no longer looked so scruffy. We guessed that the army was planning to take them to meet with the ICRC. This time we debated about what to discuss with the ICRC representatives and made suggestions to the three people about various issues.

One of the detainees, Krishna K. C., even wrote a letter to the ICRC, and we made a plan about how to hand it over to them. He had included the names of all the prisoners in the various camps in the barracks and at Commando Square. This letter was significant as the army authorities had been telling the courts, the National Human Rights Commission, and other human rights organisations that Krishna K. C. was not under their control. We were certain that it would lead to positive results as the ICRC was receiving this letter. We thought it would automatically provide energy to the human right activists and demoralise the army officials.

Early in the morning the guards took the three prisoners out of the tent. Like the first time, the prisoners were taken from different camps in the barracks. They once again visited the ICRC representatives in the medical hall. It was clean and tidy, and everything was in order in the hall like the previous time. However,

after observing the cots, the prisoners' positions, and the location of other items in the room, the ICRC representatives found many changes the second time, which helped confirm that the prisoners did not permanently live in the medical hall and were being transferred there temporarily. An ICRC medical team also checked the prisoners and found that the condition of their health was poor. They were suffering from malnutrition. The ICRC though did not take Krishna K. C.'s letter but copied its contents. His letter though had already reached the National Human Rights Commission.

Through this process, the representatives of the ICRC got the facts from the prisoners about their life in detention. The ICRC was even able to estimate the number of detainees at the Bhairabnath Battalion barracks and the poor conditions of the prisoners. During their second visit, the ICRC had asked whether the behaviour of the army had changed towards the prisoners, and they answered no.

After a few hours, the ICRC left the medical hall, and the guards brought the prisoners back to their tents. They were again blindfolded and handcuffed. We, of course, were waiting desperately for the three prisoners to return to listen to their discussion with the ICRC.

Chapter 19

NHRC in the Bhairabnath Battalion Barracks

Although the ICRC had visited our barracks, it could only visit when the army gave it permission to do so; and except for the ICRC, no human rights organisations had access to the Bhairabnath Battalion barracks, including the National Human Rights Commission, or NHRC. The Royal Nepal Army had not even provided correct information to the government. Gradually, however, the false information was being disclosed day by day.

Although the army authorities had rejected the repeated requests of the NHRC to visit previously, it finally relented; and in Ashad 2061 (the second week of July 2004), army officials invited the NHRC to see the prisoners that the ICRC had already met twice. Earlier, however, NHRC members had come to the barracks to ask about Krishna K. C., but the army had ill-treated them, and they left.

This time Binod Dahal, Dev Raj Gurung, and Machhe Narayan Shrestha went with the guards and bathed. Like the previous time, they were taken to the same medical hall, but this time to meet the NHRC representatives. Once again, everyday goods, such as toothpaste, toothbrushes, soap, and towels, were already placed inside the hall. The room was well managed, but this time the two Tamang prisoners who had been brought earlier from other parts of the battalion's barracks weren't sent to meet the NHRC. Instead, a female prisoner was brought to meet them.

Both the army officers and the NHRC representatives were present. The NHRC officials stood with their identity tags around their

necks and introduced themselves. At the beginning, the army officers explained about the condition of the prisoners and the management of the barracks. The army explained that the condition of the prisoners was good and that they didn't have any problems. All the time the NHRC officials just nodded their heads and said, "Yes, we believe you are right."

In front of the army officers, the representatives of the NHRC looked as though they had surrendered any authority they had. The army officers pointed to the everyday items in the room and said, "Listen, we have given them all the facilities. We have behaved toward them humanely, and we have given them sufficient food." Then the army officers turned to the detainees and said, "If you don't believe us, ask them."

As the army officers were present with the NHRC staff, it was impossible to disclose the true reality of the prisoners. However, after a short introductory dialogue, the army officers went outside the hall. Then the four prisoners shared some issues with the NHRC, but there was no open discussion as they had had with the ICRC.

We feared sometimes that army officers pretended to be representatives of the NHRC or journalists and would ask the prisoners questions. Basically, they wanted to test the attitude of the detainees and report to the concerned authorities. If the prisoners were honest and revealed too much information, the prisoners were brutally tortured. Hence, the prisoners had to think twice before giving any information, and consequently, they couldn't easily trust the NHRC representatives and couldn't talk openly. Conversely, the NHRC members were not clever enough to handle this delicate situation, and it appeared to the prisoners as if they only visited for the sake of making a visit. As the NHRC didn't have a good reputation, we couldn't trust them. Thus, we never held out any hope of being released because of a visit by the NHRC. We were not prejudiced towards the NHRC; it was just our conclusion derived from previous experience.

Chapter 20

Gunfire in Commando Square

We used to frequently hear the sound of guns being fired in the barracks, and thus, we felt that the barracks was like a battlefield. Every night the thunder of high explosives and the regular racket of gunfire disturbed our sleep. Sometimes we were suddenly awakened from our sleep; sometimes the noise would continue for a long time. The guards used to come near to us and say, “The gunfire is aimed at killing the Maoists, and your turn will come soon.” We had to live with these threats and the subsequent fear.

It was Ashadh 2061 (the end of June 2004). One morning I was lying on my bed after breakfast and thinking about my pathless life. My dreams and goals were shattered to pieces.

My miserable musings were suddenly disrupted by a powerful blast that tore my ears, and the army officers and guards ran towards the sound of the gunfire in Commando Square.

Later we heard that one of the guards, Binod Thapa, a brutal man with a devil’s mind, had opened fire without any apparent reason, and they took him to the office. We thought he’d be punished, and we’d be rid of his abuse. These notions though proved to be just wishful thinking, and he continued to torture us frequently.

Binod Thapa was a man of unimpressive height. We wondered how such a short man could join the army. His body was not even

physically well developed. There were many of these short soldiers. Hairy men, men with earrings and finger rings were common in the barracks too. Previously, their mission was to spy on people and help the army make arrests from the different corners of Kathmandu. Frequently, they visited campuses and public places in the city, arranging for some detainees related to the Maoists to be hauled away. Collecting information about Maoist activists was the main mission of these unusual people.

Among them, Binod Thapa was one of the worst. Nobody liked him. He often approached the detainees after taking hashish and other drugs. He used to expose his madness and beat the prisoners. He also liked to hit the prisoners with the butt of his rifle. He had a different style to torturing the prisoners as well. Forcing the detainees to close their eyes tightly and not allowing them to use the toilet for many hours were some of his additional eccentric methods for giving punishment. He also enjoyed insulting educated prisoners, i.e., Krishna K. C., Himlal Sharma, and me, and all the time he wanted to talk with the female prisoners, which he did routinely with vulgar language. Sometimes he offended the women by shovelling a packet of condoms toward them; and to exhibit his bravery in front of the female detainees, he used to beat up male prisoners.

There was a female captive from Nuwakot, Tara Bhandari, who could barely speak with people as she was not very healthy. One day that crazy guard didn't allow her to go to the toilet for four hours. She cried a lot and pleaded with him, but he was mean to her although he was from the same district. Binod Thapa also made her stand for hours that day, beat her, and attacked her sexual organs with a stick, but she never surrendered in front of him or the other guards. She always showed her gallant nature every day. She never liked any of the guards as they insulted her all the time.

Chapter 21

The Betrayal and Arrest of Maoists in Kathmandu

The army had arrested Krishna K. C. from the Koteswor area of Kathmandu and Himal Sharma from Jamal in Kathmandu District. Both student leaders endured brutal punishment for many months. Krishna had a big cut on his arm and many bruises all over his body. Krishna could not control himself and used plastic bags when he had to urinate. Himal also suffered from many wounds and scars, for he used to be tortured almost every day.

Similarly, Bina Magar also had to tolerate a lot of painful experiences. The guards again and again dunked many female prisoners in dirty water for a long time. The soldiers also used to force female detainees to urinate in an electric pot with the current running through it, electrocuted some of their sexual organs, and pierced their fingers with a pin or slashed their skin with razor blades and put salt and chilies on the wound. The female prisoners were raped in detention as well. Through such systematic methods of violence, the prisoners were humiliated, tortured, and brutalised.

Because of the indiscriminate beatings, some of the prisoners lost consciousness, and many became physically disabled. Some of them died inside the barracks, but the army did not report these deaths to anyone in the world outside.

Some of the individual tragedies in the barracks included Jujubhai Maharjan of Kirtipur in the capital city, Kathmandu, whose fingers were broken by the beatings, but he wasn't given any

medical treatment. Another detainee, Ambir Gurung, a resident of Okhaldhunga District, lost his hearing after being tortured. The security forces had arrested him from the area known as Baneshwor in Kathmandu as they suspected him of helping the Maoists even though he was affiliated with the Communist Party of Nepal–Marxist-Leninist (CPN [ML]). Kamal K. C., 46, who disappeared on 15 Ashad 2061 (June 29, 2004) and was detained in the barracks for 11 months, had a deep wound on his back for six months but didn't receive any medical treatment. A Maoist cadre, Bhim Maharjan of Kirtipur, lived with a great deal of pain for a long time after his back was broken from the extreme torture. Similarly, Suchindra Maharjan's neck was partially cut, and he couldn't eat as he wasn't able to hold his head upright.

If reports of our suffering ever reached beyond the walls of the barracks, no one would believe it, but we did, indeed, suffer inhuman torture. If anyone did believe the news, however, they would get angry and protest against the violent deeds of the soldiers.

Once, a prisoner reported a very terrible story in which the guards savagely tortured a pregnant woman in the barracks. She lacked food and medicine and constantly fainted and fell on the ground. Her belly was big, and there was a six-month unborn baby growing in her womb. From time to time, she begged the guards not to torture her anymore, but they didn't stop beating her. The army commander, in fact, ordered his men to torture her until she gave birth to the baby. They stripped her completely naked. The poor woman eventually gave birth to a child due to the excessive beatings. We never learned the fate of the child. Finally, she died. Nobody knows who she was. Naturally, the incident has never been investigated.

The security forces used arrested Maoist activists to give them information against their will that led to other arrests. First, he

security forces forced the arrested Maoists to identify the hiding places of other Maoists and to disclose their plans for future attacks and the weapons they had. To ensure a successful operation, the security forces used mobile phone numbers and pagers so that the arrested Maoist could call their friends to come to a certain place. When they called, the Maoists in detention had to say certain sentences, such as “I have collected donations so please come to get the money” or “I am sick and bring me some money for the doctor” or “I have the weapons that we’ve seized, and I need to give them to you,” and so on. Meanwhile, the army cordoned off the area and arrested them one after another. Through this ploy, the security forces were able to trap a number of Maoists.

The army, for instance, arrested Nischal Nakarmi, a company commander of the Maoists, using these methods. In fact, the vice commander, Bhim Giri, helped the army arrest Nischal Nakarmi, teachers Krishna Raj K. C., Ganesh Dhakal, and Ramesh Guragain from Ghattekulo in Kathmandu District. They were arrested soon after the RNA soldiers arrested Bhim Giri. Nischal Nakarmi was a talented person among the Maoists with clear views on politics. Bhim Giri himself was arrested through the treachery of a Maoist worker with the surname Ranjit from the Bangemudha area of Kathmandu. Similarly, Himal Sharma was deceived by his own secretary, Lila Pandey.

In this way, the security forces weakened the organisational network of the CPN (Maoist) in the Kathmandu Valley. Even the Maoist hard-core members couldn’t bear the brutal torture and helped the army to arrest their own friends. The army consequently believed they could get even more information if the prisoners were tortured both mentally and physically. Therefore, it was the fate of those detained in the barracks to be tortured every day and night.

In addition to these tragic stories, in the Yuddha Bhairav Battalion, which was within the camp of the Bhairabnath Battalion, as

revealed by soldiers serving in the latter battalion, several civilians were detained and tortured. Some of them were tortured to death; some of them disappeared. On the condition of anonymity, one of the soldiers of the Bhairabnath Battalion divulged that “those who have reportedly disappeared have already been killed.”

He explained that among the 49 disappeared people listed in a report of the U.N. Office of the High Commissioner for Human Rights-Nepal (OHCHR-Nepal) in May 2006 most of them had been taken to the Shivapuri jungle area and shot dead.

“Some of those assumed to be disappeared were also tortured to death in the course of the investigation,” he added.

“Gyanendra Tripathi, who was arrested from the Shantinagar Gate in Kathmandu, died,” he said, “while he was immersed in a drum full of water as part of the torture inflicted on him.”

“Gyanendra,” he recalled, “was brutally forced to reveal the secrets of the [Maoist] party, but he was not responding. Based on the orders of the army commander, some five or six soldiers hung him upside down under water for quite a long time and drowned him. He was fluttering violently for a minute; but when he was taken out of the water, he had already gone.”

Similarly, Deependra Pant, who was arrested in Kathmandu, was killed after being severely beaten by members of the Yuddha Bhairav Battalion, the soldier said, and another detainee, Rajendra Mali, was initially paralyzed due to the beating he received from the soldiers and died a few days later.

The soldiers cremated all of the dead bodies at a rivulet three kilometres from the Shivapuri barracks. On the basis of information provided by another soldier who is also serving in the Bhairabnath Battalion, the place of cremation was identified, and

an investigation of the cinder and ashes was conducted. However, in order to wipe out the evidence, senior army officers ordered the remains of the victims to be exhumed before the investigation commenced, he said.

The lives of other detainees held in the Bhairabnath Battalion barracks ended in other sudden and violent ways. Some detainees on December 20, 2003, and others in four groups on various dates were taken to the Shivapuri jungle and shot dead, said a soldier who witnessed these incidents. The largest group taken to the Shivapuri jungle was 20 detainees. At the time, about 150 army personnel were deployed in the Shivapuri jungle area. As the prisoners' execution took place on the road linking Budhanilkantha, Shivapuri in Kathmandu District, and the village of Gurung in Nuwakot District, the road was blocked from both sides.

The detainees were asked their last wish and then were told to sit down in a row before they were shot. The army executed them one by one. During the shooting, a detainee with a Karki surname from Sindhuli chanted, "Long live Maoism." When there was howling and bawling, the commander ordered his soldiers to kill them quickly. The gunshots killed some of them immediately while others were left writhing and some were unconscious. Each of the four groups taken from the Bhairabnath Battalion barracks was shot dead at a distance of about a kilometre of each other, the soldier said.

A funeral pyre was then built nearby, and the bodies were heaped one upon the other. Kerosene was sprinkled over the heap, and it was set on fire. Some of the detainees were only injured, and thus, the fire sent them writhing for a long time, ending in an excruciatingly painful death. When not all of the dead bodies burned, they were cut into pieces with a knife and then buried in a pit a little distance from the place where they were cremated.

I learned about the violent end of the lives of these people who had disappeared several years after my release from the Bhairabnath Battalion barracks. On June 6, 2007, I began fasting to death in front of the Parliament building inside the Singhadurbar with another former detainee, Krishna K. C., to demand that a high-level investigation committee be formed to make known the whereabouts of the detainees who disappeared from the Bhairabnath Battalion barracks. I, along with Krishna Jwala Devkota, editor of the newspaper *Naya Patrika Daily*, and Krishna K. C., met another soldier serving in the Bhairabnath Battalion in the garden of the Bhimsen Tower in Sundhara in Kathmandu. We talked with him mostly about the disappeared detainees. *Naya Patrika* published a story based on this conversation with the soldier on the same day we began our fast.

After a few months, I met another soldier of the Bhairabnath Battalion who confirmed the information published in the *Naya Patrika* article. The newspaper quoted him as saying, “Before the declaration of the state of emergency on 2059/8/11 B.S. (November 27, 2002), not a single Maoist was held in the Bhairabnath Battalion [barracks]. Earlier, the detainees arrested would be held in the ‘court guard’ of the Bhairabnath Battalion. As the number of detainees increased in later days, they were detained in the squash hall.”

The soldier whom we met at Bhimsen Tower in Sundhara said that the soldiers used to refer to the Maoists as “Mike Bravo,” a kind of code name used among the soldiers. He added that, when making an arrest, they would cordon off an area of houses and a search would follow.

“We would call it ‘cordon and search’ when we had to surround a large area,” he explained. “The who’s who and the identifying features of the person to be arrested would be clear prior to the arrest; there would be a briefing before leaving for the operation.

We were short of equipment in the beginning, but later Indian vehicles—SUVs made by Toyota called Qualis—arrived. These vehicles had red-coloured license plates and were not painted in the usual colour of army vehicles. We would go on ‘search’ missions in these vehicles. After the arrest, the detainee would be loaded into the vehicle, his or her hands would be tied behind their back, and their face would be covered with a mask, which would be like a pillowcase. A rifle would be pointed at the temple of the detainee. The detainee would not be tortured though because he or she would scream, creating a noise loud enough to be heard by people nearby.”

“We heard that there was a crossfire during the arrest of a person named Suchendra,” he said; “but apart from this exception, there was never a shooting while an arrest team was deployed from the Bhairabnath Battalion. We would go on an operation only after having complete information of what sort of people and what sort of area we were going into.”

“The detainee would then be taken for the first time to the inquiry room,” he continued. “These ‘rooms’ were built in front of the squash hall and were army-coloured tents. The Bhairav Temple was flanked by these tents. The more the number of detainees continued rising, the more the number of tents erected.”

“There were separate teams,” he added, “for torturing detainees and for interrogating them. Interrogation usually would be by a major or a higher ranking officer. Torture would begin if there was no response from the detainee.”

“Generally,” he said, “they would be dunked into a drum full of water dug into the ground, hung upside down, or beaten on their feet and head. In code language, ‘give him dal’ would mean ‘immerse him in the water’ or ‘give him an ant sting’ for ‘electric shock.’ The soldiers also used to urinate in the drum in which they

immersed the detainees. The torture normally continued up to 24 to 36 hours. Sometimes the then-brigade commander [of the 10th Brigade], Dillip Bikram Rayamajhi, used to come.”

“Some of those arrested would be innocent,” he confessed. “They would take another person’s name to avoid the excessive torture. Because of this, the number of detainees went on increasing.”

Regarding the nicknames of some of the officers, the soldier explained that “we would call Colonel Raju Basnet ‘Big Brother,’ Captain Indiar Rana ‘India Romeo,’ Major Bibek Bista ‘Bravo,’ and Warrant Officer I Chandra Prakash Poudel ‘Charlie Papa.’”

“Two to three people had been tortured to death during interrogation during September 2003,” the soldier continued. “Those who died would be loaded into a vehicle when the evening turned dark and taken to the Shivapuri jungle where their bodies were burnt.”

“Once, during September 2003,” he recalled, “the then-chief of the army staff, Pyar Jung Thapa, visited the Bhairabnath Battalion. We heard that some detainees were going to ‘be given,’ which we knew meant ‘be given bullets’; they would be killed. Thapa had arrived in formal Nepali army dress uniform or *daura suruwal*. The killings of the detainees then commenced.”

On December 20, 2003, when the detainees were taken to be shot in the Shivapuri jungle, the soldier was among the troops. He recollected the incident as follows:

“I cannot forget that day. In the afternoon, we were given a list of seven detainees and asked to take them out of the Bhairabnath Battalion barracks.

“We were asked to tell them, ‘You are free now; we will take you to your respective areas and free you; report to the army regularly.’

“Believing to have been freed, they came out happy and pleased.

“We loaded them into a Tata army minivan. They were all handcuffed and masked. I knew the names of three of them—Nischal Nakarmi, Rewakala Tiwari, and Bhawa Nath Dhamala. I do not know the names of the other four. The detainees were in the Tata army minivan while we were in a Toyota Qualis. We followed the minivan. It must have been around 3:30 p.m. when we left the Bhairabnath Battalion barracks.

“We headed past Narayanthan towards Shivapuri. Passing through the Budhanilkantha Staff College, the two vehicles stopped before reaching Gurje Bhanjyang on the way to the Alle Army Camp. It was almost evening when we reached there.

“Captain Indiar Rana ordered us to unload the detainees. Before reaching Bhanjyang, we moved towards the right and walked up a small hill. The jungle is very thick there.

“Until they were taken out of the vehicle, they had not reacted. They had handcuffs on their hands and masks over their heads; but when we were taking them towards the jungle, the fallen leaves made sounds. It might have struck them that they had been brought to the jungle and the soldiers were about to kill them. Then they began crying and screaming.

“Nischal appealed to us: ‘Don’t kill me, sir! I will help arrest Badal’ [a top Maoist commander in the Kathmandu Valley at the time named Ram Bahadur Thapa “Badal,” who is now the defence minister].

“The operation commander of our team was Captain Rana, who told him: ‘There’s no way to stop now. It’s an order from a higher authority.’

“The detainees became convinced of their death and now began screaming and crying louder.

“Two metres away was a bit of flat ground. All of the prisoners were compelled to stand in a line. Three funeral pyres had already been built by my colleagues in our battalion who had arrived there earlier. They were all in uniform while we who had just arrived were in civilian clothes.

“Indiwar asked them collectively: ‘You are going to be killed now. Does anyone have a last wish? Speak out!’

“Nischal reiterated his earlier wish.

“Rewakala and Bhawa Nath together said, ‘Let us meet for the last time.’

“The two were husband and wife.

“Indiwar then ordered the soldiers: ‘Remove the masks of these two.’

“When a sepoy removed the mask, the two looked at each other and cried bitterly. Their hands were still tied, and there was no conversation.

“About a minute later Indihar spoke: ‘Now enough.’

“The two were then separated once more, and the masks were again put over their faces.

“Certain of their impending death, the prisoners now began cursing the soldiers. All of them were lined up in a single row. It was already dark. The first shot fired was at the lower abdomen of Nischal Nakarmi. Indihar himself fired the bullet. Nischal fell to the ground. The other six detainees also fell on the ground without being shot due to fear.

“Although having been shot, Nischal still cried, ‘See. I will not die with one bullet. I still say, “Let me live. I will catch Badal.”’

“Indihar responded with another shot. Then the rest were shot one by one with a submachine gun called an Uzi.

“Indihar did not shoot to kill the detainee with one bullet. He started shooting them in their hand, legs, and abdomen. One submachine gun was emptied and then another. The third submachine gun also ran out of bullets.

“‘Charlie Papa,’ i.e., Warrant Officer 1 Chandra Prakash Poudel, passed the submachine guns to the captain.

“The flailing detainees would scream, asking him to kill them at once. The sepoys couldn’t stand this scene of death any longer and started drifting away.

“The detainees though were still yelling for water. Slowly, their screams tapered off. Some of them did not die until the very last.

“After shooting the detainees for almost four or five minutes, Indiwari said, ‘Now burn them.’

“All three funeral pyres were large enough, and the dead bodies were randomly burnt on the three pyres. When the pyres roared with flames, we began walking downwards to the mountain pass. It took us about four or five minutes.

“Indiwari was with us when we returned to the barracks. He ordered us not to tell anyone about the execution of the prisoners, not even the others in the barracks. It was about 9 o’clock at night when we arrived back at the Bhairabnath Battalion barracks.

“Afterwards, the prisoners began to be taken there at intervals of every two or three days. This deadly trek continued for about a month. Finally, only 29 detainees were left in the Bhairabnath Battalion barracks. Now nobody is there. Towards mid-March of 2004, all of them were taken away to be killed. They were transported to the Alle Army Camp at Shivapuri. At this time, however, there was a rumour reported in the media about these killings. Then after a week all the prisoners were brought back to the Bhairabnath Battalion barracks.”

Chapter 22

Under Pressure to Surrender

All the people kept in the Bhairabnath Battalion barracks were arbitrarily detained. Their relatives and human rights organisations brought many cases of habeas corpus before the Supreme Court against their illegal detention on behalf of the people who had disappeared. The security forces though denied their detention. The army officials of the Bhairabnath Battalion repeatedly replied that no one was kept in their custody. Human rights groups, however, assumed that many people were kept in army custody and were being severely tortured. Hence, they put constant pressure on the army to present the prisoners before the courts. Even those who surrendered to the army and acknowledged that they were Maoists were not handed over to the police as they should have been and were instead kept in army custody against the law. They, in effect, had also disappeared.

The arrest and illegal detention of Krishna K. C. and Himel Sharma had become a major issue. As a result, the authorities made a plan to make them surrender to the army and then file a legal case against them in court.

In Shrawan 2061 (mid-July 2004), Krishna K. C. and Himel Sharma were separately taken to another tent inside Commando Square to make them surrender and help the security forces. We could just barely hear their conversations from our tent nearby. They were repeatedly taken that day from their tent to another tent in Commando Square as various army officers from the

Bhairabnath Battalion barracks and army headquarters tried to force them to agree to surrender, but they denied every proposal to surrender and instead suffered from the viciousness of the guards the whole day.

The whole devious plan was to bring an end to their political careers; for after surrendering, they had to publicly speak according to a script prepared by the army, a tale that would be reported in the media. They then had to assist the army to weaken the movement.

Krishna and Himat, however, refused to raise the white flag and play their part in this drama. Instead, they chose to die in army custody rather than surrender to them. Perhaps they thought about the conditions of the low-profile cadres and rejected the overtures of the army in spite of the intense pain inflicted on them. As a result, they never surrendered to the army in order not to discourage the Maoist cadres who were fighting. The treatment meted out to Krishna and Himat by the army was not unique; they threatened other detainees to pressure them to surrender as well.

The following day the guards covered Krishna and Himat's eyes with a piece of cloth and led them around the tents three times and took them to the next tent. We wondered why. Maybe they wanted to frighten them by disorienting them so that they would finally surrender. We felt they might be killed and worried about them all day.

In the barracks, we could only utter a few words: "go to the toilet," "drink water," and "eat food." From that day onwards, however, Krishna and Himat did not even have the right to speak these few phrases. They had to hit a pole with a stick in order to get permission for the toilet. We no longer met them on the way to the toilet either but just heard their coughing. The guards believed we didn't have any idea about their conditions. We thought though that the army kept them separately to force them to surrender.

We were particularly concerned about Krishna and Himel when they went to and from the toilet as the guards had filled a large drum with water near the toilet. The soldiers used to push us under the water in these drums. We thought the drum was filled with water this time to make Krishna and Himel surrender. Certainly, this punishment was so cruel that it could expose new names of innocent people to stop the sense of drowning. Then the number of arrests could increase exponentially.

It was impossible to come out of army custody, and, at any rate, the army wanted to cause a person's life to decay in this inhuman dungeon. Among them, people linked to the People's Liberation Army, or PLA, of the Maoists had no hope of life. They never returned from there. However, student leaders, teachers, and political leaders could survive there although many activists working in the political field sacrificed their lives in custody. As well as these countless innocent people, many professionals suffered a terrible life in detention as well, for the army alleged that they helped the Maoists in numerous ways. The fate of detained people entirely depended on the sentiment of the army officials. Both the Maoists and ordinary people though spent the same miserable life in detention.

Chapter 23

An Appeal for Food

All the time the prisoners appealed for hygienic food. The quality of rice and pulses was so bad. We were often given rice and pulses mixed with sand and small pebbles and had to eat boiled grains of rice that we picked from the ground. We never saw meat and green vegetables at all while in custody. Many people died from eating the rotten food. Khadga Bahadur of Lalitpur District died just for asking for tea. He only wanted a glass of tea, but he lost his life without getting it.

Concerning food, the cooks were just as mean as the guards. They used to scold us, and we often had to absorb their kicks when we asked for a full plate of rice. We were so angry because they used to throw food in the garbage, but we couldn't have a full plate of food. There were many detainees who suffered from malnutrition due to the lack of proper food.

The army officials habitually laughed at our pathetic condition and mocked us. We soon realised that the army authorities wanted to mentally torture us by not providing us with a full plate of rice. We thought their hearts were made of stone.

According to a soldier, army headquarters issued a memo to every barracks not to serve good food nor to provide adequate medical services. Moreover, they were not to furnish any information about the arrest and detention of anyone, not to file cases in court, not to respond to the courts, and so on. Furthermore, all army barracks

were instructed not to allow family members of those arrested to visit their relatives in army custody. Hence, it was a black dungeon for us. Because of the lousy and rotten food, our taste for food was dying gradually.

Once, a guard shared the cost of food with me. He said that “the army authorities make a bill of 80 rupees (US\$1.30) for each meal, and this expense is paid by the army headquarters.” We guessed though that the food we had been getting was worth only about 3 rupees (US\$.05) per meal. Thus, the army officials wanted to keep many people in custody for a long time so that they could get a good commission from the food. It was very clear that from hundreds of detainees they were getting a very good commission.

In reality, the army ill-treated us incessantly and felt we were their enemies. Among them, a chief guard, Chadra Poudel, was one of the cruellest to us. He exchanged only heated words with the prisoners and beat us indiscriminately whenever he wanted. He was in charge of our food and provided the details of our condition to the senior army officials. He sometimes even used to beat the guards when they were on duty. He was responsible for looking after us perhaps because of his heartless disposition.

One day Sarita Sharma demanded meat from Poudel. We heard her make this request clearly from our tent. Everyone wanted to eat meat and spinach as we had not had them for a long time, but no one dared speak. However, Sarita boldly appealed for meat, and we were thankful for her courage. However, Chandra Poudel sarcastically replied, “Cut your own flesh and eat it.” We were really disheartened by his answer.

Chapter 24

The Outside World Sneaks into the Barracks

We were unfamiliar with the outer world. We did not know about the ongoing activities in our country and society. The army authorities were clever enough to block the news from us. We spent days, months, and even seasons inside a completely dark room. Sometimes we felt happy and forgot all the torture and our terrible lives if we got any message. Any news from the outside world would heal our bodies and make us bold.

Even the guards on duty were not allowed to speak in front of us. They were not a good source of news. All the time they just talked about sex and young ladies. They had no interest in politics and the overall condition of the country. They never uttered a single word about the surrounding neighbourhood and the name of the army barracks where we were kept. We never got any newspapers to read and radios to listen to. Sometimes we enjoyed hearing songs as the guards secretly tuned into musical programmes. However, they never listened to the news on the radio. Occasionally, we used to find pieces of newspapers thrown in the dirt and read them surreptitiously.

There were not any signs to identify the Bhairabnath Battalion barracks. Near our tent, the name of the Bhairabnath Battalion was written on the wall hidden behind an old *Janadesh* [a Maoist-related newspaper] that was pasted over it. We guessed these pieces of newspaper could have been captured from the Maoists. We used to read them frequently while going to and from the toilet by

slightly lifting our blindfold, for we had to wait a long time in front of the wall before using the toilet.

Next to our tent there was a camp of guards who were fond of drinking and shouting boisterously. From time to time, they quarrelled with each other and loudly played the radio. The windows of their buildings were closed all the time, and therefore, they could not see us. One early morning we heard a Nepali folk song on a cassette player. The song goes like this: “Let’s drink liquor in the pub of *sahili* [a word used to call a woman when you don’t know her name].”

Once, all of a sudden, one of the guards—Arjun Sapkota—ordered them to switch off the radio. We had named him Kale (Black Guy). He told his friends not to let us enjoy the song. He inspired the guards to beat us brutally too. At first, he was considerate to female prisoners, but later he became cruel to them too. On one occasion, Sapkota and another guard didn’t allow female prisoners to use the toilet, which caused many tears for them.

Sapkota threw a stone on the window pane to stop the tape recorder from playing. Surprisingly, it broke the glass and injured a guard on the head. The injured guard and Sapkota scuffled for a while.

“Why do you entertain terrorists by playing songs,” Sapkota yelled at him.

Immediately, one of our friends, Govinda, got angry and whispered, “Your songs do not provide us any pleasure. Rather, they give us only pain!”

In reality, political prisoners had less interest in love songs.

The security forces cut us off from the daily news, but gradually we tried to understand what was taking place outside the barracks. We used to guess what incidents were occurring and minutely

analyse them. From time to time, we collected good information. If many helicopters hovered over us, we thought the Maoists had attacked somewhere. Similarly, we used to manage reading newspaper headlines from the guards as they used to keep the folded newspapers in their pockets. Sometimes we also collected pieces of newspapers from the open garbage drain. We read them carefully after the newspaper was completely dry.

We got the news, for instance, when the Maoists launched an attack against the telecom tower in Bhojpur District during the second week of Falgun 2060 (the end of February 2004) and that the army had suffered a huge number of casualties. Their attack in Beni Bazaar in Magdi District and the killing of 11 Nepali labourers in Iraq came to us through different sources despite the tight security. After the Iraq incident, there was a lot of tension in the Kathmandu Valley, and we learned about that too. We also knew that many people had disappeared in Nepal, making the country's human rights record one of the worst in the world.

Blocking the news was really a challenge for the Nepalese government as there were many detainees who were in incommunicado detention, and yet they were able to get the news too. We knew that Manmohan Singh became the prime minister of India and that George W. Bush was re-elected the president of the United States. We were also informed that King Gyanendra had appointed Sher Bahadur Deuba as the prime minister of Nepal and that the CPN (UML) supported the Deuba government and joined the cabinet. We also learned that the proposal of the ICRC to visit the detainees at the Bhairabnath Battalion barracks was rejected by the army headquarters. News of these events was all common knowledge to us, and it proved the adage that "where there is a will, there is a way." It gave us a sense of achievement that we were able to know all of this latest news despite the strict orders of the guards to block events in the outside world from reaching us—a small triumph!

The army officers though tried to know how we got our news.

One day the temperamental Major Bibek Bista came to our tent along with the chief guards and watchman and sat down. Whenever he used to visit us, someone in the camp would usually get a powerful blow. Sometimes though he remained reserved in front of the prisoners although he often teased Ram Khadgi from Bungmati in Lalitpur District. Major Bista had once taken Ram on an operation outside of Kathmandu District for about 15 days. Ram used to talk with Major Bista more freely. Many people complained that Ram had helped the army arrest many innocent people in his village. Major Bista used to call him Pasa (Friend), but other army officers named him Janda (Whisky) as they collected information from him after making him completely drunk.

In the course of the conversation, Major Bista asked Ram, “What is this month, Ram?”

“Shrawan (July), sir,” Ram responded.

“How do you know?” Major Bista repeated again and again.

“Since it is raining outside, I guessed it is Shrawan (July),” answered Ram.

Then he got angry with the guards and asked who let the prisoners know the month. Major Bista also asked us the name of the month, but we told him that we didn’t know. It was our compulsion to tell lies, especially when telling the truth could lead to being beaten.

Then he left, angry at all the prisoners.

A guard then flew into a rage and asked, “How did you know the month?”

We answered that, due to the season, we guessed correctly.

We knew though that their intention was to keep us uninformed about life beyond the walls of the barracks. In spite of many problems, we knew the place, date, month, chief of the Bhairabnath Battalion, and the names of army majors and soldiers. We even knew that Colonel Prem Shahi had replaced Raju Basnet as the latter had gone on a U.N. peacekeeping mission.

Leering army officers regularly laughed at us and tried to cut us off from the media and the outside world. They often used to create rumours to drive us away from the facts. Their aim was to demoralise us.

We felt happy though with a guard from the Newar tribe. He often would allow us to use the toilet easily, and he didn't torture us.

One day, however, he reported that all the Maoists had been shot dead.

"The army," he explained, "had got a new technology to destroy the Maoists' hideouts in a few seconds. The army had already identified and destroyed all the Maoists, attacking them with hundreds of helicopters with the help of computers. Prachanda, along with other senior Maoist leaders, had already been killed."

"Since you are inside the barracks," he added, "you are safe; you are fortunate."

Nobody believed him, but he continued speaking. In fact, we understood quite clearly that the objective of the army was to make us psychologically weak.

Chapter 25

Mocking the Animals in the Zoo

Next to our tent there was an old building. Perhaps it was constructed during the Rana regime. We discovered through the activities of the troops that the house was used to store weapons and ammunition, for every two or three days different groups of soldiers came and carried weapons out of the house. They took them out of boxes, and sometimes they displayed them in a manner in which we could easily see what they were doing from inside our tents.

We watched them attentively, and they watched us curiously as if we were animals in a zoo. Perhaps our arbitrary detention provided them with a sense of superiority as our covered faces, long beards, and unkempt hair inspired their mockery. The guards tried to prevent us from looking up, but we peeped occasionally. Although the higher ranking army officers often told the soldiers not to watch us, they seemed amused by our condition. For us, watching the soldiers take the weapons from the house was, again, some new information that we filed away in our minds.

There were different groups of soldiers with different functions. Some were used to arrest people, some to investigate their activities, and others to torture them, etc. The soldiers for these purposes wore civilian clothes. Thus, not every soldier was used to collect information from the prisoners. Many soldiers, in fact, were unfamiliar with the techniques of torture. Perhaps the army officers feared that if the soldiers knew the prisoners too well that

messages could leak out of the camp. Consequently, only specific army personnel looked after the detainees, and the army authorities prohibited other soldiers from mixing with us. Some guards were not even permitted to get close to the prisoners.

There was a small weapons factory in Commando Square. Throughout the day, this factory was humming. The wailing of the detainees and the sound of the hammers producing weapons created a sort of monotonous din in the background of our lives. We also heard the army authorities insult the factory labourers, members of the Kami caste whose lot in life was to work as blacksmiths and in iron factories, and they didn't allow the workers to speak much among themselves. There was a single tap to fetch water for them and for us, but they were never allowed to approach the tap while we were there. We felt sorry for them whenever we saw them humiliated and mistreated by the soldiers.

* * * * *

The soldiers frequently exploited the prisoners even though we were blindfolded as we had to serve them in many ways. For example, the soldiers ordered the political prisoners to do everyday odd jobs. We had to wash the utensils and large cooking pots, clear the drains, plant flowers and plants, clean the toilets, etc. The guards ordered the high-profile leaders, journalists, etc., to work as well and used to mock them. Everyone had to perform these chores whether female or male, and even the sick prisoners had to work. Otherwise, we had to brace ourselves for more merciless torture.

One day an army guard, Binod Thapa, beat Krishna K. C. indiscriminately with a plastic pipe as Krishna refused to wash the utensils because he was sick. Similarly, the guards also ordered Himal Sharma to wash the utensils, but his sister Sarita had asked the soldiers not to make him work as he too was sick. Thus, Sarita Sharma had to do the work of her elder brother Himal as

she had made the request. In another incident, Tara Bhandari was not permitted to go to the toilet when she refused to pull weeds because she had a big wound on her hand. Meanwhile, there were other detainees whose bodies were swollen, but they were forced to work.

The area of the camp in the barracks where the prisoners were detained was enclosed with an electric wire fence as well as an iron fence. We also guessed that there might be landmines. Once, the sharp wire cut my hand while pulling weeds in the field. Many prisoners got injured due to scattered pieces of broken glass and rusting iron, but we never received any medical treatment.

Chapter 26

Abundant Torture, Meagre Medical Care

A medical examination and proper medical care were merely a dream in the Bhairabnath Battalion barracks. Most of the prisoners were sick and dying. Army officials sent prisoners to the hospital from time to time, but they returned immediately without a complete medical check-up. Among the prisoners, Binod Dahal, whose body was completely swollen, was sick for 11 months, and Ram Bahadur Basnet from Sindhupalchok District, a peon in a government school in Lalitpur District, was in poor health for more than five months. Moreover, Resham Bishokarma from Ram Bahadur's village had been continuously tortured by the soldiers. Ram Bahadur and Resham were arrested on the charge of being associated with the Maoists. Because of the torture inflicted on him, Resham lost his hearing, and the soldiers named him "Deaf."

In Shrawan (end of July), Ram Bahadur suffered a great deal and could not move at all. His body was gradually swelling. He felt pain in his chest and other parts of his body, and he had a digestive problem as well. One day the soldiers took him to the hospital again when he was not able to breathe properly.

The doctor asked the army officer, "Have you provided meat to the prisoners?"

"We have served them enough meat and vegetables," the army officer lied.

“The swelling will decrease automatically,” the doctor explained, “if the patient gets soup with meat and sufficient food.”

Ram Bahadur said nothing and returned to the barracks. He just thought about the reality of detention, the reply of the army officer, and found his life meaningless. Since we knew the truth about life in the barracks, we were filled with a mixture of rage at the army and sadness for Ram Bahadur. We thought, How can the army officers lie to the doctors in front of the prisoners?

In the evening, Chandra Prakash Poudel, the chief guard, approached the tent and talked to Ram Bahadur about his condition. Ram Bahadur explained his health problems in detail. Then Poudel ordered the guards: “Provide him with sufficient pulses.”

With the order of the leader of the guards, poor Ram Bahadur got more pulses, but his health remained the same. Consequently, he counted his hard days in army custody and never hoped for tasting any meat.

One day the guards noted down the numbers of all the prisoners. We hoped they'd send us to jail. Instead, they called the doctors from the Birendra Military Hospital in Kathmandu to check the sick detainees. The army authorities had finally called the doctors to give the prisoners medical check-ups after the death of so many people in custody. Moreover, there were a number of detainees whose condition was severe. The doctors though were not permitted to visit the camp where we were detained in the barracks as the soldiers had pitched a new tent in an open place. The guards led the prisoners in a line towards the doctors. Poudel threatened the prisoners not to disclose their name, address, and other any information to the doctors. The prisoners were ordered to explain only their health problems. Krishna K. C., Himal Sharma, Krishna Raj K. C., and Desh Bahadur Limbu, who were kept in another tent, were the last to see the doctor.

A patient from Pulchock in Lalitpur District, Surya Man Maharjan, complained to the doctors about not getting green vegetables. After the medical check-up, he was standing near the toilet awaiting his turn. Immediately, Poudel approached and scolded him. He brutally beat Surya for complaining to the doctors about the lack of vegetables. Afterwards his legs and hands were tied, his eyes were blindfolded, and he was laid in the open field for a long time.

We were surprised that the doctors did not visit our tents. Apparently, the army authorities did not trust the doctors. The army officials are too clever: they controlled everything so that the doctors would not get any information from the patients about our lives in detention.

Chapter 27

Rapes, Disappearances, and Madness

I was No. 97 in the Bhairabnath Battalion barracks. There were many camps inside the battalion's barracks filled with detainees. It was estimated that in every camp there were 80 to 90 detainees. Thus, the total number of prisoners in the barracks was more than 1,000. Sometimes the cooks unintentionally confirmed this number. They frequently said that their number of pots was not sufficient for the number of detainees in the camp; and from this remark, we subsequently estimated the number of detainees. At times, the guards acknowledged this fact too—unknowingly, of course.

One day a soldier named Shiva Kiran K. C. walloped Kiran Maharjan from Kirtipur in Kathmandu District. His ear was bleeding. I tried to intervene and said to the soldier, “Why do you try to show your bravery by beating a poor prisoner? Don't you have a bit of humanity?”

“What humanity!” he shouted loudly. “Here are hundreds of prisoners like you. Only we know how and where they are detained.”

During the first week of Poush 2060 (mid-December 2003), around four dozen people were taken out of the squash hall at midnight. No one knew where they were taken during this deserted night. They all had been arrested from different parts of the Kathmandu Valley on different dates. Questions were raised by concerned officials numerous times, although the army authorities were silent. Those

in detention with them were worried too about their condition, but the army leadership refused to say a single word. There were female prisoners among them also.

One of them was Rewakala Tiwari as well as her husband Bhawa Nath Dhamala. They had been arrested in Kathmandu and were detained in the squash hall. The guards insulted young Rewakala and harassed her frequently. They clutched her though she said she was pregnant. The guards called her husband “son-in-law.” Another female, Durga Bisankhe, wept for many days remembering her daughter. Tara Bhandari, a female detainee from Nuwakot District, was arrested with Durga, who was later transferred out of the squash hall to somewhere else.

One day we heard sad news: Rewakala, Durga, Renuka Dahal, and Kaushila Pokhrel lost their lives 14 months after their arrest due to being raped continuously. The tragic news of their deaths was published in a weekly newspaper, *Janaaastha*, which claimed it had proof to substantiate the facts. According to the news, they all were buried in the jungle area of Balaju in Kathmandu District. The news created great problems for the army. We did not hear any authentic comments from military sources though that we believed. We learned at a later date that the women were raped and then tortured to force abortions.

Gynedra Tripathi, Dipendra Pant, Suchindra Maharjan, Hira Roka, Desbhakta Chapagain, Jalandhar Bastola, Arjun Pokhrel, Babu Kaji Shrestha, Rupak Adhikari, Lila Acharya, Gokul Niraula, Lila Pande, Hem Narayan Shrestha, Rajendra Mali, Kamala Waiba, Doleshwor Limbu, Rajendra Thapa, Kumar Dhakal, Ashok Akela, Prakash Lama, B. K. Shrestha, Shantiram Bhattarai, Tejman B. K., Arjun Maharjan, C. N. Dhungana, Peepal Shrestha, Sudarshan Rijal, Buddhi Lama, and Ram Chandra Kafle were all taken out of the squash hall at midnight to some unknown place. We believed that most of them were killed somewhere inside the barracks. Later we learned from an army source that all of them were killed

in the Shivapuri jungle on the outskirts of the Kathmandu Valley. In addition to these 49 people, they took Nischal Nakarmi, a company commander of the Maoist People’s Liberation Army, as well. Although Krishna Raj K. C., Ganesh Dhakal, and Ramesh Guragain remained with us in the barracks, they all were victims of horrendous acts of torture.

Once, Bhim Giri recited a poem, “Coward,” in the squash hall. He had revealed the name of his own commander to the army to escape the relentless, ruthless torture. Consequently, the commander was arrested by the army. We listened to his poem in the squash hall. He was blaming himself for giving up the name of his commander to the army. Similarly, Krishna K. C. recited a poem too. As a result of these transgressions, Major Bibek Bista punished some of the guards and tortured some of the prisoners.

Puspa Basnet’s younger brother, Birendra Basnet, stayed with us for a long time. Puspa, who was from Jhapa District, eventually was taken from the barracks at night with Bhim Maharjan from the Kirtipur area of Kathmandu.

* * * * *

About four dozen captives, including me, were transferred to Commando Square from the squash hall in the first week of Chaitra 2060 (mid-March 2004). All the time we heard someone crying continuously. It sounded like the noise of a lunatic. We heard the howling for a week. Sometimes we could catch the threatening words of the guards: “Keep silent! Otherwise, you will die!”

The babble came from a captive who was severely tortured, but his name and identity were never disclosed. The person used to cry, weep, and prattle senselessly. He even babbled at midnight. We thought about his life and fate but couldn’t do anything else. The guards used to call him “Psycho” and beat him indiscriminately

when he cried. After one week, we didn't hear his voice anymore. We missed him. It is still a mystery whether he was transferred from Commando Square or died.

Some other voices were heard while we were in the squash hall as well, but we didn't hear those voices again either after about one-and-a-half weeks.

Machhe Narayan Shrestha of Lalitpur District was held in the barracks for 11 months and became mad. He was with me for about five months. Machhe was truly innocent, but his friend spied on him to avoid further torture—a familiar story.

The soldiers tortured Machhe mercilessly, and he suffered a mental breakdown. He then began to cry at night and sometimes yelled out the name of his wife. He often walked here and there at night. According to one detainee who had been kept with him, Machhe's habits were quite abnormal. He also had to sleep on the cold cement floor in temperatures of almost zero degrees Celsius without any clothes. His body as a result swelled up. It was unknown how many people like him were detained in the battalion's barracks.

Many people were transported to the Bhairabnath Battalion barracks from other detention centres in the Kathmandu Valley. According to the prisoners from the other barracks, torture was common everywhere. However, the Bhairabnath Battalion had the distinction of having the worst record for torturing detainees.

In the Bhairabnath Battalion barracks, there were three types of captives: the disabled due to severe torture, the mad or semi-mad, and the remaining who were malnourished. Again, many people lost their lives due to torture that were unknown to the outside world. Family members were not even able to get accurate information about those who had been arrested. The army, however, regularly disseminated misinformation about the condition of the

detainees. They produced fake reports all the time about the deaths in custody and said the prisoners died due to heart attacks. Their reports were not close to the truth though.

Chapter 28

Arrival of a Beautiful Lady

It was the rainy season. Three female prisoners were shifted from a nearby tent to a tent next to ours. We could watch every movement from our tent and thus saw the sudden burst of activity in the camp. The guards did not let us speak and put a new covering over the holes of our tent. No air entered through the holes of the tent, and we felt too warm.

We were constantly curious to see the face of a new arrival. Sometimes we could guess that new people had arrived in the barracks as there was usually a cacophony of new and heartbreaking screams. This time though there was a flurry of activity, and the front tent was decorated as if a new, but special, person was coming to stay.

Suddenly, a beautiful lady arrived, and the guards led her to a new tent. She was wearing jeans and was quite tall. She looked like a Gurung lady. She was a real beauty. The arrival of the lady created a new environment in the barracks. The army officials and soldiers used to come to the tent and look at her. The guards even used to give her chocolates and fast food. The guards began to run after the lady even in the toilet. They would lead her to the toilet and wait outside; the other guards stood near our tent.

The entry of the new lady in Commando Square caused lots of problems in our lives. We were not allowed to exchange words, and we even had to stop our sign language that Krishna K. C.,

Himal Sharma, Desh Bahadur Limbu, and Krishna Raj K. C. had initiated to share ideas. We couldn't look up nor move our heads from side to side. The guards became even stricter, and they served us food inside the tent so the lady wouldn't discover our presence. They also ordered us to walk quietly when going to the toilet. They wanted her to believe that there were no detainees in the barracks. After one week, we did not see her, for they took her someplace.

Many females disappeared from that tent. Once, a female with the surname of Thapa was arrested and detained in a nearby tent. They had actually arrested her with her husband Nava Raj Thapa. However, they were kept in different places in the barracks. The woman was taken somewhere out of the tent, but again, no one knew where.

Before the arrest of the lady with the Thapa surname, a middle-aged woman with a surname of Majhi was also arrested and detained in the same tent. She looked like a housewife. She wept almost the entire day and night after her arrest. Unfortunately, she also disappeared from the tent. Immediately, a new woman—perhaps a social activist—stayed there for a few days. This woman was wearing a sari, and she suffered the same fate as the others: she too disappeared.

Chapter 29

The Stampede of Detainees

Life inside the camp was becoming more difficult. We had to struggle against the rain, cold, and sunlight. We lacked decent meals. We spent a long time without getting good food, clothes, bedding, health services, and latrine facilities. There were a number of tents temporarily erected in the open field. It looked as if landless people were living there. Even a soft breeze pelted the pillars here and there. The ropes were too loose between the poles supporting the tents. The tents also couldn't block the rain. They were patched with pieces of plastic over the holes of the tents, but the breeze made them fly open. We had to sleep on the damp ground, and our clothes and blankets were wet. The army officials were too casual toward meeting our basic needs. At least, they could build tin huts for the prisoners.

One day a storm blew into Commando Square all of a sudden, and the guards rushed to a safe place. We held the bamboo poles. Unfortunately, the tent of Krishna K. C. and Himlal Sharma was destroyed in a short span of time. Four people in the tent ran towards our tent. They got completely wet and couldn't run fast as they were blindfolded and handcuffed. Next the front tent of the women fell down making a large noise, but nobody helped them. Six detainees also ran away to save their lives from the storm.

In this environment, people consequently suffered both in the winter and in the summer.

In the winter, we had to sleep on a bare, cement floor without anything, like blankets and bedcovers. One winter we had lice in the squash hall. The army officials didn't let us wash our clothes or take a bath for months. As a result, everyone suffered from lice. We let them continuously bite us as our hands were tied.

In the summer, between the burning sun outside the tent and the suffocating environment inside the tent, our surroundings were quite unpleasant. The warm nights also attracted mosquitoes that became more and more a flying nuisance. The water tap, well, dirty drains, and filthy ditches were ideal breeding grounds for mosquitoes. They frequently sucked us beginning in the evening and throughout the night, but we had no choice other than to let them bite us, like the lice, as our hands were not free.

Perhaps the army viewed the mosquitoes as some sort of torture device of nature to make our lives more miserable. Although we requested mosquito incense from the army officials, they remained deaf to our demands. The guards though made us laugh as they too were tormented by the mosquitoes. We then tricked them by convincing the guards that the mosquitoes could transfer many diseases, including AIDS. Thus, after a long time, they provided us with clothes and jute sacks to burn. As a result, although we suffocated from the heat inside the tents, the mosquitoes didn't fly inside anymore.

Our irritated and uncomfortable bodies remained with us for a long time.

Chapter 30

A Captain's Brutality

The guards continuously tortured the prisoners using new techniques. In the squash hall, they woke the prisoners at midnight and ordered us to parade around. They hit our backsides and bashed our heads against the wall. The prisoners thus couldn't sleep properly at night. We felt the army's tactics would change after the visit of the ICRC and the Maoists' major attack in Bhojpur District. In the meantime, the increasing number of custodial deaths impeded their cruelty.

Early one morning two middle-aged strangers appeared near the top of Commando Square. They were placed under the control of the army for a dubious crime of setting off an explosion in Kathmandu. These middle-aged men were covered in dirt and looked like farmers working swampy land. The army had put them in a marsh throughout the night and had brought them back to the barracks to wash away the dirt. Previously, the guards had dunked us in water but not in mud. I thus thought they were devising new torture techniques using mud instead of water. We did not see these two middle-aged people anywhere anymore.

One night we again heard someone wailing. We heard the sounds of sloshing water and guessed that some poor prisoners were possibly being tortured in the water drum during the night. The next day we saw their poor condition. The army tried to find any reason they could to inflict torture. At any time, we had to follow their orders.

The outcome all depended on their mood and frame of mind.

On one sunny afternoon, we felt uneasy for no apparent reason sitting and lying in bed. The guards were sitting in the shade of the banana trees. Suddenly, Captain Indirbar Rana entered the tent and ordered all nine of us to stand up. He scolded us for half an hour for talking. Then he walked away without giving us permission to sit down. Actually, we had not spoken a word that day, but he still angrily lectured us. That day Captain Rana looked like a bloody tiger and showed his repulsive character to us. Everyone was afraid of him.

After his departure, the chief guards approached us in an ugly mood. Other guards followed them. Major Bibek Bista entered our tent too. We felt the captain had shouted at them in the office and they immediately came here. It looked as if we had committed a grave crime. Major Bista ordered his men to tie our hands behind our backs. Two months earlier they had begun to tie our hands in front of us so that we could move a bit more easily. From that day onwards, however, a lieutenant tortured the prisoners, and security was tight. The guards peeped at us whenever we spoke a word.

After this infamous day, we were not allowed to sleep well at night. Every hour they made us stand for 45 minutes, and thus, we were only able to lie in bed for 15 minutes of every hour. The guards continuously watched us. Even the females and those who were ill could not escape trouble for a long time.

The wrath of Captain Rana had resulted in new torture techniques, and this inhuman torture ended only after I was released.

Chapter 31

Shattered Dreams

Three people who were sitting with me got an opportunity to talk to the ICRC representatives. They even received a reply from their parents. They were thus optimistic and excited about their future lives.

The ICRC had received information about the people staying in Commando Square, and we thought that one day the ICRC would come there too. They had collected all the necessary information about this secret place in the Bhairabnath Battalion barracks and the people who were being hidden there. However, the army denied that there had been any custodial deaths and disappearances. We thought one day the army's violent drama would end forever. Therefore, we stayed there counting the days for our nightmare to end. We were encouraged and assured that all the torture inflicted on us would be exposed soon.

Unexpectedly, they took seven people from Commando Square, including me, out of the tent. The previous day we had washed our clothes, bathed, and shaved our beards. They even allowed us to cut our hair. Everyone looked fresh. The guards ordered the seven of us to stand in the open field. Surya Man Maharjan from Pulchok in Lalitpur District had spent a day in the medical hall waiting to meet the ICRC but all in vain. Binod Dahal and Dev Raj Gurung, who had already met the ICRC representatives, were among us.

We held each other's clothes and moved ahead. After a 10-minute walk from Commando Square, we reached the medical hall. I heard the vehicles and felt I was in the city. We all were told to sit on the beds in the hall. Immediately, the major and captain approached the building. Then the major spoke to us: "Someone's coming to see you. Tell them everything is OK. Say that you were not tortured and the army is nice to you. Mention that you have good health facilities."

After the necessary instructions, the major and other army officers left the hall after 10 minutes. Then the guards took off our blindfolds and handcuffs. We immediately felt uncomfortable and disoriented. Our eyes failed to focus on any object for about half an hour as our blindfolds had not been removed for a long time.

I looked at my friends freely for the first time after so many months. I felt extremely happy! The medical hall looked like a room in a good guesthouse. Things in the room were kept properly. New blankets and comfortable bedding were on the cots. Drinking water, toothbrushes, toothpaste, and soap were in their respective places. Although they were not really for us, I was happy to see such everyday items ostensibly prepared for us after such a long time. After about nine months, I also saw plants and trees.

We spent the entire day there, but no one came. We knew the real cause: the ICRC wanted to see everyone in the barracks, but the army headquarters had granted them permission to see only seven people. According to the ICRC's records, there were innumerable captives in different camps in the barracks. They demanded that the army headquarters give permission to meet everyone during the same visit. Actually, it was an excellent and shrewd demand of the ICRC because the ICRC was familiar with the evil plots of the army.

In the evening, they took all those desirable everyday items with them. Then they led us back to our previous place of detention, and our difficult days began again. Our dreams were shattered: we failed to talk to the ICRC.

Chapter 32

Screaming in the Army Hospital

An innocent Sarita Sharma had been detained and tortured in the barracks for one year. She had already given birth to two babies and was suffering from malnutrition because of the lack of sufficient and nutritious food.

Sarita was in custody with her elder brother Himal. The army refused to release her as she could expose the whole operation of the Bhairabnath Battalion. The army had even sent a fake report regarding Himal Sharma to the Supreme Court. They did not want to disclose any information about Himal outside the barracks.

Meanwhile, the condition of Sarita's health was getting worse day by day. She used to vomit frequently whatever she ate. One day she fainted, and Bina Magar cried loudly. The guards came but only took her to the hospital after two hours.

The army brought her back to the barracks after a few days. Again, she lost consciousness. The army tried to cure her in custody, but she couldn't regain consciousness. Finally, she was taken to the army hospital in Chhauni in Kathmandu District.

In the hospital, she was kept in bed No. 64 on the ground floor of the hospital. Only the Maoists who had injuries were kept there. No one could visit her bed in the medical ward except the army officials and doctors. She was under the strict control of the army authorities.

One day she saw her close friend Sarita Thapa unexpectedly while going to the toilet. She cried with joy and called her. Sarita Thapa also cried loudly with tears in her eyes: she was seeing her dear friend for the first time since her disappearance one year ago!

She tried to enter the ward, but the iron bar blocked her from entering. Sarita Thapa broke the glass, and many people gathered. One Sarita was weeping inside the room while another Sarita was weeping outside. The soldiers took Sarita Thapa away somewhere. Sarita Thapa's father was an army man, and she had gone to the hospital to treat her sick mother. After a few days, they took Sarita Sharma into army custody again.

The army pressured Sarita Thapa not to disclose any information about this incident. In spite of this warning, she revealed everything in front of the press. The army was embarrassed as it had lied to the court about Sarita Sharma's case, but now it became difficult for the army to hide her illegal detention and torture any longer. The army had even threatened Sarita Thapa that they would terminate her father's army job if she divulged the incident to the public. However, she disclosed all the facts in her press conference. She was subsequently arrested for not obeying the army's orders while on the way to her college from her home in the Sundarijal area of Kathmandu. They threatened to kill her if she ignored their instructions again.

Chapter 33

Singing ‘Shreeman Prachanda’ in Custody

After breaking the second ceasefire, the Maoists detonated a bomb in a ward office in Baluwatar in Kathmandu. In this Baluwatar blast, a 12-year-old student died in the toilet of a school attached to the government’s ward office.

The army arrested the peon Kaji Gurung from Sindhupalchok of the same ward office. The army tortured him for many days as part of their so-called investigation. They electrocuted him, plunged him in water, ordered him to urinate on an electric heater, pierced his fingers with pins, and beat him ruthlessly. After one week, he confessed to his involvement in the blast as they assured him he would not be tortured anymore if he acknowledged his responsibility for the explosion.

The army then pressured him to reveal the name of the mastermind of the blast. In order to save himself from further torture, he blamed a Tamang person of his own village, who the army arrested in the Balaju area of Kathmandu. His house in Balaju cost 7 million rupees (US\$108,700), and he was thus known as “Sattri Lal” (Seventy Lakhs). Once, he was a candidate for the former national *panchayat* [unicameral legislative body] election, but he was punished like an ordinary person.

Kaji Gurung stood in front of Sattri Lal and blamed the old man for ordering the explosion, but Sattri Lal denied the charge. Both men,

in fact, were innocent, but that didn't prevent them from being taken into army custody and tortured.

Although Sattri Lal had lived a comfortable life, he was relentlessly assaulted, so much so that he lost his mind. His words and behaviour in the camp became bizarre. He babbled at night, started singing and scolding others, and walked around in the middle of the night living out an apparent dream. His only thoughts were about his life in custody after the army charged him with the murder of a 12-year-old child.

One day he told Major Bibek Bista that he wanted to sing a song. Although Major Bista knew about Sattri Lal's mental problem, he granted him his wish. Sattri Lal tried to sing the old national anthem "Shreeman Gambira"; but despite many attempts, he failed to sing a song except for "Shreeman Prachanda." Shreeman Prachanda is the line of the previous national anthem whereas Prachanda is the name of the Maoist's supreme commander. Major Bista got enraged and beat him with a pipe, saying, "This old guy is a real Maoist and repeats only the word *Prachanda*."

Because of his abnormal behaviour, the guards tied his legs and hands and put him under heavy wooden logs. They blindfolded his eyes tightly. His condition deteriorated due to the punishment and his age.

Three months later the army arrested a Maoist cadre named Dolendra Limbu from Kathmandu. He readily accepted his ties to the Baluwatar explosion with other Maoists. The army then moved Sattri Lal and Kaji Gurung to another place, but no one knows what happened to them.

Chapter 34

A Relative in Army Fatigues

It was Ashwin 2061 (first week of October 2004), and it was too humid inside the tent.

Suddenly, a guard entered the tent and asked, “Who is No. 97?”

“Here I am,” I said, and got up.

I had an optimistic feeling and thought about my release. He ordered me to wear good clothes, but I did not have any. He led me to the tap to wash my face and then escorted me out of Commando Square. We walked for 10 minutes and entered a house. It looked like a table tennis hall. There was a single chair inside the room, a room that was quite dirty and covered in dust. The guard stopped me from looking right or left. I spent one hour in this hall and thought that I might see some representatives from a human rights organisation or the ICRC.

After an hour, two army officers entered the room, and one of them asked, “How are you? Do you know him?”

One of the army officers pointed to a man standing next to him. I was surprised: he was my brother! He was in the army and was feeling quite uncomfortable looking at me. My cousin Top Bahadur was also present, but I didn’t recognise him because my eyes were not seeing clearly those days.

My brother gave me a packet and left after about five minutes. Then the guards blindfolded me again, and one of them led me back to where they kept me in one of the camps for detainees in the barracks.

On the way, we met the army officer who had come with my brother, and he ordered the guard to open the packet. There was a kilogram of apples and a pair of old shirts and pants inside. He told the guard to check the pockets of the shirts and pants, but there was nothing in them. The officer then directed the guard to put me in the tent. As we proceeded to the tent, the guard told me not to tell anyone about what had happened.

My friends curiously looked at me when I entered the tent. They had speculated on various possibilities for my immediate future. Some of them thought I had visited the ICRC, and some guessed I would be released in a few days. As the guard left the tent, they threw some questions at me, and I retold the incident.

A guard who looked like a Mongolian then helped distribute two apples to the women sitting in the next tent just in front of us, and we divided the remaining apples. We couldn't believe that the Mongolian-looking guard helped us share the apples with our neighbours. Perhaps there was one good soul in the Bhairabnath Battalion barracks after all.

Chapter 35

The Special Day

Kartik 2, 2061 (October 18, 2004)

I had spent 258 days in the Bhairabnath Battalion barracks. The weather was slightly cold now in Kathmandu, and the environment overall was quite unpleasant. No one was sure about life and death. All the time I expected they would send me to jail on some bogus charges, but my expectations never materialised. I only stayed there counting the sad days and nights. In spite of our detention, the great festival of Dashain brought happiness inside the barracks, but the glum faces of the guards told us that they could not go home to celebrate the holiday. It would have been like a dream come true, however, for us to go home and celebrate Dashain. Then I remembered a song: “I couldn’t attend my Dashain. Don’t worry, my mother. . . .”

It was about 10 o’clock in the morning when an army officer entered our tent along with a guard and asked, “Who is No. 97? Come out with your clothes.”

I came out of the tent with the clothes on my back as I had no extra clothing. I guessed they would release me soon. The officer ordered the guard to take me to a nearby empty tent after shaving my beard and trimming my hair. I remembered the case of Surya Man Maharjan though. They look him out of the camp twice to send him home but brought him back. Once, he came back after they had taken him to a place near his house. Madhav Neupane, who experienced the same fate, was arrested the next day after his release. Hence, no one trusted the army.

The guard took me towards the water tap, and the army barber cut my hair and shaved my face. Another guard then took me to the empty tent. It took us about 10 minutes to get to this destination, and I saw that the way to the tent was covered by iron wire. Immediately, I guessed that the army had used this tent to torture the newly arrested prisoners.

The tent looked dark. There were only two chairs. An army officer with a file in his hand sat on one chair and motioned for me to sit in the remaining chair. I had already spent nine months and a few days in the barracks. Then I knew they were about to release me.

“We kept you here for investigation,” the officer said, “and you were found innocent. Today you are released, and you can go home.”

“You will not reveal anything about this barracks,” the officer warned. “We think you know what will happen to you if you leak any information about the barracks.”

I said nothing and simply waited for my release.

He immediately left the tent after getting my fingerprints on a paper. Another officer approached the tent with a chief guard of the camp and brought a plastic bag with the worldly possessions I had when I entered the barracks. He told me to take my belongings.

There was my mobile phone, 500 rupees (US\$7.75) in cash and my wallet, a belt, and the key to my motorbike. My shoes had already been stolen by a camp guard. Even in the cold season, they deprived us from wearing shoes and slippers. Once, all my clothes were torn, and all of my private parts started peeping out from my pants. They then brought a pair of underwear and slippers for me. Consequently, they deducted the cost of these two items and gave me the remainder of the 500 rupees.

A soldier quickly took me out of Commando Square. After a 15-minute walk, we reached the main gate of the Bhairabnatath Battalion barracks. He freed me from the handcuffs and untied the blindfold.

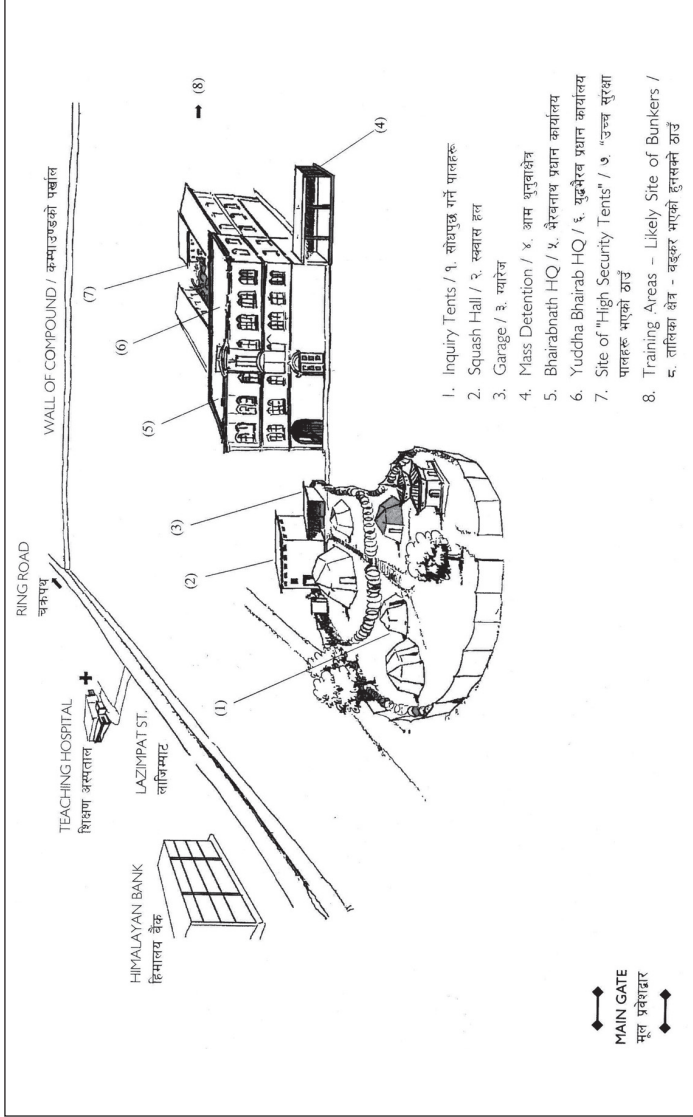
My spirits were really soaring at that moment even though they made me wait. The son of my uncle, Top Bahadur Basnet, came to the barracks to take responsibility for my release. Lieutenant Jagannath Khadka told me to sign a paper issued by the district administration office in Kathmandu. Although I had spent 258 days in detention, the paper he put in front of me stated that I was arrested 90 days ago, but I signed it.

Lieutenant Jagannath ordered me to come to the Ganesthan Temple in the Kamaladi area of Kathmandu in 15 days at 10:00 a.m. Then he uttered the words I had dreamt about for months: “Now you can go.”

For the first time, I felt excited! I looked around after nine months, and it was quite wonderful to be free!

I came out of the gate with my cousin. The vehicles were running here and there. My cousin called a taxi. The taxi ran to Maharajgunj. I was finally free from my painful life in the barracks, and I was, indeed, happy!

Relevant Physical Structures in Witness Testimony: Maharajunj Barracks—Kathmandu



Extract from the report of an investigation into arbitrary detentions, torture, and disappearances at the Maharajunj RNA barracks in Kathmandu in 2003–2004 published by the United Nations Office of the High Commissioner for Human Rights in Nepal in May 2006

Chapter 36

My Reappearance

After my release from the Bhairabnath Battalion barracks, I was uneasy for a few days. After removing the blindfold after 258 dark days, I felt as if I had lost my eyesight. Physically and mentally I was weak due to the months of being continually tortured. Any attempt to focus my eyes upon a certain object would make me feel dizzy, and any object in front of me slowly dimmed. I also had a terrible apprehension of dreams, and I could not sleep well. While in bed, my hands tended to move to my back—the position they had occupied when they were handcuffed for so long. There were also swelling marks on my hands caused by the handcuffs.

I met several journalists on the day of my release. They had struggled day and night for my successful release, and it was an immense pleasure to see them. They asked me to show them the scars from the torture and were curious to talk to me. They also wanted to know my other experiences inside the army detention centre. In this way, I shared my experiences among my friends, relatives, human rights activists, and well-wishers and thanked them all for their efforts to gain my release.

Following my release, I also received regular health check-ups at an NGO called the Centre for Victims of Torture, or CIVICT. I also visited Tribhuvan University Teaching Hospital in Kathmandu for treatment, which also provided me with an injury examination report.

A few days later I went to the village of Bungmati in Lalitpur District from where around three dozen people had disappeared. Most of them were held in the Bhairabnath Battalion barracks. While in detention, one of the detainees, Padam Narayan Nakarmi, was killed, but his relatives had not received any information about him. His little baby daughter, wife, parents, other relatives, and friends were waiting for him to come home. One of his friends asked me about his condition. Thinking that I could not hide the truth forever, I told him what I knew. He asked me though not to repeat that heartbreaking incident to others, for the family could not tolerate it at that time. Nakarmi, as I was aware, was a simple man and supported his family by doing some sort of work with iron. Even 15 months after his death, the family had been looking for his return, hoping that he would come back to take care of them.

Likewise, I went to see the families of Tara Bhandari and other detainees. Tara's mother had been in search of her daughter for several days without caring about whether or not she ate any food. She could not stop her tears and expressed her unbearable grief while we talked about Tara. I had the same sad experiences everywhere I went visiting the families of the others who had disappeared.

Upon my release, just like other detainees, I had at least two options: either go underground by joining the Maoists or flee the country to save my life. There was a great risk of being rearrested and disappearing again at the hands of the army even if one was merely involved in an independent profession. Because of repeated incidents of people being rearrested, it was not safe for anyone to remain at home. Pushing aside the desire of my parents to see their son who had disappeared for 258 days, I stayed in Kathmandu to meet the army personnel twice a month in an undisclosed place. I could not stay in Kathmandu without reporting to them, but reporting to the army on the due date carried with it the risk of being rearrested.

It was 17 Kartik 2061 (November 2, 2004)—the 15th day after my release—and I had to present myself to the army at Ganeshtan. They had not called me to report to the barracks though. Considering it risky to go alone, it was arranged that some lawyers and journalists would stand somewhere nearby. I was asked to arrive at 10 a.m. I reached the agreed location 10 minutes earlier and stood in front of the temple. After 15 minutes, two people carrying files approached me, and we shook hands. They behaved normally. After a short conversation, they opened the file and asked me to sign a paper, which listed another reporting date. They reminded me to meet the army personnel again in 15 days at 11 a.m. at the helipad of the Teaching Hospital in Maharajgunj. I proposed that the Bhairabnath Battalion would be a better place to meet for the second due date. Stating that it was an order from above, they rejected my proposal. Then I signed to register my attendance at the first due date.

I left for Solukhumbu to pay a visit to my parents on the condition that I would report on November 18. Not only my family, but the whole village was curious to see my face. My relatives, the neighbours, and other well-wishers all surrounded me. There were tears, laughter, and anguish all in one place. They expressed heartfelt sympathy upon my safe return from the death trap of the barracks. On the contrary, the pain of the torture and my irritation at the need to report on due dates again and again continued troubling me. There was no peace inside my heart due to the fear that the army might rearrest me at any time. After a few days at home, I returned to Kathmandu.

During the second due date, it was arranged that human rights activists, journalists, and lawyers would again secretly observe my meeting with the army. Four people in plainclothes moved towards me some time later than the scheduled time of my appointment. No one would believe that they were soldiers: they had long hair, beards, and wore earrings. They were unfamiliar even to me. One

of them asked my name, opened a file, and told me to sign it. During the conversation, I made a reference to my motorbike that disappeared along with me. Upon hearing about my motorbike, one of them became enraged at me. He rebuked me in a tone that clearly meant that the things taken by the army wouldn't be returned. They left but not before giving me a new due date to meet the army again in 15 days. As usual, I was obliged to appear at the arranged place and date. In this manner, they would have me meet them at public places, such as temples, roads, bridges, hospitals, etc., all of which were improper places with respect to security. In addition, there was also the possibility of being rearrested by the army and the risk of being accused of spying for the army by the Maoists. Consequently, meeting the army personnel alone in a place was a challenging task.

Prisoners and Bribes

I had heard earlier that the army would take bribes to release detainees. Devi Sunuwar, a resident of the village of Panchkhal in Kavre District, whose juvenile daughter Maina Sunuwar had been killed in the army barracks, revealed this secret. She told journalists that the army had allegedly demanded 50,000 rupees (US\$683) for the release of Maina, a girl they had arrested from her own home and who had subsequently disappeared. In my case as well, an attempt was made by an army major. This repulsive behaviour of, in essence, selling detained people came to my knowledge only after I was freed from the Bhairabnath Battalion barracks.

One of my friends, a permanent resident of Dolakha District currently living in Chabahil in Kathmandu, talked to some people about my release. Through this effort, he met an army major of the Bhairabnath Battalion, a meeting that was arranged by a Nepali Congress Party member from Okhaldhunga District.

“Jit Man,” the major said, “is in the Bhairabnath Battalion barracks.

You should arrange 50,000 for his release.”

My friends requested several times to reduce the amount. He declined to lower the bribe though, and the negotiations failed. However, these negotiations confirmed that I was being held by the Bhairabnath Battalion in the Maharajgaj area of the capital.

My Missing Motorbike

Notwithstanding the troubled lives of the general public in an armed conflict, some people were making money from the armed conflict. The conflict, for instance, had become a major source of income to the royal palace, security personnel, and arms dealers. There was news many times that the security personnel looted money, jewellery, and other valuable items as part of a so-called military operation. Similarly, the soldiers would not return the valuables of the people they arrested. Once a low-ranking soldier disclosed that the army enjoyed the lavishness of the gold rings, gold chains, expensive watches, mobile phones, and cameras that belonged to people they arrested. On the day of the arrival of a new detainee, the guards impatiently waited to get hold of the shoes of the detainees, like a dog waiting for the bones from the table. After looting the shoes from the detainee, they had them polished in a different colour to avoid identification and wore them for a long time. In the same manner, the vehicles of detainee, e.g., motorcycles, were confiscated and commandeered in any way the soldiers wished.

When I was arrested in Tinkune, I handed over the motorbike that I had been using—license plate number Ba.14 Pa. 2939—to one of my relatives residing nearby. That day I had used the bike of my friend Hiranya Raut of Dolakha District as another friend had taken my bike. Perhaps, because the confiscated motorbike was not mine, this incident stuck in my mind all the time that I was in army custody. However, I thought it would be safe, for I had entrusted

it to a relative. To my surprise, when I went there to get the bike back, I learned that two soldiers from the Bhairabnath Battalion had come and made threats and forcibly took it. Then I inquired with Colonel Prem Shahi, the then-battalion commander, about the bike via an army officer. He then told me to talk to Major Ramesh Thapa Magar. When I met Major Magar, he informed me that “the bike is safe in the army camp; come and collect it.” My brother, however, returned empty-handed when I sent him to fetch the bike.

The second day Lieutenant Jagannath Khadka inquired about the colour, licence plate number, and model of the bike over the telephone. I told him every detail. He then said, “The soldiers are using it in the camp; come with proof.” At the time, the owner of the bike was not in Kathmandu, and hence, I failed to submit the blue book to the soldiers. Even after several requests, I was not given the motorbike.

The Army Suspects

During the period of the insurgency, it was beyond the authority of an army battalion commander to arrest, detain, and then kill and disappear non-violent people in charge of the Maoist movement. Everything happened in accordance with state policy. Naturally, King Gyanendra, the supreme commander of the Royal Nepal Army, and other leading officials of the government at the time are the prime suspects. The authorities in command of the army are thereby liable to be prosecuted.

Making use of various sources after my release from the army barracks, I made a concerted effort to collect the names of those responsible for torturing and killing the detainees held in the Bhairabnath Battalion barracks. According to army sources who held various positions in the military, I came to know that the leader of those involved in translating the instructions from army headquarters into actions, i.e., torturing, disappearing, and killing

the detainees, was Colonel Raju Basnet, the Bhairabnath Battalion commander himself. Colonel Raju Basnet, as the battalion commander, would certainly constitute the primary leadership for all these violent and fatal activities.

Others playing leading roles were General Pyar Jung Thapa, former army chief; General Dilip Bikram Rayamajhi, former commander of the 10th Brigade; General Deepak Gurung, former spokesperson of the RNA; and Brigadier General B. A. Kumar Sharma of the RNA Legal Department. They were members of the RNA chain of command at that time who were particularly responsible for the disappearances and killings in the Bhairabnath Battalion barracks.

Many more, however, were involved in the violation of people's basic human rights as well. The bulk of the violators included the battalion's majors—Padam Singh Khatri, Raja Ram K. C., and Bibek Bista; two captains—Indiwar Samser Rana and Sagar K. C.; two lieutenants—Jagannath Khadka and Rajendra Bogati; the sergeants—Chandra Prakash Poudel, Khadga Bahadur Mahato, Dinesh Poudel, and Keshav Dhakal; the corporals—Surya K. C. and Giri Raj Ghimire; and the sepoy—Arjun Sapkota, Hari Sharan Khadga, Shiva Kiran K. C., Binod Thapa, Kul Prasad Banjara, and Babu Ram Pariyar.

Towards the end of 2003, many of the soldiers from the above-mentioned list were also among those who allegedly carried out the killings of detainees by taking them from the Bhairabnath Battalion barracks to the Shivapuri jungle area, the source revealed. Quoting a soldier who witnessed the killing, the *Jana Aastha* weekly published the news that those who shot the detainees dead were Major Harendra Bahadur Singh; the lieutenants, Haribol K. C. and Ram Hari Bista; Warrant Officer 1 Benu Gopal Shrestha, Lal Bahadur Chand, Rana Bahadur Budhathoki, and Sankar Basnet; and Sergeant Min Nath Pant. No refutation of the news by the RNA reaffirms the veracity of the story.

Seventeen Months in Exile

After my release, various national and international human rights organisations actively sought information from me. They inquired about the whereabouts and fates of those who had disappeared many years ago and about the conditions in army custody. Representatives from Amnesty International, the ICRC, and OHCHR-Nepal also had conversations with me. I updated them about the detainees held, killed, and transferred from army detention on various dates. I also provided them with facts about the desperate situation of some prisoners and the intensity of the soldiers' ill-treatment of detainees in army custody. In addition, I also met with U.N. representatives to study the cases of disappearances in Nepal.

A month after my release there was a call on my mobile phone from the NHRC. They asked me to come to their office to help them with a number of cases. At first, I thought it would not be appropriate to visit their office as the general public had little confidence in the agency. Nonetheless, I went to the NHRC as I felt it was my obligation to save the lives of people who were living such hellish lives inside the army barracks. The commission asked me to provide them with a statement, and I made it on condition that the details remained confidential. Until then, some 1,700 complaints had been filed at the NHRC. Among them, the NHRC had been actively studying the case of Krishna K. C. The army had denied the arrest and subsequent disappearance of Krishna K. C. and had replied to both the court and the commission that K. C. was not being detained by them. As a result, the NHRC had been unable to reach any conclusion due to a lack of witnesses who had met and seen him. I thus told them in detail about K. C.

A couple of weeks after my visit to the commission the media announced the news that the NHRC had come to a new conclusion about the case of Krishna K. C.: he had been held in

the Bhairabnath Battalion barracks. It then sent its decision to the prime minister's office, the Supreme Court, and security agencies.

I was very happy at the initiative taken by the commission. The happiness did not last long though. The NHRC had used my name as a source!

The relevant portion of the NHRC statement read: "According to the information provided by advocate Jit Man Basnet, many detainees, including Krishna K. C., have been held in the Bhairabnath Battalion barracks."

A friend of mine who worked in a daily newspaper read the NHRC statement and suggested over the phone that I be careful.

I had to frequently report to the army though. During every visit, they threatened me not to reveal the secrets of the army barracks. Despite this constant warning, I provided human rights organisations, including the NHRC, with whatever information I had, for it was my duty to save the lives of many innocent people still detained by the army.

I now feared that my life was in danger once again due to the failure of the NHRC to keep its promise not to disclose my name, especially since the NHRC had no capacity to protect my life. Moreover, a journalist informed me that the army was hunting for me. I thus began looking for some underground shelter to avoid being rearrested. Some human rights activists and journalists suggested that I leave Kathmandu as soon as possible.

After a few days, on February 1, 2005, King Gyanendra dismissed the government of Sher Bahadur Deuba and assumed the ruling portfolios himself. Soon a state of emergency was declared, and the army was mobilised. Various forms of communication, such as telephones and the internet, were cut off while intense censorship

was imposed on the media. Many political leaders and political activists, human rights defenders, journalists, and lawyers were imprisoned. Indeed, the Kathmandu Valley had essentially become a jail.

Considering the possible danger to my life, I went to the office of Amnesty International seeking refuge. Because not a single human rights activist was safe in Nepal in that unfolding and unpredictable political environment, they expressed their inability to provide me with safety and suggested that I immediately take refuge in the local U.N. office. I then went directly to the Pulchok-based office of the United Nations and met with U.N. officials. I conveyed my problems to them, and they arranged for me to stay there. The next day several other human rights workers in Nepal approached them for refuge too. Among them, Dr. Gopal Krishna Shivakoti was one with whom I shared my room. I spent 14 days there. Given the fragile security situation at that time, I concluded that living a risk-free life in Nepal was not possible, and soon afterward, on 7 Falgun 2061 (February 18, 2005), I reached New Delhi. After 17 months of exile in India, I returned to Kathmandu on 22 Ashad 2063 (July 6, 2006).

Photographs



Jit Man Basnet

(Photo by Ambar Gurung)



The bruises of torture in army custody

(Photo by Chandra Shekhar Karki)



Jit Man, together with journalists, at the Supreme Court premises after his release



Jit Man with habeas corpus petitioner duo—lawyer Bishnu Luitel, right, and his brother Top Bahadur Basnet—after his release



Jit Man providing information to the National Human Rights Commission after his release



Jit Man participating in pro-democracy and human rights demonstration in front of the Nepalese embassy in New Delhi, India



Jit Man, together with family members of the disappeared, attending a programme related to impunity in Nepal at the office of the National Human Rights Commission



Jit Man with his family members



Jit Man is escorted to the Supreme Court of Nepal by two members of Peace Brigades International (PBI) after receiving death threats in August 2007.



Jit Man, right, receives the 2007 Universal Human Rights Promotion Award on December 10—International Human Rights Day—from the Bharatiya Manav Adhikar Sansthan in New Delhi, India.

Annex

**The President
National Human Rights Commission
Lalitpur**

Date: 2060/11/25 (March 8, 2004)

Re: Seeking Initiatives for Release

My brother, advocate Jit Man Basnet, disappeared on 21 Magh 2060 (February 4, 2004). On that day, he was taken away (supposedly for a while) from his rented house at Minbhawan, Shantinagar, by security personnel in civil dress. He has not been released since then. We, his family, are extremely shocked as we have not received information about him until now. He was not involved in any suspicious activities—directly or indirectly. Rather, he has remained a general member of the Nepali Congress Party for a long time. In addition to the legal profession, he has been editing and publishing on his own a monthly magazine named the *Sagarmatha Times* for the last three years. Amnesty International, the Nepal Bar Association, and the Federation of Nepalese Journalists have already demanded his immediate release. Although we expected for a long time that the security agency would release him, we have come to the NHRC [National Human Rights Commission] as there appears no certainty about his release. I humbly request the commission to find him after making an inquiry and also make an effort for his safe and sound release. Let us inform the commission that his mobile phone has been switched off since the time of his arrest.

Top Bahadur Basnet
Brother
District of Solukhumbu
Telephone: 663-4623
Bal Krishna Basnet

Petition Submitted to the Supreme Court of Nepal

Re: Petitioning for a Writ of Habeas Corpus

Petitioner:

Advocate Bishnu Luintel, 36, residing at Ward No. 34, Kathmandu Metropolis, petitioning on behalf of advocate Jit Man Basnet, about 28, who is a permanent resident of Ward No. 1, Goli VDC, District of Solukhumbu, presently residing at Ward No. 34, Shantinagar, Kathmandu Metropolis

v.

Respondents:

- (a) Royal Nepal Army Headquarters, Bhadrakali, Kathmandu
- (b) His Majesty's Government, Ministry of Home Affairs, Singhdurbar Kathmandu
- (c) Police Headquarters, Naxal, Kathmandu
- (d) District Police Office, Hanumandhoka, Kathmandu

Case: Habeas Corpus

As the respondents stated herein above have done injustice, I am present before the Supreme Court with this writ petition containing true details, stated herein below, on the grounds as provided for in Article 11, 12, 14, and 15 as well as Article 23 and 88 of the Constitution of the Kingdom of Nepal, 1990; Section 14 and 15 of the State Cases Act, 2049 (1992); Section 3, 6, 10, 12, and 15 of the Civil Rights Act, 2012 (1954); and Rule 31, 32, 33, 34, 35, 36, and 37 of the Supreme Court Regulations, 2049 (1992).

1. Committed to serve society and the nation through the field of law and justice, I, the petitioner, have remained devoted to, and have been making my living from, the legal profession since 2047 B.S. (1990). I have come to know

many legal professionals during my career, and Jit Man Basnet, detained by the respondents, is one among them. The detained legal professional has independently been a part of the profession in Kathmandu for a long time. Though the legal profession, as such, is quite challenging and difficult, it is the duty and professional honesty of all legal professionals to advocate for justice, freedom, equality, the rule of law, and human rights. It is an accepted principle that no legal practitioner can be guilty and criminally liable simply because s/he has advocated for and against someone. The opponent's act of keeping in detention the legal practitioner Jit Man Basnet in an unconstitutional, illegal, and inhuman manner has shocked and terrorised his family, kin, and legal professionals as well. I present this writ petition of habeas corpus on behalf of the detainee, Jit Man Basnet, so as to maintain professional unity against any degrading behaviour and illegal detention targeted at legal professionals, to guarantee professional security, to transform the concept of the rule of law into a living reality, and to put an end to any interference by the respondents against professionals engaged in the fields of law and justice.

2. The petitioner has come to know through the detainee's family that the detainee was arrested and taken to an undisclosed location by three people, who had come in civil dress claiming themselves to be security personnel, from his residence at Ward No. 34, Shantinagar, Kathmandu metropolis, at 6:00 p.m. on 21 Magh 2060 B.S. (February 4, 2004). The petitioner does not care whatever political ideological conviction the detainee might have had, but the respondents' inhuman, unjust, and illegal act of arrest and disappearance of a legal professional who advocates the rule of law, human rights, democracy, and an independent judiciary as well as justice has apparently violated and disparaged the concept of the rule of law.
3. As stated, the respondents have arrested the detainee without

giving information until now about the reason for his arrest, whether it is for investigation or for any other reasons, neither to the detainee himself nor to the petitioner nor to the detainee's relatives and family nor to his professional colleagues. He is subjected to physical and mental torture. As the opponents' act stated herein above stands contrary to the provisions contained in Article 11, 12, 14, and 15 of the Constitution of the Kingdom of Nepal, 1990; Section 14 and 15 of the State Cases Act, 2049 (1992); and Section 3, 6, 10, 12, and 15 of the Civil Rights Act, 2012 (1954), I am present, on behalf of the detainee, advocate Jit Man Basnet, before the court with this writ petition of habeas corpus as per the provisions contained in Rule 31, 32, 33, 34, 35, 36, and 37 of the Supreme Court Regulations, 2049 (1992).

4. Thus, I petition that the respectable court ask the respondents to state where, when, how, in what manner, and as per what law advocate Jit Man Basnet is detained and that the court issue necessary orders, including a writ of habeas corpus, to the respondents so as to impart justice and to release advocate Jit Man Basnet, the detainee.
5. I have not hired any legal professional to file this writ petition. I plea that the respectable court shall regard the pleading notes my lawyer put forth during the hearing as an integral part of the case.
6. The details stated herein above are true and correct. If found to be otherwise, I shall bear the legal consequences.

Petitioner:

Advocate Bishnu Luintel, on behalf of advocate Jit Man Basnet

Dated: Sunday 18 Falgun 2060 (March 1, 2004)

Written Reply Submitted to the Supreme Court of Nepal

Through: Attorney General of the Kingdom of Nepal

Re: Pleading for Quashing Writ No. 183

Reply Presenter:

B. A. Kumar Sharma, brigadier general, Law Division, replying on behalf of Royal Nepal Army Headquarters, Kathmandu

v.

Petitioner:

Advocate Bishnu Luintel, petitioning on behalf of advocate Jit Man Basnet, about 28, who is a permanent resident of Ward No. 1, Goli VDC, District of Solukhumbu, presently residing at Ward No. 34, Shantinagar, Kathmandu Metropolis

Case: Habeas Corpus

With reference to the summons issued to the Royal Nepal Army Headquarters received on 2060/11/26 (March 9, 2004) that asks the Royal Nepal Army to submit through the attorney general the cause why the order need not be issued as demanded by the petitioner. Within the given time, I reply as stated herein below.

1. The petition claims that advocate Jit Man Basnet was taken to an undisclosed location after being arrested by three security personnel in civil dress on 21 Magh 2060 (February 4, 2004) at about 6:00 p.m. from his residence in Kathmandu metropolis, Ward No. 34, and that he has been kept under illegal detention without any information being provided. The petition further seeks his release.
2. Unlike what is claimed in the petition, Jit Man Basnet is not

held in military detention. Thus, it is apparent that no action of the Royal Nepal Army has violated his fundamental rights. Therefore, I plead for quashing the groundless writ petition because there is no need to issue and order such document as claimed and demanded in the petition.

3. I plead that the court regard the pleading notes of the government attorney as an integral part of this reply.
4. The details stated herein are true and correct. If found to be otherwise, I shall bear the legal consequences.

Reply Presenter:

Brigadier General B. A. Kumar Sharma

Dated: Thursday 28 Falgun 2060 (March 11, 2004)

**The President
National Human Rights Commission
Hariharbhawan, Lalitpur**

Date: 2061 Baisakh 28 (May 10, 2004)

Re: Illegal Detention at Bhairabnath Battalion Barracks

Sir,

I file this subsequent application as I have come to know the following details about my illegally detained brother Jit Man Basnet.

1. The situation is that advocate cum journalist Jit Man Basnet has been placed in illegal detention until now since he was arrested by security personnel on 21 Magh 2060 (February 4, 2004) from Shantinagar, Kathmandu. We have not been allowed to visit and contact him yet.
2. About his arrest, we have filed an application with the National Human Rights Commission, Amnesty International, the ICRC [International Committee of the Red Cross], Bar Association, Federation of Nepalese Journalists, etc. And it is the situation that these agencies are much concerned and are making endeavours for his release. In the meantime, the IBA [International Bar Association], the umbrella organisation of the agencies mentioned herein above, has drawn the attention of His Majesty's Government and His Majesty himself by writing separate letters to them.
3. It is known from the people released from the Bhairabnath Battalion barracks that Jit Man Basnet is illegally detained there and that he is subjected to physical and mental torture. As he is sick now and as he has asked all persons to make

an effort for his release, I request the commission to take initiatives for his release even on humanitarian grounds.

Note: As the whereabouts of the eyewitnesses who were detained in the Bhairabnath Battalion barracks and who have been released are now known to me but they fear to disclose it due to security reasons, I do believe that Jit Man is in the battalion detention facility.

Applicant

Top Bahadur Basnet

Brother

Kandaghari, Kathmandu

Telephone: 449-7731

663-4623 (Bal Krishna)

Supreme Court, Joint Bench
Honourable Justice Khil Raj Regmi
Honourable Justice Balaram K. C.

An Order

Writ No. 183 Year 2060 (2004)

Re: Habeas Corpus

Petitioner:

Bishnu Luintel on behalf of advocate Jit Man Basnet

v.

Respondents:

Ministry of Home Affairs et al.

As the petition seeks the release of the petitioner through the writ of habeas corpus claiming that he has been illegally arrested and detained, the details of the written reply of the respondent states that no act of arrest and detention of Jit Man Basnet has occurred. During discussion, the legal professional present on behalf of the petitioner has pleaded that the petitioner is still detained; he has not been released yet. To contemplate the situation in this context, a letter is to be written to the NHRC [National Human Rights Commission] seeking its cooperation by asking it to submit a report about whether the petitioner has been arrested and detained or not after having obtained the required information and help from the petitioning party and making an inquiry to RNA [Royal Nepal Army] headquarters, police headquarters, or subordinate agencies thereof. It is ordered to submit it for hearing only on receiving the report from the NHRC.

Justice

Justice

Dated: Friday 22 Jestha 2061 (June 4, 2004)

National Human Rights Commission

Instituted under Human Rights Commission Act, 2053 (1997)

Ref: 1550 Protection 3622

Date: 2060/11/29 (March 12, 2004)

Ministry of Defence
Singhdurbar, Kathmandu

Ministry of Home Affairs
Singhdurbar, Kathmandu

Re: Requesting Information

In this regard, the commission has received a complaint which states that legal professional Jit Man Basnet, a permanent resident of the district of Solukhumbu, presently residing at Minbhawan Shantinagar, has disappeared after he was arrested on 21 Magh 2060 (February 4, 2004) from his residence by security personnel in civil dress, and it requests the commission to publicise this event and protect his life.

Thus, pursuant to Section 11(2) of the Human Rights Commission Act, it is requested to provide information to the commission at the earliest time stating what has happened. Has he been arrested or not? If he has been arrested, under what law and for which offence has he been arrested, and where and how has he been detained?

O/C
Human Rights Division
Royal Nepal Army Headquarters
Bhadrakali, Kathmandu

Human Rights Cell
Police Headquarters
Naxal, Kathmandu

Madhav Prasad Gautam
Officer III

National Human Rights Commission
Instituted under Human Rights Commission Act, 2053 (1997)

Ref: 1550 Protection 4088

Date: 2061/01/17 (April 29, 2004)

Ministry of Defence
Singhdurbar, Kathmandu

Re: Requesting Information
(Follow-Up Letter)

It is hoped that you have been informed of the details on receiving the letter of the commission with Ref: 1550 Protection 3622.

As the commission has not received any information in this regard, a follow-up letter has been dispatched for the second time. Thus, as ordered, it is requested to provide information to the commission at the earliest time.

O/C
Human Rights Division
Royal Nepal Army Headquarters
Bhadrakali, Kathmandu

Durga Khadka
Officer III

Testimony of Jit Man Basnet, permanent resident of Goli VDC, Ward No. 1, District of Solukhumbu, before Shushil Pyakurel, Honourable Member, National Human Rights Commission, Nepal

1. Would you please tell us your name, address, age, occupation, etc.?

My name is Jit Man Basnet. I am a permanent resident of Goli VDC, Ward No. 1, and I reside at Chabahil, Kathmandu, these days. I am 29 years old, and professionally, I am involved in the practice of law as well as journalism.

2. A complaint was filed regarding your arrest and disappearance on 21 Magh 2060 (February 4, 2004). Could you please describe how it happened?

On that day, when I was at Tinkune, Kathmandu, doing work related to my profession, Royal Nepal Army personnel in civil dress arrested and blindfolded me, and then they took me in their van. In the beginning, I did not know what happened or why I was arrested. They took me to the Bhairabnath Battalion barracks and placed me in detention. For the first three days, they kept asking me about the Maoists. Despite my repeated reply that I was neither a Maoist nor had I any involvement with them, the security personnel continuously subjected me to severe torture, hitting me with plastic pipes and boots, kicking and blindfolding me, and handcuffing my hands behind my back. I don't know how many times I went unconscious due to the repeated beatings and torture. My entire body became swollen. I was unable to put on my clothes. Many times they hung me upside down and dipped my head into a dirty pond. As I was arrested during the cold winter season, they made me remove my clothes during the torture. They used to beat me up naked. My whole body was bloodstained, and consequently, my clothes stuck to my body. I was physically tortured all day and

asked to use painkiller tablets at night. I could not eat food for five days. Time and again, they made threats to bury me alive and kill me. I was interrogated and tortured in the presence of Raju Basnet, the battalion commander. I was kept there for 10 months.

3. Were other detainees kept with you? How were they treated?

It was inhumane treatment—blindfolded and handcuffed for 14 to 15 months were the conditions there. It was prohibited to talk about anything except food, water, and using the toilet. The detainees had no freedom neither to use the toilet nor to drink water whenever they wanted because it had to be done only as, and when, permitted by the guard. The food supplied was not good either. The behaviour of the kitchen workers (*bhansse*) was so bad. They did not serve enough food in the early days [of detention]. Almost enough food was served after mid-Chaitra 2060 (April 2004), but the curry was of the worst quality, and they cooked almost rotten lentils and served us. Nevertheless, we were not allowed to make any comment about the food. Treatment was no different even when the detainees fell sick. Talking to each other was strictly prohibited. We lacked information about the outside world—no news, newspapers, music, etc. As the guards were instructed not to speak near the detainees, we could not even hear their conversation. The whole time in detention passed without any information. We had to bow our head when the army officers passed by. It looked uncomfortable, due to their physique, for the female detainees to sleep on their chest with their hands handcuffed behind their back. Despite the weak health of all the detainees, their hands were handcuffed behind their back for 24 hours. Because the detainees' hands were tied with rope, everyone had wounds on their hands. It was quite difficult to drink water and itch our bodies as our hands were tied behind our backs. As long as I was kept at the Bhairabnath Battalion barracks, the following people were detained with me:

S. N.	Name	Chest No.
	Krishna K. C.	47
	Himal Sharma	53
	Bina Magar	55
	Sarita Sharma	57
	Lahanu Chaudhari	
	Birendra Basnet	18
	Vijaya Bhattra	
	Ramesh B. K.	65
	Ram Bahadur Basnet	66
	Kiran Maharjan	87
	Tara Bhandari	71
	Bhaikaji Ghimire	62
	Sagar Lama	
	Laxman Khanal	
	Vijaya Thapa Magar	81
	Kiran Raj Raya	
	Dharma Raj Dangol	
	Desh Bahadur Limbu	4
	Suryaman Maharjan	
	Rajendra Thapa (name heard when he was called)	
	Navaraj Thapa (name heard when he was called)	
	Jit Man Basnet	97

4. How were you and the other people listed above kept at the Bhairabnath Battalion barracks? How were the female detainees treated?

The condition of all the detainees was miserable. Because of the lack of exposure to the sun and light, almost everyone's bodies became swollen. Their hands were handcuffed behind their back for 24 hours, and they were blindfolded too. There was no proper management of lodging and food. There was no different treatment toward the female detainees; they were treated the same as the males were. The army officers did not speak and behave differently toward male and female prisoners. The condition of Sarita Sharma,

one of the women, was quite critical, but still she was blindfolded and handcuffed. For a long time, she had a problem eating food. She often used to vomit immediately after having a meal, and that is why she was hospitalised many times. Tara Poudel had a burning sensation throughout her body, and she suffers from cancer in her left hand. The condition of Bina Magar was similar. Some of the guards used to coerce and use abusive words with the women. Everyone was physically weak as they had not been able to go out into the sun.

5. How was the place where you were kept? How were the arrangements made there?

I and some other detainees were kept in the squash hall at first. The room we were kept in was dark and relatively lower than the others, which lacked enough air. Most of the detainees were seriously ill, and some even died. Consequently, we were shifted to Commando Square on 9 Chaitra 2060 (March 22, 2004). Inside a clump of banana trees in Commando Square, surrounded by old houses, six tents were set up which were demarcated by tent pegs and bare electrical power lines, and we were kept there. A nearby board read “Paratraining School.” There was only one door through which to enter and exit. One could reach Commando Square’s gate if they went through the Bhairabnath gate and walked past the medical clinic inside. Taking four to five steps downstairs, one could immediately see some tents. There was a water pipeline. Water was pumped up to the black water tank from the well, and it was supplied to the area. Inside the clump of banana trees, there were three to four sentry posts. Even the army officers of the Bhairabnath Battalion who were not related to the detention centre were prohibited from visiting the place. If army personnel looked at the detention centre through the windows of the surrounding houses, the guards asked them not to look at it. Even when the doctors from the army hospital came there, they were not allowed to visit the detention room. The sick detainees used to be taken to some other room where they could see the doctor. The detainees

were prohibited from telling the doctor their name; they could only reveal their chest number.

6. Do you have anything else to say?

I am only partially released (on general bail) from army detention. The question of my security is as it is. There still exists the chance that I shall be rearrested and will disappear. I modestly request the commission to protect my life and person. As the health condition of all the detainees at the Bhairabnath Battalion barracks is very, very serious, there is a high probability that they will die if they are kept for two to three more months in the same condition as before. The detainees have been unable to hear, walk, and see. All are physically too weak, and their bodies have become swollen. I make a plea to the commission that it take stern actions to get the necessary steps done as provided for by the law, irrespective of who the detainees are—guilty or innocent. I demand in this regard that a search warrant for the Bhairabnath Battalion barracks be issued so that the condition of the detainees can be ascertained and they can be rescued.

The details stated herein above are true and correct. If it is found to be otherwise, I shall bear the legal consequences.

Jit Man Basnet

Honourable Member Sushil Pyakurel

Work completed by Achyut Acharya (Officer)

Dated: Friday 9 Poush 2061 (December 24, 2004)

Tribhuvan University
Institute of Medicine
Maharajgunj Campus
(Department of Forensic Medicine)

Ref. No. 40/61-62

Date: 2061/09/04 (December 19, 2004)

Injury Examination Report

Place of examination: Forensic Medicine Department Maharajgunj

Date and time of examination: 2061/09/02

(December 17, 2004) 13:40

Name: Jit Man Basnet

Age: 29 years

Sex: Male

Address: Goli VDC-1, Solukhumbu

Identification mark: Black mole on right cheek

Expressed written consent is taken from examinee.

Brief history (as stated by examinee): The examinee was arrested by army personnel from Kathmandu on 2004/02/04, taken to a barracks, and kept in detention for 251 days [*sic*]. [During the] [f]irst three days of his detention, he was systematically beaten by sticks, hands, and boots. He was drowned in dirty water and given rice mixed with pieces of stones, glass, and soap as food. He was kept blindfolded and handcuffed throughout his detention and lastly released after signing a paper of three months of detention [*sic*].

At present, he complains of loss of memory, pain in the back, sleeping disorder, and digestive dysfunction.

Examination and Findings

Physical Examination

General condition: Fair

Height: 66 inches

Weight: 59 kilograms

Mental state: Alert

Injuries

1. Multiple hyperpigmented (more than 18) tramline contusion marks over middle and upper back of chest with overlapping and crossing each other and sized from 5 cm x 1 cm to 24 cm x 1 cm
2. Multiple hyperpigmented tramline and oval contusion marks at posterior aspect of left shoulder and left upper arm (more than six) crossed each other sized from 3 cm x 1 cm to 6 cm x 1 cm
3. Multiple hyperpigmented contusion scars over lateral and posterior aspects of right shoulder and right upper arm measuring from 3 cm x 1 cm to 7 cm x 1 cm

Opinion

The injuries are produced by the repeated impact of elongated objects with blunt force. Age of the injury marks is consistent with alleged time of infliction. The examinee is advised to consult with a psychiatrist for his complaints.

Dr. Harihar Wasti, M.D. (Hons.), M.Sc. for Med., B.I.
Medico-Legal Expert HMG Nepal
Department of Forensic Medicine

National Human Rights Commission

Recommendation

Honourable President Mr. Nayan Bahadur Khatri
Honourable Member Dr. Gauri Shankarlal Das
Honourable Member Mr. Shushil Pyakurel

Complainant: Top Bahadur Basnet
 Ward No. 1, Goli VDC, District of Solukhumbu
 Currently residing at Minbhavan, Kathmandu

Respondents: His Majesty's Government, Ministry of Defence
 et al.

Re: Illegal Detention and Torture

The details of the complaint are as stated herein below.

1. Top Bahadur Basnet, brother of the victim, submitted a petition to the commission on 28 Falgun 2060 (March 11, 2004), stating, "My brother, advocate Jit Man Basnet, has not been released yet after having been taken away (supposed to be just for a while as stated by the arresting officials) by three security people (in civilian clothes) who had come to his residence on 21 Magh 2060 (February 4, 2004). I request that an inquiry be initiated into his case and also for his safe and sound release."
2. On having demanded in writing information related to the petition from the Ministry of Defence and Ministry of Home Affairs with a copy of it sent to the human rights cell of the Royal Nepal Army Headquarters and the police headquarters, replies have been received from the police headquarters on 13 Chaitra 2060 (March 26, 2004), the Ministry of Home Affairs on 22 Chaitra 2060 (April 4, 2004), and the Kathmandu district police station on 2 Baisakh 2061 (April 14, 2004)—all stating, "He was not arrested." No reply, however, has yet been received

from the Ministry of Defence even after sending a follow-up letter.

3. It is seen that Top Bahadur, brother of the victim, has informed the commission by filing a second petition to it on 28 Baisakh 2061 (May 10, 2004), stating, “Those released from the Bhairabnath Battalion [barracks] say that Jit Man Basnet has been kept at the Bhairabnath Battalion, Maharajgunj, Kathmandu.” On hearing the case on 26 Jestha 2061 (June 8, 2004), the Supreme Court stated it would assist by submitting a report after having inquired with the concerned parties to find out whether or not he has been arrested and detained until the present date.
4. Jit Man Basnet testified with photographs before the commission that he was arrested by the Royal Nepal Army on 21 Magh 2060 (February 4, 2004) and that he was kept in detention at the Bhairabnath Battalion barracks until 2 Kartik 2061 (October 18, 2004); that he was blindfolded and handcuffed with his hands behind his back throughout his detention; that he was, in the name of conducting an investigation, hit with plastic pipes and sticks and that his head was pushed into drums of water; that he was kept naked in cold places and was asked to use painkiller tablets after being tortured; and that time and again he became unconscious due to the torture. In addition, he has given information that all the detainees at the battalion have been tortured; that no one was allowed to utter any word except about food, water, and use of the toilet; that detainees were kept in tents in an open field, not inside the concrete house; and that not enough food and bedding were provided.
5. He has filed a separate petition to the commission on 10 Mansir 2061 (November 25, 2004) stating that he went for a physical examination at the Forensic Department at the Maharaj Medical Campus and that the examination report stated that (1) on the lower section of his back there were more than 18 multiple hyperpigmented tramline contusion marks ranging from 5

centimetres to 24 centimetres and (2) bruises and wound marks of the same type a little below his left arm.

6. Likewise, it stated that multiple hyperpigmented contusion scars ranging from 3 centimetres to 7 centimetres were found over the posterior aspect of the right shoulder. In addition, the report submitted to the commission contains the opinion of Dr. Harihar Wasti, who examined Jit Man, that the tramline and the wound marks were produced by indiscriminate beating and at the alleged time of infliction as stated by the petitioner. The report also contains the doctor's advice to the examinee to consult a psychiatrist.

The order issued on 29 Poush 2061 (January 13, 2005) by Honourable Member Sushil Pyakurel to submit the case for a decision by the commission.

The Decision of the Commission

Top Bahadur, brother of Jit Man Basnet, submitted a petition to the commission on 28 Falgun 2060 (March 11, 2004) stating that his brother was arrested and forced to disappear by the security forces on 21 Magh 2060 (February 4, 2004). On being asked to give information in this regard, information has been received from different security agencies of the government stating that he has not been arrested. On hearing the petition submitted to it on the same matter, the Supreme Court issued an order to write to the commission for assistance. Demanding compensation for his illegal detention, Jit Man Basnet filed a petition to the commission on 10 Mansir 2061 (November 25, 2004). The petition stated, "After being arrested on 21 Magh 2060 (February 4, 2004), I was subjected to torture and placed in detention at the Bhairabnath Battalion [barracks] for 258 days; the contusions and wound marks caused by torture were apparently noticed even after 10 months; and the motorcycle I was using at the time of arrest with number plate Ba. 14 Pa. 2939, owned by Arjun Raut, has not been returned,

though seized from me.” He has mentioned in the petition that he was made to sign a paper that he was detained for only 90 days although he was detained for 10 months. He has also enclosed the photographs that show the contusion marks.

To deliberate on a decision in the case, on being asked about his arrest, information has been received from the Ministry of Home Affairs and police headquarters, stating, “He was not arrested,” but no information has been received from the Ministry of Defence. In the petition, the victim has serially mentioned the events, like the torture inflicted on him and his interrogation, and has clearly stated the key dates of his case, such as his arrest. Moreover, the bruises in the photographs look apparent enough to prove the use of torture. In addition, Dr. Harihar Wasti, medico-legal expert of the Department of Forensic Medicine at the Maharaj campus, has given his opinion in the report that there are tramlines of different sizes on his chest, upper back, shoulder, and arms which were produced by the repeated impact of elongated objects with blunt force and around the alleged time of infliction. This conclusion supports the view that he was tortured. Because no reply was received from the Ministry of Defence and Royal Nepal Army Headquarters, despite the repeated correspondence sent to them about the arrest, and the petition with evidence filed by the petitioner after his release, the response “He was not arrested” as forwarded by the Ministry of Home Affairs does not appear to be trustworthy. Thus, it is evident that the act of keeping the petitioner in long-term detention without employing any legal procedure and the act of inflicting physical and mental torture have been committed. As these acts stand contrary to Article 12, 14, and 15 of the Constitution of the Kingdom of Nepal, 2047 (1990), and Section 3, 6, and 8 of the Torture Compensation Act, 2053 (1997), it has been proved that the human rights of the petitioner have been violated. To consider who was involved in the violation, it is evident also from his petition that he was arrested by the Royal Nepal Army and was kept at the Bhairabnath Battalion barracks, and it does not seem that it can be concluded otherwise as no reply in this regard has been received from the authority concerned.

Therefore, it is decided to write to determine the responsible officials and take necessary action against the officials involved in the act of torture during illegal detention. And with due consideration to the gravity of the physical and mental pain he had to bear, it is decided under Rule 18 of the National Human Rights (Complaint and Compensation Determination) Regulation, 2057 (2000), also to recommend to His Majesty's Government to endow him (the petitioner) with 50,000 rupees [US\$786] as compensation and to return to him his motorcycle with number plate Ba.14 Pa. 2939.

Let the information about this decision be given to the victim too.

Member

Member

Member

President

Dated: Wednesday 6 Magh 2061 (January 19, 2005)

National Human Rights Commission

Instituted under Human Rights Commission Act, 2053 (1997)

Ref: 1455

Date: 2061/10/15 (January 28, 2005)

Office of the Prime Minister and Council of Ministers
Singhdurbar, Kathmandu

**Re: Asking for Implementation of Decision
Made by the Commission**

In this regard,

Having found that Jit Man Basnet, a permanent resident of Goli VDC, district of Solukhumbu, presently residing in Kathmandu, was arrested by security personnel on 21 Magh 2060 (February 4, 2004) and detained and tortured until 2061/07/02 (October 18, 2004), the commission has decided to recommend to His Majesty's Government to provide him 50,000 rupees [US\$786] as compensation, and thus, this correspondence is made with a copy of the decision enclosed herewith.

It is therefore requested to provide the compensation to the victim (as decided by the commission) at the earliest date and to inform the commission when it has been disbursed.

O/C

Ministry of Defence
Singhdurbar, Kathmandu

Ministry of Home Affairs
Singhdurbar, Kathmandu

Radha Krishna Upreti
Deputy Secretary

National Human Rights Commission
Instituted under Human Rights Commission Act, 2053 (1997)
(Protection and Monitoring Division)

Ref: 59

Date: 2063/4/7 (July 23, 2006)

Office of the Prime Minister and Council of Ministers
Singhdurbar, Kathmandu

**Re: Asking for Implementation of Decision
Made by the Commission
(Follow-Up Letter)**

In this regard,

Having found that Jit Man Basnet, a permanent resident of Goli VDC, district of Solukhumbu, presently residing in Kathmandu, was arrested by security personnel on 21 Magh 2060 (February 4, 2004) and detained and tortured until 2061/07/02 (October 18, 2004), the commission had written to your office for implementation of the decision made by the commission with a recommendation to the government to determine and take necessary action against the officials involved in the act of torture in illegal detention, to endow the victim with 50,000 rupees [US\$786] as compensation with due consideration to the gravity of the physical and mental pain he had to bear, decided under Rule 18 of the National Human Rights (Complaint and Compensation Determination) Regulation, 2057 (2000), and also to return to him his motorcycle with number plate Ba.14 Pa. 2939.

As the commission has not received any information whether the decision has been implemented or not, this letter is dispatched for follow-up action. Pursuant to Section 11(1) of the Human Rights Commission Act, 2053 (1997), it is requested

that you inform the commission within seven days on receiving this letter what has been done regarding the recommendation of the commission made pursuant to Section 13 of the Human Rights Commission Act, 2053 (1997).

O/C
Ministry of Defence
Singhdurbar, Kathmandu

Ministry of Home Affairs
Singhdurbar, Kathmandu

Basudev Bajgain
Protection Officer

Petition Submitted to the Supreme Court of Nepal

Re: Contempt of Court

Petitioner:

Advocate Jit Man Basnet, permanent resident of Goli VDC, District of Solukhumbu, who was arrested from Ward No. 34, Kathmandu Metropolis, and subjected to torture in detention by the erstwhile Royal Nepal Army

v.

Respondents:

1. Gyanendra Bir Bikram Shah, residing at Narayanhity Royal Palace, Ward No.4, Kathmandu Metropolis, District of Kathmandu, commander in chief, the erstwhile Royal Nepal Army
2. Pyarjung Thapa, residing at House No. 378, Ward No. 7, Chabahil, Kathmandu Metropolis, District of Kathmandu, chief of the army staff, the erstwhile Royal Nepal Army
3. B. A. Kumar Sharma, brigadier general, Law Division, Royal Nepal Army, representing the erstwhile Royal Nepal Army Headquarters
4. Deepak Kumar Gurung, brigadier general, spokesperson, the erstwhile Royal Nepal Army
5. Raju Basnet, battalion commander, Bhairabnath Battalion, the erstwhile Royal Nepal Army, now working at the Military Information Division, Royal Nepal Army
6. Bikek Bista, holding mobile phone no. 984-120-0500, residing at Siphil (house number and street not disclosed), Ward No.7, Kathmandu Metropolis, District of Kathmandu, major, Bhairabnath Battalion, the erstwhile Royal Nepal Army

I, the petitioner, required fees enclosed herewith, present this petition containing the details stated herein below.

1. I was working in the field of law and justice as a lawyer and in the field of communications and human rights as a journalist when the erstwhile Royal Nepal Army team from the Bhairabnath Battalion, deputed under the command of Major Bibek Bista, illegally arrested me in an abduction-style operation in the evening around 6:00 p.m. on 21 Magh 2060 (February 4, 2004) from a small pub named Milan Staff Bhojanalaya situated at Tinkune in Kathmandu and then detained and tortured me for 258 days along with dozens of other non-military detainees, including Himal Sharma, Krishna K. C., and Bina Magar. During the time of this illegal military detention, I was not allowed to meet even a law professional. Throughout the detention, in addition to the threat of killing and inflicting physical and mental torture in various ways, including serving only half the food requirement, dipping one's head upside down in dirty water, whipping, beating with various sticks, blindfolding people with black and red cloth for 24 hours, handcuffing one's hands behind their back, keeping people awake the whole night, and not allowing people to use the toilet whenever needed, the army personnel made me sign the paper they prepared on their own and took my photographs in different postures. When many non-military persons, including me, were detained in the clandestinely created detention centres inside the Bhairabnath Battalion barracks, the respondents had made public through a press conference the absolutely false information that no individuals were detained in any army barracks throughout the country, and this act stands contrary to the universal concept of human rights, the Constitution, and existing legal provisions. These statements openly assault the concept of the rule of law by giving false information to the court, press, and human rights organisations as well as all concerned while, in reality, non-military persons, including me, were detained in the detention centres which were established clandestinely with the motive to kill non-military persons. Human rights organisations, including the National Human Rights

Commission, were prohibited to visit the army barracks so as not to disclose the facts about the detainees inside. Even the ICRC [International Committee of the Red Cross] had no access inside the barracks even though it does not disclose to the public the information it receives. Moreover, on 13 and 26 Falgun and 3 Chaitra 2060 (February 25 and March 9 and March 16, 2004) when an ICRC team had gone to the barracks for an inspection, we were hid in a ditch all these times, and this is how efforts were made to mislead the ICRC, a reliable humanitarian organisation.

2. I have learned that, on knowing my condition, advocate Bishnu Luintel petitioned for a writ of habeas corpus (Writ No. 183) to the Supreme Court on 11 Falgun 2060 (February 23, 2004). The details of the petition, in brief, read as follows:
 - (a) It is known that advocate Jit Man Basnet was arrested and taken to an undisclosed location by three persons, who had come in civil dress claiming to be security personnel, from his residence at Ward No.34, Shantinagar, Kathmandu metropolis, at 6:00 p.m. on 21 Magh 2060 (February 4, 2004). The respondents have illegally arrested the detainee, and they have made him disappear too. The respondents' inhuman, unjust, and illegal act of arrest and disappearance of a law professional who advocates the rule of law, human rights, democracy, an independent judiciary as well as justice has apparently disparaged the concept of the rule of law. The detainee has been placed in detention in an inhuman, unconstitutional, and illegal manner without giving information until this date about the reason for his arrest, neither to the detainee himself nor to the petitioner nor to the detainee's relatives and family nor to his professional colleagues. He is subjected to physical and mental torture. The writ petition was submitted to the court pleading for

the release of advocate Jit Man Basnet from illegal detention on the grounds as provided for in Article 11, 12, 14, and 15 as well as Article 23 and 88 of the Constitution of the Kingdom of Nepal, 1990; Section 14 and 15 of the State Cases Act, 2049 (1993); Section 3, 6, 10, 12, and 15 of the Civil Rights Act, 2012 (1954); and Rule 31, 32, 33, 34, 35, 36, and 37 of the Supreme Court Regulations, 2049 (1993).

3. The details of the written reply submitted to the Supreme Court on 28 Falgun 2060 (March 11, 2004) by Brigadier General Bie Kumar Sharma, Law Division, Royal Nepal Army, in response to the writ petition mentioned in No. 2 above read as follows:

(a) We have come to know that the petition claims that advocate Jit Man Basnet was taken to an undisclosed location after being arrested by three security personnel in civil dress on 21 Magh 2060 (February 4, 2004) at around 6:00 p.m. from his residence in Kathmandu metropolis, Ward No. 34, and he has been kept under illegal detention without any information. The petition further seeks his release.

(b) Unlike what is claimed in the petition, Jit Man Basnet is not held in military detention. Thus, it is apparent that no actions of the Royal Nepal Army have violated his fundamental rights. Therefore, I plead for quashing the groundless writ petition because there is no need to issue an order as claimed and demanded in the petition.

4. The following facts and causes prove that the acts of the respondents have caused contempt of court:

(a) It is apparent that the order as demanded should be issued because the respondent misled the respectable

court by stating that I was not detained even though I was, in fact, detained and subjected to torture under the illegal detention of the respondents.

- (b) The respondents' disobedience to act upon the order of the court has directly violated the rule of law, and it thus provides grounds for issuing an order as demanded.
 - (c) Although state agencies have to function by complying with laws and international norms, the entire organisation of the army, and the chain of command thereof, had influenced the independence and integrity of the court. Thus, it is apparent that the order as demanded should be issued.
 - (d) The order must be issued also because of the act of the erstwhile Royal Nepal Army, intentionally performed in mutual agreement with all responsible officials, to keep a non-military citizen in illegal military detention for 258 days and the false reply forwarded to the court against the concept of the rule of law, which demonstrates its non-willingness to remain subordinate to any agency.
5. The following documents enclosed herewith prove that I was in detention when the respondents replied otherwise and that their act was contempt of court:
- (a) The recommendation of the NHRC [National Human Rights Commission] made on 6 Magh 2061 (January 19, 2005), which states, "It is proved that the petitioner (Jit Man Basnet) was illegally detained at the Bhairabnath Battalion [barracks] from 21 Magh 2060 (February 4, 2004) to 2 Kartik 2061 (October 18, 2004). Thus, it is recommended to take action against the responsible military officials and to provide 50,000 rupees [US\$786] as compensation to the victim."

- (b) The letter of Nepalese human rights organisations to the NHRC requesting it to take initiatives to protect the life of Jit Man Basnet as he was arrested and disappeared by security personnel on 21 Magh 2060 (February 4, 2004)
- (c) The application filed with the NHRC on 28 Falgun 2061 (March 11, 2004) by Top Bahadur Basnet that states that Jit Man Basnet was arrested and disappeared by security personnel on 21 Magh 2060 (February 4, 2004) and seeks initiatives to protect his life and the application of Top Bahadur filed with the NHRC on 28 Baisakh 2061 (May 10, 2004) that contains details that Jit Man Basnet had been detained in an inhuman manner at the Bhairabnath Battalion barracks
- (d) The letter of the Amnesty International secretariat written to Prime Minister Surya Bahadur Thapa, with a copy of it sent to Pyarjung Thapa, the chief of the army staff, and other responsible officials, that states that journalist cum advocate Jit Man Basnet was arrested and disappeared on 21 Magh 2060 (February 4, 2004) by three security personnel in civil dress and that requests his release
- (e) Amnesty International report that notes the unknown condition of Jit Man Basnet who was arrested and disappeared by security personnel and also mentions the RNA's [Royal Nepal Army's] reply to the Supreme Court that denies his arrest by the Royal Nepal Army
- (f) The letter of the International Bar Association (IBA) dated March 15, 2004, and addressed to Gyanendra Bir Bikram Shah, commander in chief of the erstwhile RNA, that requests the immediate release of Jit Man

Basnet who was arrested and disappeared by security personnel

- (g) The news stories published in the *Kantipur Daily* on 27 Asoj 2061 (October 13, 2004) and 3 Kartik 2061 (October 19, 2004) about the false response of the RNA to the Supreme Court about Jit Man Basnet's arrest and his disappearance by the military
6. As the facts stated in different numbers herein above have proved contempt of court through the acts of the respondents, I therefore plead that the court hears the case by issuing an order to the respondents to be present before the court, and I plead for imparting justice by imposing the maximum possible punishment to each respondent on the grounds as provided for in Section 7(1) of the Supreme Court Act, 2048 (1991).
 7. The respondents had taken a Chinese motorbike with license plate number Ba. 14 Pa. 2939 that was under my possession at the time of my arrest, but it has not yet been returned to me. In this regard, after a decision on 6 Magh 2061 (January 19, 2004), the NHRC had corresponded to the government and responsible agencies to return the bike to me. Nevertheless, it has not been returned. Thus, I want the court to issue an order to the respondent to return the bike to the petitioner in front of the court.
 8. I have enclosed a copy of the following documents herewith:
 - (a) Citizenship certificate of the petitioner
 - (b) Recommendation of the NHRC made on 6 Magh 2061 (January 19, 2004) that proves my illegal detention at the Bhairabnath Battalion barracks and recommends action against the responsible military officials

- (c) Applications regarding my arrest and disappearance filed with the NHRC on 28 Falgun 2060 (March 11, 2004) and 28 Baisakh 2061 (May 10, 2004) by Top Bahadur Basnet
- (d) Letter of Nepalese human rights organisations about my arrest written to the NHRC asking for initiatives to be taken for the protection of my life
- (e) The letter of the Amnesty International secretariat written to Prime Minister Surya Bahadur Thapa, with a copy of it sent to Pyarjung Thapa, the chief of the army staff, and other responsible officials, that states that journalist cum advocate Jit Man Basnet was arrested and disappeared on 21 Magh 2060 (February 4, 2004) by three security personnel in civil dress and that requests his release
- (f) Amnesty International report that notes the unknown condition of Jit Man Basnet who was arrested and disappeared by security personnel and also mentions the RNA's reply to the Supreme Court that denies his arrest by the Royal Nepal Army
- (g) The letter of the International Bar Association (IBA) dated March 15, 2004, and addressed to Gyanendra Bir Bikram Shah, the commander in chief of the erstwhile RNA, that requests the immediate release of Jit Man Basnet who was arrested and disappeared by security personnel
- (h) The news stories published in the *Kantipur Daily* on 27 Asoj 2061 (October 13, 2004) and 3 Kartik 2061 (October 19, 2004) about the false response of the RNA to the Supreme Court about Jit Man Basnet's arrest and his disappearance by the military

- (i) Injury examination report provided by the Department of Forensic Medicine, Maharaj campus, Tribhuvan University

9. I request that the court consider the pleading notes of my lawyer as an integral part of this petition.

10. The details stated herein are true and correct. If found to be otherwise, I shall bear the legal consequences.

Petitioner:

Jit Man Basnet

Advocate, License No. 8326

New Baneswor, Ward No. 34, Kathmandu Metropolis

Dated: Monday 2 Asoj 2063 (September 18, 2006)

Supreme Court of Nepal
Order Issued by Joint Registrar Til Prasad Shrestha

Petitioner:

Advocate Jit Man Basnet

v.

Respondent:

The then-Chief of Army Staff Pyarjung Thapa et al.

That the petitioner has approached asking for the maximum fine possible to the respondents pursuant to Section 7(1) of the Supreme Court Act, 2048 (1991), to file a petition against His Majesty Gyanendra Bir Bikram Shah, the commander in chief of the Royal Nepal Army, et al. as respondents, stating that the written reply submitted to the Supreme Court by Bie Kumar Sharma, brigadier general, Law Division, the erstwhile Royal Nepal Army Headquarters, in response to the petitioner's prior writ petition of habeas corpus had misled the court as it had said that no actions of the RNA had violated the petitioner's rights because he was not held by the RNA; that the petition has added new respondents other than those mentioned in the prior writ petition of habeas corpus and it has not been clarified what act of which respondents and in what manner has caused the contempt of court; the registration of the petition is denied pursuant to Rule 27(2) of the Supreme Court Regulations, 2049 (1993), and No. 27 of the Court Management Chapter of the Civil Code. Let it be done according to law.

Joint Registrar

Dated: Tuesday 3 Aswin 2063 B.S. (September 19, 2006)

Petition Submitted to the Supreme Court of Nepal

Re: Asking for the Annulment of the Registrar's Order and Registration of the Petition

Petitioner:

Advocate Jit Man Basnet, permanent resident of Goli VDC, District of Solukhumbu, who was arrested from Ward No. 34, Kathmandu Metropolis, and subjected to torture in detention by the erstwhile Royal Nepal Army

v.

Respondents:

1. Gyanendra Bir Bikram Shah, residing at Narayanhity Royal Palace, Ward No. 4, Kathmandu Metropolis, District of Kathmandu, commander in chief, the erstwhile Royal Nepal Army
2. Pyarjung Thapa, residing at House No. 378, Ward No. 7, Chabahil, Kathmandu Metropolis, District of Kathmandu, chief of the army staff, the erstwhile Royal Nepal Army
3. B. A. Kumar Sharma, brigadier general, Law Division, Royal Nepal Army, representing the erstwhile Royal Nepal Army Headquarters
4. Deepak Kumar Gurung, brigadier general, spokesperson, the erstwhile Royal Nepal Army
5. Raju Basnet, battalion commander, Bhairabnath Battalion, the erstwhile Royal Nepal Army, now working at the Military Information Division, Royal Nepal Army
6. Binek Bista, holding mobile phone no. 984-120-0500, residing at Siphel (house number and street not disclosed), Ward No. 7, Kathmandu Metropolis, District of Kathmandu, major, Bhairabnath Battalion, the erstwhile Royal Nepal Army

On the grounds as provided for in Rule 7(c) and Rule 15(3) of the Supreme Court Regulations, 2049 (1993), I, the petitioner, required fees enclosed herewith, petition for the annulment of the order issued by the registrar.

1. That I was arrested in an abduction-style operation by a team led by Major Bibek Bista, deputed from the Bhairabnath Battalion, on 21 Magh 2060 (February 4, 2004) when I was having tea at a small pub named Milan Staff Bhojanalaya at Tinkune, Ward No. 35, Kathmandu metropolis, and then I was illegally detained with extreme torture at the Bhairabnath Battalion [barracks] for 258 days; that advocate Bishnu Luintel filed a writ petition of habeas corpus (Writ No. 183) with the Supreme Court; that responding to the petition, despite the fact that I was illegally detained in military detention, the respondents' act of lying to the court by hiding the fact has caused contempt of court; the joint registrar of the Supreme Court (authorised to function as a registrar) denied in writing to file the petition when I approached the Supreme Court on 3 Asoj 2063 (September 19, 2006) to file a petition demanding penalty to Gyanendra Bir Bikram Shah, the commander in chief of the erstwhile RNA, et al.
2. The joint registrar has denied registering the petition on the following grounds:
 - (a) The petition adds new respondents other than those mentioned in the prior writ of habeas corpus;
 - (b) The petition fails to clarify what act of which respondents and in what manner has caused contempt of court.
3. I plead to nullify the registrar's endorsement (denial for registration) made on the above stated grounds, which are erroneous and do not adhere to normal legal standards, on the following grounds:

- (a) When I was arrested in an abduction-style operation by the RNA on 21 Magh 2060 (February 4, 2004) and then detained, Gyanendra Bir Bikram Shah was occupying the highest post of commander in chief of the RNA and was responsible for commanding military officers and personnel, maintaining their discipline, executing their programmes and policies as well as controlling the RNA, and thus, it is not that he can enjoy impunity from criminal liabilities arising out of illegal activities and crimes against humanity perpetrated by military personnel subordinate to him. Section 163 of the Military Act, 2016 (1959), provides that the establishment, management, and other matters related to the RNA shall be done as instructed occasionally by His Majesty. Section 2(e), (f), (h), and (i) of the act mentions that the RNA shall be His Majesty's armed military. These provisions prove that Gyanendra Bir Bikram Shah, as the then-His Majesty, was a responsible military official. I have not made an inappropriate person a respondent. Rather, I have mentioned as respondents only guilty institutions and the then-responsible officials thereof. The then-chief official, Gyanendra Bir Bikram Shah, has been made a respondent because the official concerned has to take credit for both success and failure. If Gyanendra Bir Bikram Shah, who was occupying the role of the chief director of the erstwhile RNA, had instructed his institution, officers, and military personnel under his command to respect human rights or follow the rule of law and not to keep non-military citizens illegally in detention, many citizens, including myself, would not have suffered severe torture, inhuman behaviour, and death. Contrary to the court's order to state the facts of the performed, the officials replied to the court absolutely false details by deviating from the facts with deceptive intention, and acts were done which hurt the independence and dignity of the court. That

is why the endorsement to deny the registration of the petition which makes them respondents is erroneous. Thus, I demand the annulment of the order made to deny the registration of the petition which makes directly responsible Gyanendra Bir Bikram Shah a defendant.

- (b) It is not that an institution or a person who has misled the court about any act performed under their command or about an act done with their involvement can enjoy impunity from, or excuse for, contempt of court simply because he was not made a respondent in the writ petition of habeas corpus. It is not mandatory for contempt of court [charges] that one must have been made a defendant in a prior case to the court. Contempt of court means distrust to the court, no matter who does it, where, and how it is done. Although anyone, even one who was not a party to a case, who has misled the court has to be made subject to the penalty for contempt of court, the registrar's denial to register a case made in such a way that grants immunity to these people is subject to annulment.
- (c) The grounds for denial that the registrar has stated by declaring that "the petition fails to clarify what act of which respondent and in what manner has caused the contempt of court" is not logical either. I clearly stated in No.1 of the petition that a team deputed under the command of a major of the Bhairabnath Battalion of the RNA had illegally arrested me in an abduction-style operation and detained me with severe physical and mental torture for 258 days. Again, in No. 3 of the petition, I stated that the responsible military officials had mutually agreed to lie to the court while replying to the court in response to the court's order to answer about the person detained in their custody. Despite such a clear deception, it is erroneous to say that the

petition fails to clarify “what act of which respondent and in what manner has caused the contempt of court,” and thus the registrar’s order is subject to annulment.

- (d) It is the judicial bench which enters into the merit of the petition, examines the evidence, and decides whether what the petition claims is established or not. The denial order of the registrar made into the merit of the petition submitted to the court in the format as provided for in Rule 25, Chapter 5, of the Supreme Court Regulations, exceeds the power conferred to the registrar in Rule 15 of the Supreme Court Regulations. Thus, I plead to have an order issued so as to annul the registrar’s order and to register my petition.
4. Given the above, I petition for an order to annul the registrar’s order made on 3 Asoj 2063 (September 19, 2006) and to register my petition which demands a penalty pursuant to Section 7(1) of the Supreme Court Act, 2048 (1992), to the respondents mentioned.
5. I want the court to consider the pleading notes of my lawyer as an integral part of this petition.
6. The details stated herein are true and correct. If it is found to be otherwise, I shall bear the legal consequences.

Petitioner:

Jit Man Basnet

Advocate, Licence No. 8326

New Baneswor, Ward No. 34, Kathmandu Metropolis

Dated: Friday 6 Asoj 2063 (September 22, 2006)

The Supreme Court
Single Bench
Honourable Justice Mr. Tahirali Ansari

ORDER

Decision No. 0039 of the Year 2063 (2006)

Subject: Submission for the Annulment of Undue Order

Petitioner:

Advocate Jit Man Basnet

v.

Respondent:

Mr. Gyanendra Bir Bikram Shah et al., the then-supreme commander in chief of the then-Royal Nepal Army

Case: Contempt of Court

In this case, the pleadings made by the petitioner himself and by advocates Mr. Tika Ram Bhattarai, Mr. Jyoti Baniya, and Mr. Bishnu Luitel have also been heard. In the case of the petitioner, a petition was filed by the petitioner et al. on 2061/7/19 (November 4, 2004) stating that, in the course of taking action on the habeas corpus writ petition, Writ No. 183 of the year 2060 (2004), in which the writ petitioner being Bishnu Luitel and the respondent being the then-Royal Nepal Army Headquarters in Bhadrakali et al., the petitioner was released from detention on 2061/7/2 (October 18, 2004). In that petition, an order was issued by the division bench of this court on 2061/7/20 (No. 5, 2004) to annul the habeas corpus writ petition. In that habeas corpus writ petition, the then-Royal Nepal Army Headquarters, the Ministry of Home Affairs, the police headquarters, and the district police office in Kathmandu were named as respondents. It appears that the petition has been filed for action on the contempt of court charge without naming

any of the said bodies as a respondent but naming other persons as respondents. Hence, first of all, on the habeas corpus writ petition, Writ No. 183 of the year 2060 (2004), this court has not issued any order by virtue of any final order or decision of this court to any person or body requiring such person or body to do or to refrain from doing any act. Second, it seems that an attempt has been made to have action instituted on the contempt of court charge against the persons other than those named as respondents in the said habeas corpus writ petition.

It is the law that determines the obligation to abide by any order or decision of the court, and the law also expects that any court order or decision are honoured by all sides. In this respect, there is no divergent view over the matter that the court itself and other persons or bodies associated with the court proceedings should remain more vigilant and aware. However, any subject matter of the contempt of court should in no case be converted into a forum of intellectual exercise or political discussion or propaganda. If it so happens, the source of inherent authority of the court to take action and award punishment on its contempt will get narrowed. Viewed in this context, this petition, which fails to mention that the order issued by this court on this instant petition and the petition refused with endorsement by the joint registrar on 2063/6/3 (September 19, 2006) has been disregarded directly or indirectly and which has no regard to the order made in the course of action on the petition of habeas corpus, bearing Writ No. 183, and which mentions that contempt has been committed indirectly, does not appear to be of such nature and incorporating such subject matter as it should be. The refusal order made by the joint registrar on 2063/6/3 (September 19, 2006) does not appear to suffer any error. Thus, it does not appear necessary to void that order and register the contempt petition.

Justice

Dated: Thursday 28 Mangsir 2063 (December 14, 2006)

Petition Submitted to the Supreme Court of Nepal

Re: Petitioning for Appropriate Orders, Including a Writ of Mandamus

Petitioner:

Advocate Jit Man Basnet, permanent residence of Ward No. 1, Goli VDC, District of Solukhumbu, presently residing at Ward No. 34, New Baneswor, Kathmandu Metropolis

v.

Respondents:

1. Office of the Prime Minister and Council of Ministers, Government of Nepal, Singhdurbar, Kathmandu
2. Ministry of Defence, Government of Nepal, Singhdurbar, Kathmandu
3. Royal Nepal Army Headquarters, Bhadrakali, Kathmandu
4. Chief of the Royal Nepal Army Staff, Royal Nepal Army Headquarters, Bhadrakali, Kathmandu
5. Bhairabnath Battalion, Royal Nepal Army, Maharajgunj, Kathmandu

Legally required fees enclosed herewith, I petition as follows on the basis of Article 88(2) of the Constitution of the Kingdom of Nepal, 1990:

1. Along with so many other non-military citizens, I was detained for 258 days at the Bhairabnath Battalion barracks after I was arrested on 21 Magh 2060 (February 4, 2004). So many non-military citizens, including myself, were arrested and kept in long-term detention and tortured at the Bhairabnath Battalion barracks when the chain of command of the Royal Nepal Army and the government was arresting

and keeping in detention so many non-military citizens just on the basis of suspicion with the purpose of suppressing the civil war led by the CPN [Communist Party of Nepal] (Maoist) since 2052 (1996). In detention, the detainees were forced to sign papers prepared by the military personnel themselves, and the detainees were photographed in different postures after being threatened that they would be killed or other forms of mental and physical torture, including serving only half of the food requirement, dipping one's head upside down in dirty water, burying a person in the mud, giving electric shocks, forcing a person to urinate on electric heaters, hammering a person's fingernails into their fingers, making people sleep naked on the cold floor, whipping, hitting with different types of sticks, blindfolding people for 24 hours, handcuffing one's hands behind their back, keeping people awake the whole night, and not allowing people to use the toilet whenever needed. The respondents told absolute lies at press conferences that no one was detained in any army barracks throughout the country, and they engaged in activities against the Constitution, the law, and the universal concept of human rights. While many non-military citizens, including myself, were placed in detention in areas that were clandestinely set up inside the Bhairabnath Battalion barracks with the purpose of killing civilians, the act of the respondents of providing absolutely false information to the court, press, human rights organisations, and other concerned parties openly attacked the concept of the rule of law. With the ill-intention of hiding the reality inside the barracks, human right organisations, including the NHRC [National Human Rights Commission], were prohibited to visit such barracks. Even the ICRC [International Committee of the Red Cross], which does not reveal the information it receives to the public, was not allowed access to the detainees. During the ICRC visit to the Bhairabnath Battalion barracks on 13 and 26 Falgun and 3 Chaitra 2060 (February 25 and March 9 and March 16, 2004), we were hid three times in a ditch inside the barracks in order to deceive and mislead

a reliable humanitarian organisation like the ICRC. The acts of detaining non-military citizens in an army barracks and torturing, killing, and disappearing them against existing laws and the universal norms of human rights were performed through the agreement of Gyanendra Bir Bikram Shah, the then-commander in chief of the RNA; Pyarjung Thapa, the then-chief of the RNA staff; Surya Bahadur Thapa and Sher Bahadur Deuba, the then-prime ministers; the then-IGP [inspector general of police] of the Royal Nepal Police and Royal Nepal Armed Police; Bishnu Dutta Upreti, the then-defence secretary; the then-minister for home affairs; and the home secretary. Although there has been much national and international concern about the people who disappeared in the Bhairabnath Battalion barracks in 2060–2061 (2003–2004), the government has not yet revealed the facts to the concerned people as well as the general public. Although it has been a long time since OHCHR [Office of the High Commissioner for Human Rights] in Nepal verified the disappearance of many citizens from the Bhairabnath Battalion barracks and recommended to the government through its preliminary report to institute a high-level commission to investigate and take action by dismissing the military officials concerned, the government has done nothing. There has been a public demand to establish an independent commission as nothing has been done despite repeated requests and concern to implement the report and recommendations of OHCHR in Nepal.

2. The following grounds apparently demand the issuance of appropriate orders, including mandamus or directives to the government of Nepal, so as to institute a high-level independent judicial commission to determine facts about the disappearances from the Bhairabnath Battalion barracks and the condition of all who disappeared:
 - (a) Despite widespread concern about the disappearance of citizens from the Bhairabnath Battalion barracks,

the government has done nothing, although it is the responsibility of the government to reveal the facts to the people. Thus, it is apparent that a writ of mandamus be issued to the government so as to institute a high-level independent judicial commission.

- (b) As there is widespread national and international concern about disappearances from the Bhairabnath Battalion barracks and as it has defamed Nepal in the international arena and it is likely that Nepal shall be further defamed if the facts are not found and the guilty not punished, thus, it is apparent that an appropriate order, including mandamus, be issued to the government so as to institute a high-level independent judicial commission with a mandate to investigate and determine facts about the arrest, torture, disappearance, and killing of people perpetrated at the Bhairabnath Battalion barracks and to recommend actions to the guilty thereof.
- (c) Although the relatives of disappeared citizens are protesting in different parts of the country, including the Kathmandu Valley, to make public the status of the disappeared, whether alive or dead, and the general populace is also curious to know the facts about these incidents, the government has done nothing in this regard. Thus, it is apparent that a writ of mandamus be issued to the government so as to institute a high-level independent judicial commission.
- (d) Given that the general public has grown dissatisfied due to the indifference of the government to the sensitive issue of disappearances and the immunity granted to guilty military officials and despite the public's demand for the creation of an independent commission [and given] that the Parliamentary Committee on Human Rights has long been concerned

with this sensitive issue but the Ministry of Defence has tried to mislead the general public by providing false information and the prior military commission has written a report by misrepresenting the facts, it is apparent that a writ of mandamus be issued to the government to institute a high-level independent judicial commission, even to find out what the reality [in the barracks] was and what the latest status of the disappeared people is.

- (e) Although OHCHR in Nepal has verified the disappearance of many citizens by the Bhairabnath Battalion and has recommended to the government in its 39-page report published in May 2006 that it institute a high-level commission to produce a detailed study and to take action by dismissing the military officials concerned, the government has done nothing. Rather, it has remained indifferent to the continuous concerns of OHCHR in this regard. As the Ministry of Defence and the Royal Nepal Army have completely rejected the OHCHR report, it is apparent that a writ of mandamus be issued to the government to institute a high-level independent judicial commission so as to ascertain the facts and make them public.
- (f) It is the responsibility of the State to investigate acts of disappearance and disappeared people according to the provisions of the International Declaration on the Protection of All Persons from Enforced Disappearance, passed on December 18, 1992, by the U.N. General Assembly in its Resolution No. 47/133, and the Inter-American Convention on Forced Disappearance of Persons, which entered into force on March 28, 1996. Thus, it is apparent that a writ of mandamus be issued to the government to institute a high-level independent judicial commission so as to determine the facts about disappearances and other

state violations and to recommend punishment to those found guilty.

3. Given the above, I petition for an appropriate order, including mandamus, to the government of Nepal to institute a high-level judicial commission pursuant to Section 3(2) of the Probe Commission Act, 2026 (1969), with a mandate to investigate disappearances from the Bhairabnath Battalion barracks and all other people disappeared by the State and to recommend action to the guilty. I also petition for an order to suspend the public officers who come under the scope of this investigation and to seize their passports so as to prevent them from going abroad and to recommend stern action to the guilty. The government has not yet implemented nor has it endeavoured to implement the recommendations of OHCHR in Nepal made on page 28 of its report on arbitrary detentions, torture, and disappearances published in May 2006. Thus, I petition for an appropriate order to the respondents pursuant to Article 88(2) of the Constitution to proceed to accomplish the tasks below as recommended by the OHCHR in Nepal and to submit to the Supreme Court a progress report during implementation and a final report after completion of the work.

Recommendations made by OHCHR in Nepal on page 28 of its report of investigation into arbitrary detentions, torture, and disappearances at the Bhairabnath Battalion barracks in Kathmandu

OHCHR in Nepal recommends to take the following steps immediately:

- (a) Conduct an independent inquiry in a reliable, competent, and complete manner about the arrest, detention, torture, and the status of all persons who are said to be detained and disappeared by the battalion.

- (b) Such inquiry can be part of a detailed investigation to find the status of all disappeared people and to determine the responsibility of other units of the RNA for such violation of human rights.
 - (c) Those likely to be involved directly or as a result of command responsibility of a unit should be suspended until the completion of the inquiry, and such persons should not be proposed to participate in United Nations peacekeeping missions.
 - (d) The inquiry should study the role played by members of the medical profession who were involved actively or passively in degrading treatment and torture or any other comparable activities.
 - (e) All necessary arrangements should be made to assure that the eyewitnesses and ex-detainees should be free from threats and intimidation. The illegal practice of ex-detainees regularly reporting to the Royal Nepal Army should immediately end.
 - (f) The findings of the inquiry should be made public and disseminated.
 - (g) Those against whom there is evidence of criminal liability should be brought to justice before a civilian court.
4. As the contents of this petition are critical and of public interest, I petition for an order to submit to the bench for a priority hearing.
5. I have enclosed copies of the following documents herewith:
- (a) The citizenship certificate of the petitioner

- (b) “Report of the Investigation into Arbitrary Detention, Torture, and Disappearances at Maharajgunj RNA Barracks, Kathmandu, in 2003–2004” containing 39 pages published by OHCHR in Nepal in May 2006 and which is available on its official website at www.nepal.ohchr.org.
6. I want the court to consider the pleading notes of my lawyer as an integral part of this petition.
7. The details stated herein are true and correct. If it is found otherwise, I shall bear the legal consequences.

Writ Petitioner:

Jit Man Basnet

Advocate, License No. 8326

Ward No. 34, New Baneswor, Kathmandu Metropolis

Dated: Monday 12 Kartik 2063 (October 29, 2006)

Written Response

Submitted to the Supreme Court

Through: The Office of the Attorney General, Ramshahpath

Writ No. 0346 of the year 2063 (2006)

Subject: Mandamus

Written Response Presenter:

Secretary Madhab Paudel, on behalf of the Government of Nepal,
Office of the Prime Minister and Council of Ministers

v.

Respondent/Writ Petitioner:

Advocate Jit Man Basnet, 30, a permanent resident of Ward No. 1, Goli VDC, Solukhumbu District, presently residing at Baneshwor, Ward No. 34, Kathmandu Municipal Corporation, Kathmandu District

As in the writ petition, Writ No. 0346 of the year 2063 (2006), filed by the respondent writ petitioner, advocate Jit Man Basnet, in the esteemed court against the government of Nepal, Office of the Prime Minister and Council of Ministers et al., a notice accompanied by an order requiring to furnish a written response through the Office of the Attorney General replying to what has happened in this matter and why an order as prayed for by the petitioner should not be issued within 15 days, excluding the time required for the journey, after the date of receipt of the order was received by this office on 2063/7/22 (November 8, 2006), I hereby furnish the written response as follows by extending the expired time limit:

1. The writ petition prays, *inter alia*, that appropriate orders, including mandamus, be issued in the name of the government of Nepal requiring it to promptly form a high-level judicial commission pursuant to Section 3(2) of the Inquiry Act of 2026 (1969) to inquire into the well-known Bhairabnath Battalion event of detaining citizens in army custody at the Bhairabnath Battalion barracks and killing them by subjecting them to torture, contrary to the prevailing laws of Nepal and the Universal Declaration of Human Rights, and to find out the condition of other citizens disappeared by the State and make recommendations for action against the perpetrators, to suspend the army officials and other government officials subject to investigation, to seize their passports and prevent them from going abroad pending the completion of investigations, and to take stringent legal action against the culprits and that, since the recommendations required to be carried out by the government of Nepal immediately, as set down on page 28 of the report issued by the Office of the United Nations High Commissioner for Human Rights-Nepal in May 2006 on disappearances, arbitrary detention, and torture in the Bhairabnath Battalion of the Royal Nepal Army, situated in Maharajgunj, where the petitioner too was detained and subjected to extreme torture for 258 days, have not been implemented until now nor has any effort been made to implement the same, appropriate orders should also be issued, under Clause (2) of Article 88 of the Constitution, in the name of the respondents, requiring them to promptly begin carrying out the acts recommended by that body, to keep forwarding progress details or periodic reports to the Supreme Court until the completion of work, and to submit a final report upon completion of work and implement, or cause to be implemented, the recommendations made in the said report.
2. The writ petition fails to clearly mention which and what right of the petitioner has been infringed by which and

what act and action of this office and makes this office as a respondent without any reason and grounds. Thus, this writ petition is liable to be dismissed. I hereby pray that it be dismissed.

3. No activity or decision of any kind has been carried out by this office in relation to the claim referred to in paragraph 1 above. This office should not have been made a respondent. The writ petition filed by making a respondent an unrelated body is meaningless and purposeless.
4. The government of Nepal is committed to the protection and promotion of human rights. It is pertinent to note that it is mentioned in the Comprehensive Peace Accord concluded between the present government, formed upon the strength of the people's movement and the Maoists on 5 Mangsir 2063 (November 21, 2006), to end impunity committed in the past while protecting and promoting human rights. The violation of human rights and impunity can never be excusable and tolerable. To this end, the government of Nepal is committed to form commissions, as required, including a Peace, Truth, and Reconciliation Commission. After the formation of the commission, if it is found that the abuse and violation of the human rights of the petitioner, as well as other persons, have been committed by any persons or officials, legal action will be taken against such persons or officials. It is not necessary to settle such matters through the court.
5. In relation to the pleas raised in the writ petition, other concerned bodies which have been made respondents will furnish their written responses. It is prayed that the pleadings to be made by the government attorney appearing for this office in the course of the hearing should also be made an integral part of this written response.

6. Based on the foregoing evidence, I humbly pray that the instant writ petition be dismissed by the esteemed court.

Written Response Presenter:

Madhab Paudel

Secretary of the Government of Nepal

Dated: Thursday 21 Mangsir 2063 (December 7, 2006)

Written Response

Submitted to the Supreme Court

**Subject: Submission for the Dismissal of Writ Petition,
Writ No. 0346**

Written Response Presenter:

Mr. Bishnu Datta Upreti, Secretary at the Ministry of Defence,
Government of Nepal

v.

Respondent/Writ Petitioner:

Advocate Jit Man Basnet, 30, a permanent resident of Ward No. 1,
Goli VDC, Solukhumbu District, presently residing at Baneshwor,
Ward No. 34, Kathmandu Municipal Corporation, Kathmandu
District

Case: Mandamus

As in the instant writ petition, a notice accompanied by an order requiring to furnish a written response replying to what has happened in this matter and why an order prayed for by the petitioner should not be issued within 15 days, excluding the time required for the journey, after the date of receipt of the order was served on 2063/7/22 (November 8, 2006), I hereby furnish the written response as follows within that time limit:

1. The writ petitioner, advocate Jit Man Basnet, has filed the petition stating that he was arrested by security forces on 2060/10/21 (February 4, 2004) and illegally detained in the Bhairabnath Battalion barracks in Maharajgunj for 258 days and that, while in army detention, he, as well as other persons, were subjected to extreme torture and that the human rights of detainees were violated; they were hid within the barracks; and human rights organisations, including the

National Human Rights Commission, were not allowed to enter the barracks. They [the army] also had published, or caused to be published, false details, such as news that no one was held in detention in the military barracks. They [the army] committed acts of holding people in army detention, subjecting them to torture, and causing disappearances in violation of the Constitution, prevailing laws, and universal norms of human rights. The writ petitioner prays for the issuance of appropriate orders, including a mandamus or directive order, in the name of the government of Nepal to form an independent and high-level judicial commission to inquire into such events and to find out the condition of all disappeared citizens.

2. Since the writ petition makes other various bodies as respondents, in addition to this ministry, I hereby submit a written response only on behalf of this ministry.
3. Since the writ petition fails to clearly mention which and what fundamental right of the petitioner has been infringed by which and what act and action of this ministry and since the other concerned bodies named as respondents in the writ petition will submit their respective written response, the writ petition is groundless in the case of this ministry. I hereby pray that the writ petition should therefore be dismissed.
4. It is prayed that the pleadings to be made by the government attorney should also be made an integral part of this written response.
5. The matters contained herein are true and correct; if proved false, I will bear and pay according to the law.

Written Response Presenter:

Bishnu Datta Upreti
Secretary

Dated: Tuesday 5 Mangsir 2063 (November 21, 2006)

Written Response

Submitted to the Supreme Court

Through: The Office of the Attorney General

**Subject: Submission for the Dismissal of Writ Petition,
Writ No. 0346 of the year 2063 (2006)**

Written Response Presenter:

B. A. Kumar Sharma, brigadier general, Army Legal Department, on behalf of the Nepal Army Headquarters, Bhadrakali, and commander in chief, Nepal Army Headquarters, Kathmandu

v.

Respondent/Writ Petitioner:

Advocate Jit Man Basnet, 30, a permanent resident of Ward No. 1, Goli VDC, Solukhumbu District, presently residing at Baneshwor, Ward No. 34, Kathmandu Municipal Corporation, Kathmandu District

Case: Mandamus

The summons, accompanied by an order issued by the esteemed court, requiring to furnish through the Office of the Attorney General a written response replying to what has happened in this matter and why an order prayed for by the petitioner should not be issued within 15 days, excluding the time required for the journey, after the date of receipt of the order was served on the Nepal Army Headquarters in Bhadrakali and the commander in chief of the Nepal Army Headquarters in Bhadrakali in Kathmandu on 2063/8/5 (November 21, 2006). I was not able to furnish the written response within the time limit because of the workload of the office. Submitting a separate application for the extension of the time limit, I hereby furnish the written response as follows within that extended time limit:

1. The writ petitioner in his writ petition prays for the issuance of an order to form an independent and high-level judicial commission to inquire into the events of those who were arrested in 2060–2061 (2003–2004) and made disappeared from the Bhairabnath Battalion barracks and to find out the condition of all disappeared citizens, to suspend the army officials and other government officials subject to investigation, seize their passports and prevent them from going abroad pending the completion of investigations, and to take action against the culprits.
2. In relation to the writ petitioner's claim and plea for taking action against those involved in the said events by forming a high-level judicial commission to inquire into the events of the Bhairabnath Battalion, the Ka. Ra. Bi. (Legal Department) of the Nepal Army Headquarters produced correspondence with the Bhairabnath Battalion in Maharajgunj to provide real particulars in that respect. The battalion, vide its letter, Reference No.1047/E/20/063/64/353, dated 2063/9/5 (December 20, 2006), noted that, contrary to what has been mentioned in the petitioner's petition, no one was held in arbitrary detention nor was subjected to torture nor was disappeared by that battalion. The order as prayed by the petitioner should not be issued. The baseless writ petition filed by the petitioner should therefore be dismissed.
3. It is prayed that the pleadings to be made by the government attorney should also be made an integral part of this written response.
4. The matters contained herein are true and correct; if proved false, I will bear and pay according to the law.

Written Response Presenter:

Brigadier General B. A. Kumar Sharma
Army Legal Department
Army Headquarters, Bhadrakali, Kathmandu

Dated: Tuesday 18 Paush 2063 (January 2, 2007)

Written Response

Submitted to the Supreme Court

Through: The Office of the Attorney General

**Subject: Submission for the Dismissal of Writ Petition,
Writ No. 0346 of the year 2063 (2006)**

Written Response Presenter:

Lieutenant Colonel Rajendra Jung Khatri, on behalf of the Bhairabnath Battalion, Maharajgunj, Kathmandu

v.

Respondent/Writ Petitioner:

Advocate Jit Man Basnet, 30, a permanent resident of Ward No. 1, Goli VDC, Solukhumbu District, presently residing at Baneshwor, Ward No. 34, Kathmandu Municipal Corporation, Kathmandu District

Case: Mandamus

The summons, accompanied by an order issued by the esteemed court, requiring to furnish through the Office of the Attorney General a written response replying to what has happened in this matter and why an order prayed for by the petitioner should not be issued within 15 days, excluding the time required for the journey, after the date of receipt of the order was served on the Bhairabnath Battalion, Laxmi Niwas, in Kathmandu on 2063/7/20 (November 6, 2006). I was not able to furnish the written response within the time limit because of the workload of the office. Submitting a separate application for the extension of the time limit, I hereby furnish the

written response as follows within that extended time limit:

1. The writ petitioner makes primarily the following claims in his writ petition:
 - (a) An order should be issued to form an independent and high-level judicial commission to inquire into the events of arrest and disappearance by the Bhairabnath Battalion in 2060–2061 (2003–2004) and find out the condition of all disappeared citizens, to suspend the army officials and other government officials subject to investigation, seize their passports and prevent them from going abroad, and take action against the culprits.
 - (b) Appropriate orders, including a writ of mandamus, should be issued in the name of the government of Nepal requiring it to implement, or cause to be implemented, *inter alia*, the recommendations set forth in the report published by the Office of the United Nations High Commissioner for Human Rights-Nepal in May 2006.
2. Contrary to the claims made by the petitioner in his petition, the petitioner was arrested by the security forces on the grounds of his involvement in terrorist activities at the time. Following his arrest, he was held in detention by virtue of the order of the competent authority under the law. He was never subjected to any physical or mental torture while in detention. It is therefore clear that the petitioner's claim is baseless.
3. As, contrary to what has been mentioned in the writ petition, this battalion has not arrested anyone, the order prayed for by the writ petitioner should not be issued. I hereby pray that the writ petition should therefore be dismissed.

4. It is prayed that the pleadings to be made by the government attorney should also be made an integral part of this written response.
5. The matters contained herein are true and correct; if proved false, I will bear and pay according to the law.

Written Response Presenter:

Lieutenant Colonel Rajendra Jung Khatri
Battalion Commander
Bhairabnath Battalion, Maharajgunj

Dated: Friday 7 Paush 2063 (December 22, 2006)



Photo by Ambar Gurung

Among the thousands of people who have disappeared in Nepal, Jit Man Basnet is one of the few who has shared the everyday anguish of those whose lives were suddenly snatched from them because they sought to exercise their rights. Mr. Basnet's autobiographical account of his painful ordeal in 2004 behind the walls of the army's Bhairabnath Battalion barracks in Kathmandu is rendered in the style of a novel except that it is not a fictional narrative of state-sanctioned violence.

Not only his own 258 days of suffering are rendered in these pages, but the torture, hunger, frail health, and death of his fellow prisoners is described as well. Mr. Basnet's book speaks to the variety of human rights violations that were pervasive in the country at the time and the forms of torture regularly meted out to prisoners. Woven between the lines of his narrative is the impunity that protected the military from punishment for the horrendous human rights violations they inflicted. Mr. Basnet's book cries out for Nepal's new Maoist-led government to ensure justice for the victims and their families—the victims of both sides of the country's civil war, including those engendered by the Maoists—if Nepal is to enjoy the protection of human rights in the future.



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