

NEPAL

CCPR

DEROGATIONS: NOTIFICATIONS UNDER ARTICLE 4 (3) OF THE COVENANT

8 March 2002

"... in view of the serious situation arising out of terrorist attacks perpetrated by the Maoists in various districts, killing several security and civilian personnel and attacking the government installations, a state of emergency has been declared in the entire Kingdom effective from 26 November 2001, in accordance with the Article 115 of the Constitution of the Kingdom of Nepal, 2047 (BS). Accordingly, His Majesty the King, on the recommendation of the Council of Ministers, has suspended the right to freedom of opinion and expression (Article 12.2a), freedom to assemble peacefully without arms (12.2b) and to move throughout the Kingdom (12.2d). Press and publication right (13.1), right against preventive detention (Article 15), right to information (Article 16), right to property (Article 17), right to privacy (Article 22) and right to constitutional remedy (Article 23) have also been suspended. However, the right to the remedy of habeas corpus has not been suspended.

The Permanent Representative also would like to inform the Secretary-General that, while suspending the rights and freedoms, His Majesty's Government has fully observed the provision of Article 4, paragraphs 1 and 2 of the above mentioned Covenant. Accordingly, the rights and freedoms as contained in Articles 6, 7, 8 (1), 11, 15, 16 and 18 of the Covenant, which are also guaranteed by the Constitution of the Kingdom of Nepal, remain in effect."

31 May 2002

"...following the dissolution of the Parliament, which was done in accordance with the relevant provisions of the Constitution of the Kingdom of Nepal - 2047, His Majesty's Government of Nepal has decided to hold the general elections on November 13, 2002 in a free and fair manner. In view of the current security situation in the country prompted by the Maoist insurgency, the Government has also extended the state of emergency by three more months. The Government, however, is committed to lifting the emergency as soon as there is an improvement in the security situation to facilitate free and peaceful general elections.

...in spite of these steps, the Government will stay the course in respect to development programs and socio-economic reforms."

21 November 2002
(Dated 19 November 2002)

"... With reference to [...] note 0076/2002 dated 22 February 2002 and pursuant to clause 3 of Article 4 of the International Covenant on Civil and Political Rights 1966, ...[the Government of Nepal] lifted the state of emergency in the country, effective from 20 August 2002."

16 February 2005

"The Permanent Mission of the Kingdom of Nepal to the United Nations presents its compliments to the Secretary-General of the United Nations and, pursuant to Paragraph 3 of Article 4 of the International Covenant on Civil and Political Rights (1966), has the honour to inform him that in view of a grave emergency threatening the sovereignty, integrity and security of the Kingdom of Nepal, His Majesty the King has, in accordance with clause (1) of Article 115 (1) of the Constitution of the Kingdom of Nepal, 1990 (2047), issued an order of a State of Emergency in respect of the whole of the Kingdom of Nepal on 1 February 2005 with immediate effect. As the situation in the country had reached a point where the survival of multiparty democracy and the nation's sovereignty had been seriously threatened and the people of Nepal had to go through a miserable period of time due to untold sufferings brought about by the rise in terrorist activities throughout the country, and as the governments formed during the past few years had not been serious enough about initiating a dialogue with terrorists, His Majesty as the protector of the Constitution and the symbol of national unity, had no alternative but to declare a state of emergency to meet the exigencies in exercise of His State authority and in keeping with the spirit of the Constitution of the Kingdom of Nepal, 1990 and taking into account Article 27 (3) of the Constitution, to protect and preserve the sovereignty of the Nation. His Majesty the King has also, in accordance with clause (8) of Article 115 of the Constitution, suspended sub-clauses (a) freedom of thought and expression, (b) freedom to assemble peaceably and without arms, and (d) freedom to move and reside in any part of Nepal, of clause (2) of Article 12; clause (1) of Article 13 press and publication right which provides that no news item, article or any other reading material shall be censored; and Article 15: right against private detention; Article 16: right to information; Article 17: right to property; Article 22: right to privacy; and Article 23: and the right to constitutional remedy (with the exception of the right to the remedy of habeus corpus) of the Constitution of the Kingdom of Nepal, 1990 (2047).

The Permanent Mission would further like to inform the Secretary-General that such measures are not inconsistent with Nepal's other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

The Permanent Mission would also like to inform the Secretary-General that the non-derogable rights as set forth in Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 of the International Covenant on Civil and Political Rights, which are guaranteed by the Constitution of the Kingdom of Nepal, 1990, have been kept intact."

29 March 2005

"... following the declaration of a State of Emergency throughout the Kingdom of Nepal on 1 February 2005, [the Government of Nepal] has derogated itself from the obligations under the articles, mentioned below, of the International Covenant on Civil and Political Rights (ICCPR) for a period of the State of Emergency in the country. 1. Derogation from Article 19 of the ICCPR following the suspension of sub-clause (a) of Clause 2 of Article 12, Clause (1) of Article 13 and Article 16 of the Constitution (freedom of opinion and expression, right to press and publication and right to information respectively). 2. Derogation from Articles 12.1 and 12.2 of the ICCPR following the suspension of sub-clause (d) of Clause 2 of Article 12 of the Constitution (freedom to move and reside in any part of the Kingdom of Nepal). 3. Derogation from Article 17 of the ICCPR following the suspension of Article 22 of the Constitution (right to privacy). 4. Derogation from Article 2.3 of the ICCPR following the suspension of Article 23 of the Constitution (right to constitutional remedy except the writ of habeas corpus)."

5 May 2005

On 5 May 2005, the Secretary-General received from the Government of Nepal a notification, dated the same, informing him that, as required by Article 4 (3) of the International Covenant on Civil and Political Rights, 1966, that His Majesty the King has, in accordance with clause (11) of Article 115 of the Constitution of the Kingdom of Nepal, 1990 (2047), revoked the Order of State of Emergency proclaimed on 1 February 2005 in respect to the whole of the Kingdom of Nepal.