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NEPAL: DISSENTING VOICES AT RISK

The arrests of CK Raut and fellow Madhesi activists on 25 and 26 November for attempting to hold a rally in Kathmandu constitute violations of the rights to freedom of expression and peaceful assembly; the Government of Nepal must actively protect the space for political debate, including dissenting views on the constitution.

Altogether, the Nepal police and Central Investigation Bureau (CIB) arrested more than 300 people and held some 30 individuals, including Raut, for up to 48 hours. No one has been charged with an offence.

CK Raut, a vocal proponent of independence for a region in southern Nepal called Madhesh, was first arrested in September and charged with sedition on 8 October 2014 for his alleged involvement in “anti-national activities” after he called for an “independent Madhes” at a public rally in Morang. He was released on payment of bail on 24 November from Kathmandu’s Dillibazar Central Jail. Raut and his supporters immediately made plans using social media to hold a rally on 26 November, during the SAARC summit, in the Sundhara area of Kathmandu where Raut was to address his supporters.

Human rights defenders in direct contact with those arrested told Amnesty International that CIB officers in plain clothes began arresting Raut’s supporters on 25 November. Deepak Sah, Roshan Jha and Dharma Lal Rai Yadav, who are close to Raut, were held in detention for 40 hours without access to a lawyer, and their families were not informed of their whereabouts. Sah’s laptop and mobile phone were also confiscated. Other Madhesi members of Raut’s movement in southern Nepal, home to the majority of Madhesis, were prevented from travelling to Kathmandu for the rally.

On the day of the proposed rally, Nepal police entered Sundhara and, according to activists, openly began arresting anyone with the physical appearance of a “Madhesi.” This discriminatory tactic also led to the arrests of a handful of non-Madhesis whom police officers considered to have “Madhesi” features, and Madhesis in the vicinity who were not Raut supporters. CK Raut himself, along with 25 of his supporters, was surrounded by police and charged with “lathis” (long wooden sticks). He was taken to Maharajgunj police station with 11 others and allegedly hit in the face by a policeman.

Police arrested more than 300 people and transported them in groups to police stations in Balaju, Maharajgunj and Hanuman Dhoka. The majority were released within 24 hours.

CK Raut and 29 of his supporters were held without charge until 28 November.

In a public statement on 17 October 2014, Amnesty International expressed grave concern at the sedition charges brought against CK Raut by Nepal's Special Court for the peaceful expression of his secessionist views.

By suppressing the rally on 26 November, the authorities sent a message that it overstepped the boundaries of acceptable political debate. Whatever the government's view of the opinions held by Raut and his supporters, it still has an obligation to protect the right to freedom of expression and peaceful assembly, as enshrined in Article 7.7.1 and Article 7.4.1 of the Interim Constitution of Nepal and Articles 19 and 21 of the International Covenant on Civil and Political Rights.

Furthermore, in the run up to the 22 January Constitution deadline, the Government of Nepal must ensure debates concerning the needs of historically marginalized and economically deprived groups such as the Madhesis take place in a peaceful, inclusive manner which respects human rights.

Amnesty International calls on the authorities:

- To ensure that the right to freedom of peaceful assembly is respected in practice;
- To ensure that no person is arrested for lawfully exercising their right to freedom of expression, association or peaceful assembly and that all arrests are carried out in accordance with the law and in line with human rights standards;
- To immediately drop all charges against CK Raut.

Background

The lowland plains area comprising roughly the lower third of Nepal's territory is referred to as the 'Terai,' or 'Madhesh'. It is inhabited by approximately 50% of Nepal's population, the majority of which are generally known as Madhesis who have family, cultural and economic links with India and who have historically faced discrimination in Nepal.

Although Nepali and international law protects freedom of peaceful assembly and expression, unwarranted restrictions have been imposed on different communities in Nepal curtailing their right to peaceful protest, including by prohibiting and preventing demonstrations and arresting protestors.

In February 2008, Nepal police used excessive and lethal force during demonstrations by members of the Madhesi community. A month later, when a wave of protests erupted in Tibet, hundreds of Tibetan demonstrators were detained in Nepal. In March 2010, police arrested and detained at least 34 Tibetan demonstrators in connection with the anniversary of Tibet's National Uprising in 1959, and in May 2012, police prevented a rally organised by the Nepal Federation of Indigenous Nationalities (NEFIN) against the federalist structure proposed by the government. Police injured a dozen protestors in the

crackdown.

Most recently, on 5 November 2014 the police used a “lathi” charge against conflict victims and their supporters who were peacefully protesting outside the District Administration Office in Kathmandu for an amendment of the Truth and Reconciliation Act which currently allows for amnesty for crimes committed under international law.