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Nepal: Lack of rule of law only adds to instability

In the midst of the conflict in Nepal and under a state of emergency, security forces are arresting dozens of civilians for their perceived "support" for the Nepalese Maoists and undermining human rights, Amnesty International said today.

"Journalists, academics, lawyers and human rights defenders have been arrested and detained for long periods of time simply because they are believed to be sympathetic to the Communist Party of Nepal - Maoist. They have not committed any criminal acts," Amnesty International stressed.

Freedom of expression, association and movement have been suspended since a state of emergency was declared on 26 November 2001. More than 70 journalists have been arrested since November 2001 and 28 remain in detention. Several lawyers have been arrested over the last few days, including Ramnath Mainali, Padam Prasad Baidik and Saligram Sapkota. The latter was reportedly detained at Chisapani army camp for his membership of a forum of left-wing oriented people and tortured.

Gopal Budhathoki, editor of Sanghu weekly, was abducted by army personnel on his way home on 3 March 2002. The Prime Minister had acknowledged on 6 March that he was in custody in Kathmandu but two weeks later still no one has been allowed to see him and there are fears he may be tortured.

On 16 March, Shyam Shrestha, a journalist, Dr Mahesh Maskey, a medical doctor, and Pramod Kaphley, a human rights activist, were arrested on their way to attend a conference in New Delhi, India, reportedly to discuss the current situation in Nepal with other intellectuals from the region. Their current whereabouts are still unknown.

Most of those arrested are held under the Terrorist and Disruptive Activities Ordinance (TADO) and have not been produced before a court of law. Although the Prime Minister promised legal provisions to protect human rights at the time the state of emergency was declared, the security forces have been arresting people, holding them incommunicado and often torturing them.

Amnesty International is calling on the government to fulfil its promise to protect human rights and ensure that the army and police operate within the law. There is an urgent need to create the proper legal framework to ensure people arrested under TADO are produced before a court promptly. There is also a need to issue specific orders as provided for in Article 115(7) of the Constitution to regulate the suspension of fundamental rights under the state of emergency.

"The security forces should be given specific orders based on law. Basic human rights such as freedom of expression and association will continue to be at risk until such legal provisions are in place," Amnesty International warned.

"It is clear that there is a grave law and order threat to the country, however in such a climate human rights must be protected with extra vigilance and army and police action must keep to international human rights standards."

Background

More than six years into the "people's war", launched by the Communist Party of Nepal, the insurgency has affected lives in almost all of the 75 districts of the country and resulted in over 3000 deaths. According to official sources, since the declaration of the state of emergency, more than 350 Maoists have been killed by the army and police. Amnesty International has appealed to the Prime Minister to ensure the right to life is upheld. It fears that among those killed are scores of civilians and Maoists who were deliberately killed as an alternative to being taken prisoner. The official version of such killings is that people were "killed in crossfire", "shot when trying to escape" or "shot when running away".

The CPN (Maoist) has been responsible for the deliberate killings of an estimated 450 civilians considered to be "enemies of the revolution", including alleged informants. The Maoists have also been responsible for execution-style killings of police officers who were wounded or taken prisoner or who had surrendered. In addition, in the period between February 1996 and late July 2001 they have taken approximately 500 hostages, tortured scores of people taken captive and imposed cruel, inhuman or degrading punishments, including an estimated 25 "death sentences". They have also recruited children as combatants.

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