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Nepal: Respect Basic Freedoms during Tibetan Holiday Season

The new government of Nepal should respect the rights of Tibetans in Nepal to freedom of expression, assembly and association, Amnesty International, Human Rights Watch and the International Commission of Jurists said today. These rights are guaranteed for all persons in Nepal by international human rights treaties to which Nepal is a party, including the International Covenant on Civil and Political Rights (ICCPR).

Since 2008, the government has carried out preventive arrests and policing restrictions on demonstrations and freedom of movement that deny the right to legitimate peaceful expression and assembly during anniversaries and festivals marked by the Tibetan community.

“The Chinese government has in the past put strong pressure on Nepal not to allow Tibetans to protest,” said Brad Adams, Asia director at Human Rights Watch. “We can see that in trying to comply with the wishes of the Chinese government the Nepalese authorities have effectively banned any gathering of Tibetans thus violating their freedom of movement.”

The Nepal authorities have already started employing similar tactics to silence the Tibetan community this week. On the morning of 8 March 2011, a group of approximately thirty Tibetans were prevented by police from travelling to Namu Buddha, a Buddhist pilgrimage site in Kavre district as part of Losar (Tibetan New Year) celebrations. The group, mainly consisting of elderly women and children, had hired a bus to pick them up from the Tibetan refugee centre at Ekantakuna, Lalitpur but were not allowed to board by police. When the group asked why they were being stopped the police stated they were ‘following orders from the Home Ministry’. No legal reason was given. Such restrictions on individuals’ freedom of movement is not only unjustified but is also illegal under domestic and international law.

The government of Nepal claims that demonstrations violate its ‘One China’ policy. However, the government cannot set aside its domestic and international legal obligations in pursuit of this policy. In an attempt to appease the Chinese authorities the Nepali government has ended up imposing a blanket ban on the movement of groups of Tibetans at a time they are celebrating Losa, including important religious pilgrimages.

Nepal’s Public Security Act (Section 3.1) has been used to justify holding individuals thought to be organizing demonstrations in preventive detention. This violates international prohibitions on arbitrary arrest and detention. The Supreme Court of Nepal has on more than one occasion found that such a use of preventive detention orders fails to fulfil the requirements set out in Article 25 of the Interim Constitution.

“The detention of individuals on dubious grounds using broadly defined laws only goes to highlight how unjustified these arrests are”, said Roger Normand, ICJ Asia-Pacific Director. “The fact that the police are often unable to charge individuals with recognizable offenses and bring those cases to court suggests that there is inadequate evidence of a crime having been committed in the first place.”

The extensive use of checkpoints where Tibetans are removed from buses or cars, and the enforcement of large security zones, such as around the Bouddhanath stupa, could also be construed as a discriminatory application of the law based on ethnicity and political affiliation, and may constitute a violation of Article 2.1 and 26 of the ICCPR, the groups said.

“The restriction imposed on Tibetan’s in Nepal in recent years must not be repeated,” said Madhu Malhotra, deputy director, Asia-Pacific Programme at Amnesty International. “The singling out of one community smacks of discrimination and continuation of this policy will place a black mark on the human rights record of the government.”

Amnesty International, Human Rights Watch and the International Commission of Jurists recognize that the government may legitimately limit access to sensitive areas in order to address threats to public safety and security, but urges the authorities to limit restrictions to those clearly necessary to protect demonstrators and the public from harm.

This year's anniversary provides the government now taking office with an opportunity to avoid serious conflict between police and demonstrators by taking reasonable measures, including pre-emptive consultation with leaders of the Tibetan community, the groups said. Such measures will ensure that those who wish to express their views are able to do so peacefully and without unnecessary, restrictions.

Notes to editors:

10 March 2011 is the anniversary of the failed 1959 Tibetan uprising that led to the Dalai Lama to flee to India. In 2008, a wave of largely peaceful protests that swept across the Tibetan populated in China marked this anniversary. In the ensuing crackdown, the Chinese authorities committed human rights violations.

For more information see Amnesty International report Tibet Autonomous Region: Access Denied <http://www.amnesty.org/en/library/info/ASA17/085/2008/en>

To read about Amnesty International recent work on Tibet, please see the following:

Jigme Gyatso, a Tibetan prisoner of conscience and former monk, is suspected to be seriously ill as a result of torture and ill-treatment.

<http://www.amnesty.org/en/library/info/ASA17/002/2011/en>

Dhondup Wangchen is in prison for making a documentary, “Leaving Fear Behind” highlighting Tibetans’ views on human rights in Tibet.

<http://www.amnesty.org/en/appeals-for-action/call-china-release-tibetan-film-maker>