



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission

केन्द्रीय कार्यालय, Central Office

हरिहर भवन, पुल्चोक, ललितपुर, HariharBhawan, Pulchowk, Lalitpur, Nepal



(For immediate use of Media)

1st November, 2015

Monitoring Report on the Situation of Human Rights Regarding the Agitation After and Before the Declaration of the Constitution of Nepal

After the declaration of the constitution of Nepal there has been agitation from various political parties and groups with demands including demarcation of boundaries. In relation to these movements, National Human Rights Commission had monitored the situation in Ilam, Dhankuta, Jhapa, Morang, Sunsari, Saptari, Siraha, Khotang, Dhanusha, Mahotari, Sarlahi, Rautahat, Bara, Parsa, Chitwan, Kathmandu, Lalitpur, Nawalparasi, Rupandehi, Kapilbastu, Baglung, Dang, Banke, Surkhet, Jumla, Kalikot, Bardiya and Kailali districts. In 14 of these districts a high level team was also deployed to monitor the situation. This brief report is released on the basis of the monitoring carried out by the commission.

It has been found that there have been various agitations and violation of human rights in this relation due to the lack of timely implementation of agreements between the government and various parties and groups. It has also been found that there has been lots of obstruction in enjoyment of multiple rights of the citizens, individuals and communities due to the movements. The following are the main facts found through the monitoring conducted by the commission:

Findings

- In the agitation organized by various political parties and groups after and before the declaration of the constitution of Nepal, 49 people including the 18 months old infant have lost their lives and minimum 729 people have been injured. Such incidents have happened due to the excessive use of force by the security personnel and the use of domestic weapons by the agitators during the demonstration.
- In some districts incidences of the use of violence and misbehavior against the captives in the police custody and throwing of stones and other equipments by the agitators against the security personnel have been found.
- Rights of the citizens and professional including freedom of peaceful assembly without weapons, freedom of movement, profession, occupation, freedom to establishment and functioning of industries and trade have been affected due to the long term curfews, declaration of violence zone, prohibition area and indefinite bandh by the agitating parties without prior information.
- Vandalisation of the individual houses, hotels and media houses even during the time and area of curfew.
- Obstruction in the enjoyment of rights to information of the citizens through media such as publication and broadcasting in certain area of agitation. Obstruction in the television



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission

केन्द्रीय कार्यालय, Central Office

हरिहर भवन, पुल्चोक, ललितपुर, HariharBhawan, Pulchowk, Lalitpur, Nepal



broadcasting, distribution of newspapers in some districts by the agitators. Vandalisation of the press vehicles, arson and obstruction in the FM Stations and publication of newspapers. Obstruction in the regular activities of the journalists and media from both agitators and security forces.

- Public expression of the journalists of being under self-censorship due to pressure from both sides.
- During this period there has been violence and abuse from both agitators and security forces towards personnel assigned for monitoring from National Human Rights Commission in Jumla and other human rights defenders including and staffs of the Human Rights Commission in other parts. In this relation at least 29 human rights defenders have been directly affected. One journalist even shot in Surkhet.
- Social harmony maintained, due to the tolerance of the citizens of the affected area and social harmony that has prevailed among the people for centuries, despite provocative expressions; from certain individuals in the leadership position of the agitating parties, intended towards creating fear, disruption of social harmony and rising of hatred towards each other in the society.
- During the report period, according to the press statement issued by UNICEF, in Parsa district schools functioned only for 5 days out of 122 and 160,000 students have been deprived from the rights to education. Monitoring from the Commission has found that active political involvement of the teachers has also contributed to this situation.
- Pregnant women, senior citizens, disabled people's rights have been violated. Patients admitted to the hospitals are restricted from food and use of medicine due to lack of fuel. There is even the lack of essential medicine in hospitals.
- Due to the obstruction in smooth export and import of daily consumer goods resulted from Nepal-India boarder closure program of United Democratic Madhesi Front, consumers' human rights situation has been deteriorated. Nepalese and citizens and people from other countries living in Nepal have been directly affected. Due to the boarder centered movement, workers employed in Indian cargo vehicles are found scared of losing their jobs.
- In lack of consumer goods, festivals celebrated in Nepal have severely affected and due to the inflation, black market and artificial shortage, huge humanitarian crisis has emerged. In lack of fuel, monitoring and investigation activities of the Commission have also been affected. Human rights of the daily wage earners have been unimaginably affected. Obstacle in the regular passing of goods imported by Nepal even from third countries through border except those closed by the agitators is being publicly called unannounced sanction.
- Together with monitoring, the Commission has drawn attention and given instructions to the government and the agitators to make the agitation peaceful, not use excessive force and torture; and resolve the problem through dialogue. In this regard, there has been frequent



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission

केन्द्रीय कार्यालय, Central Office

हरिहर भवन, पुल्चोक, ललितपुर, HariharBhawan, Pulchowk, Lalitpur, Nepal



meetings and discussions with the Prime Minister to regional administrators, chief district officers, district level security chiefs and agitating parties.

- According to the statistics publicized by Nepal Chamber of Commerce, there has been deficit of minimum of 10 billion during this period; which indicates that Nepalese Peoples' not only the civil and political rights but also the economic rights are in the condition of getting violated.
- There has been expression of serious concern from various political parties, professional associations, organizations working in the field of human rights and humanitarian assistance in relation to the movements being violent instead of peaceful.

Conclusion of the Commission

- Due to the government's failure to address the then governments agreements made with the agitating parties and groups in order to address the then problems without sufficient homework; agitations on the same issues are held again and due to which life of the general people becomes difficult and the human rights are violated now and again; therefore, implementation of such agreements should be conformed through honesty from both sides.
- In spite of concerns expressed from various sectors in relation to the protest and monitoring from the Commission serious misuse of right to peaceful demonstration has been found. There has been obstruction in the enjoyment of multiple human rights and serious humanitarian crisis has been resulted.
- Violation of the rights to life of 49 people due to the excessive use of force from the side of the security forces and the use of domestic weapons by the agitating forces. At least 729 people have been injured. Killing of 32 people by the security forces and 9 by the agitators has been claimed, however; 5 of the killed ones have not been taken responsibility by any side and 3 others also have been killed due to the reasons related to the agitation.
- Use of excessive forces by the security forces can be seen through injuries in the chest and other parts above the knees in the bodies of the killed and injured through the bullets fired by the security forces and marks of the bullet found on the houses and shutters and the electricity poles lying nearby in the area of firing; there has been violation of United Nations provisions and Local Administration Act 2029, as well as lack of full implementation of the orders issued by the Supreme Court and the attention drawn by the Commission now and again.
- Use of excessive force from the side of security forces has been found due to the unavailability of security equipments even to the minimum extent as mentioned in the Local Administration Act to control the mob, long duty hours of the security personnel, lack of timely management of food and water, inability to use toilets, insufficiency of the safety shields and presence of very high number of demonstrators in compared to security forces in some places.



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission

केन्द्रीय कार्यालय, Central Office

हरिहर भवन, पुल्चोक, ललितपुर, HariharBhawan, Pulchowk, Lalitpur, Nepal



- Due to the transfer of security offices from rural areas to the headquarters and centralization in the regional level offices as a result of agitation, in the absence of security forces in the rural areas social crimes have risen and social security is being a challenge.
- Even in the condition of serious humanitarian crisis emerged from the violation of freedom to consume essential goods due to blocked in Nepal India boarder by the agitating Joint Democratic Madhesi Front have not shown even basic humanitarian sensitivity. There has been misuse of the rights to peaceful assembly due the prohibited no man's land centered demonstration in the Nepal India border.
- Demonstration in the no man's land in the border of Nepal and India which is against international norms and agitator's lack of sensitivity towards the impact in the relation between the two countries and their lack of realization of risk in the border area due to the use of Indian land and its impact in the relation of the two countries.
- There has been violation freedom of residence in some districts with release of the press statement issued by the Front demanding prohibition to give houses to rent to the family members of the security forces and leave district to some communities.
- Prohibition of certain TV channels and newspapers, vandalizing of medias houses, beating and abuses to the journalists, vandalizing of the vehicles of the media by the agitators and beating of the reporters by the security forces have caused violation to use of the rights to information, communication, press and publication.
- Due to the active participation of some teachers in the agitation instead of being involved in the implementation of the School Zone of Peace campaign, the students from the agitating areas are found to be in the condition of being unable to compete against the students from the areas of the country where the schools have been functioning more smoothly and regularly.
- Right to health has been found affected severely due to patients including pregnant women, person with disability, senior citizens failure to reach hospitals and lack of medicines, Oxygen and incidents of abuses to medical professionals during the agitation.
- Sever humanitarian crisis has been arisen due to the obstruction in the import of basic essential goods such as LPG gas, kerosene and medicines through Nepal-India border due to which lack of humanitarian sensitivity has arisen.
- Human rights of Nepalese and foreign consumers have been affected severely due to obstruction in transport of good imported from third countries in India mentioning lack of peace and security due to agitation of the Madheshi Front. Due to which Nepal's collection of revenue has been seriously impacted and enjoyment of economic and social rights has been directly affected.
- The cultural festivals of Nepalese people affected badly due to inflation, black marketing, artificial scarcity caused by the agitation and consumer's rights especially rights of daily wage earners has been affected unimaginably.



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission

केन्द्रीय कार्यालय, Central Office

हरिहर भवन, पुल्चोक, ललितपुर, HariharBhawan, Pulchowk, Lalitpur, Nepal



- It is found that right to life, right to liberty and security, right to peaceful assembly, freedom of expression, right against degrading behavior and ill treatment, right to education and health, child rights, cultural rights and consumer's rights have been affected severely by the incidents occurred during the agitation.

Recommendations and Suggestions

a. To the Government of Nepal and agitating parties

1. To come into conclusion with solution making consensus immediately through meaningful dialogue according to the aspiration of Nepalese citizens for respect and protection of human rights.
2. Do not conduct or get conducted any activities in the name of peace and order and agitation that violate civil rights and creates severe humanitarian crisis.
3. To ensure working environment for human rights defenders and journalists as they have been found to be insecure from the both sides -security agency and agitators by stopping such activities immediately and taking legal action against perpetrators.
4. To ensure and get ensured the rights including freedom of occupation, employment, business and operation of industries as human right of consumers have been found violated by inflation, black marketing, artificial scarcity due to the indefinite bandh, and obstruction in export import through Nepal-India border from which daily wage earners have been found more affected.
5. To take legal action against those involved in incitement of social harmony that agitators, opposition groups and some security forces on duty are found involved in such activities.
6. Both parties should be serious towards getting schools in agitating districts operated immediately.

b. To the Government of Nepal

7. To take legal action against individuals and personnel involved in killing incidents with the use of excessive force by the security agency (Nepal Police and Armed Police Force) and using domestic weapons by the agitators through criminal investigation immediately and provide appropriate relief and compensation to the victim's families.
8. To ensure not having the occurrence of violation in the respect and protection of human rights due to the same reason by timely implementation of agreements on human rights made by Nepal Government with various parties.
9. To end repeated acts of excessive use of force by security forces in many places ignoring implementation of suggestions and direction given by National Human Rights Commission, Supreme Court and United Nations High Commissioner for Human Rights.
10. To ensure freedom of movement and immediate and effective medical treatment for injured and sick people as there has been difficulty in reaching the destination for administration of



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission

केन्द्रीय कार्यालय, Central Office

हरिहर भवन, पुल्चोक, ललितपुर, HariharBhawan, Pulchowk, Lalitpur, Nepal



justice, education and medical treatment due to violation of freedom of movement of individuals caused by indefinite strike.

11. To manage and cooperate with Nepal Police for management of peace and order in the rural areas where social security has become challenging due to increment in incidents of social crimes caused by lack of presence of security forces as they have been centralized to district headquarters and areas based office due to agitation.
12. As there has not been smartness in the work of the security personnel due to the deployment of them in the field for long hours, unavailability of food and water in time, being unable to take rest when tired, insufficiency or lack of security shields, necessary equipments provisioned in Local Administration Act should be provided with.
13. To operate or get operated the schools located in the agitating district immediately and take departmental action against the teachers actively involved in the agitation and give information of this to NHRC.

C. To Agitating Parties

14. To change the modalities of the agitation immediately being responsible as there has been problems in the enjoyment of Nepalese Citizen's basic human rights due to the closure of Nepal-India border check points and main roads which has resulted in obstruction of import and export of goods through the border and in relation between Nepal and India.
15. To make the agitation peaceful by stopping the use of homemade weapons like lathi (sticks), guleli (small hand-powered projectile weapon), arose, axe, sickle by the agitators.
16. To implement and get implemented of diplomatic respect and international law being sensitive towards negative impact in Nepal-India relation due to the activities in the prohibited areas for demonstration and rally by sitting in protest and throwing stones towards Nepal by using Indian land under the agitator's border closure programs.
17. To ensure the rights of Nepalese citizens to celebrate cultural festivals observed according to their tradition.

d. To Others

18. To be active towards strengthening social harmony and not to express opinion that arise social conflict based on communal, geographical feelings by leaders and cadres of any political parties, police personnel, journalists and human rights activists as well as civil society leaders.
19. To obey the Human Rights Defenders Guidelines issued by the National Human Rights commission Nepal and the United Nations Declaration on Human Rights Defenders in relation to human rights defenders.

Thank you.

Sd.

Mohna Ansari

Member and Spokesperson