

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on minority issues

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Dear Mr. Adhikari

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on minority issues pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 25/18, and 25/5.

In this connection, we would like to bring to the attention of your Government information we have received concerning the allegations of **arbitrary arrest and detention of Dr. Chandra Kant Raut**.

Dr. Chandra Kant Raut is a social activist who peacefully advocates for the rights of the Madheshis and for a right to secession to be enshrined in Nepal's new Constitution. He is the Central Coordinator of the organization Alliance for Independent Madhesh (AIM).

According to the information received:

On 13 September 2014, a dozen police officers in two vans stopped **Dr. Chandra Kant Raut**'s vehicle and arrested him without a warrant. It is reported that the arrest took place at Aamtola Ward Number 3 of Rangeli Municipality after Dr. C.K. Raut had delivered a speech at a public rally in Morang calling for a right to secession to be enshrined in Nepal's new Constitution. It is alleged that Dr. C. K. Raut was remanded in custody on charges related to the Public Offence Act,

initially for six days, pending investigation into his alleged involvement in “anti-national activities” and a campaign for an “independent Madhes”, both of which reportedly amount to charges of treason.

On 18 September 2014, Dr. C. K. Raut was reportedly transferred to a detention facility in Kathmandu where he appeared before the Special Court, a court created in 2002 by legislative act to try special types of cases, for charges of treason. His detention was extended by the Special Court for an additional day.

The following day, the Supreme Court was due to hear the *habeas corpus* writ in relation to Dr. C. K. Raut’s detention, but did not address it. It is reported that the police then referred Dr. C. K. Raut to the Special Court and requested an extension of his detention. The Special Court subsequently extended the detention by two days. The Supreme Court issued a show cause notice, requesting the Special Court to provide justification for Dr. C.K. Raut’s detention.

On 22 September 2014, following another request by the police, the pre-trial detention of Dr. C. K. Raut was extended by the Special Court until 24 September 2014, which was the date of the next habeas corpus hearing. It is reported that on 24 September 2014, the Supreme Court dismissed the appeal of *habeas corpus* and that the Special Court extended Dr. C. K. Raut’s detention by 14 days.

The information received indicates that Dr. C. K. Raut is currently detained at Hanuman Dhoka Kathmandu detention facility and may be transferred to a teaching hospital in Kathmandu. Dr. C. K. Raut has reportedly initiated a hunger strike as a result of his alleged arbitrary detention and it is reported that his health is deteriorating significantly. Moreover, it is reported that the safety of Dr. C. K. Raut may not be effectively guaranteed in detention.

It is also reported that members of the organization Alliance for Independent Madhesh (AIM) have been subjected to harassment by the police. On 10 September 2014, police personnel reportedly intervened in a public and peaceful event organized by AIM in the Baradiya district. Police officers allegedly requested to stop the event, questioned the participants, and also went to their homes and intimidated them.

It is further reported that during the days following Dr. C. K. Raut’s arrest, several demonstrations protesting against Dr. C. K. Raut’s detention took place in the Terai region. Allegedly, at least six persons were injured and four protesters arrested during these protests.

While we do not wish to prejudge the accuracy of these allegations, serious concern is expressed that the prosecution for treason of Dr. C. K. Raut appears to be related to his peaceful advocacy activities and activism and ultimately the exercise of his right to freedom of opinion and expression. While we do not wish to express an opinion on whether or not the detention of Dr. C.K. Raut is arbitrary, the above allegations also appear to be in contravention of the right not to be deprived arbitrarily of liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR). We further express concern at the deteriorating health condition of Dr. C. K. Raut since he started a hunger strike. Concerns are also expressed relative to reported attempts by the police to interrupt peaceful events organized by AIM and allegations of acts of intimidation and harassment by the police of members of the AIM. Further concern is expressed at the allegations of excessive use of force by the police in the demonstrations that followed Dr. C. K. Raut's arrest.

In this regard, we would like to draw the attention of your Government to article 19, 21 and 22 of the ICCPR, to which Nepal is a party, which provides that everyone has the right to freedom of expression and the rights to freedom of peaceful assembly and of association, respectively. We recall that these rights play a central role in the effective functioning of a vibrant democratic political system and emphasise States' responsibility to ensure an environment in which a diverse range of political opinions and ideas can be freely and openly expressed and debated (see e.g. A/HRC/26/30).

We further wish to refer your Government to the Human Rights Committee's General Comment No.34 (2011) which insists that extreme care must be taken by States parties to ensure that treason laws are crafted and applied in a manner that conforms to the strict requirements of paragraph 3 of article 19 of the ICCPR and that States should not invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute activists, human rights defenders, or others, for having disseminated such information (CCPR/C/GC/34).

We also wish to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 6.

The information received highlights that Dr. C. K. Raut belongs to the Madheshi minority and indicates that his arrest is connected to his advocacy for the rights of that minority group. We therefore recall the provisions of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 4 of the Declaration requires States to ensure that persons belonging to minorities may

exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following:

1. Please provide any additional information and any comments you may have on the above-mentioned allegations.
2. Please provide information on the legal grounds for the arrest, detention and prosecution of Dr. C. K. Raut, and how these are compatible with the above mentioned international human rights norms and standards.
3. Please provide information on the possible actions led by the police aiming at interrupting peaceful events, especially those organized by AIM, indicating the legal grounds for such actions and how these are compatible with the above mentioned international human rights norms and standards.
4. Please provide information on existing measures taken to protect the rights of all individuals who legitimately exercise their right to freedom of opinion and expression and their right to assemble peacefully and associate freely, including persons espousing minority or dissenting views or beliefs, and to ensure that any restrictions on the free exercise of their right to freedom of expression and opinion and right freedom peaceful assembly and of association are in accordance with international human rights law and standards.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release

will indicate that we have been in contact with your Government's to clarify the issues in question.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Adhikari, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

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