

HUMAN RIGHTS IN THE TERAI

Situation Update

January 27, 2017



Focus on:

- *Tikapur detainees' family members waiting for fair and timely trial*

Background:

This report provides an update on the human rights situation in the Terai with a particular focus on Tikapur and the Far-Western Terai. It describes how the delayed justice delivery and procedural delay by the court affects the lives of the Tikapur detainees' families. The problems of the Tharu people are being highlighted by interviews with families and one villager below.

During the Constitution making process, the Tikapur incident on 24 August 2015, was the most disturbing in which 7 policemen and a child were killed in a violent protest. Because the protestors were from the Tharu community, after the incident many Tharu family fled their homes, their houses were burnt and many of them were arbitrarily arrested and tortured.

A commission has been formed under the chairmanship of retired Supreme Court Judge, Mr Girish Chandra Lal to probe into the cases in accordance with a political agreement reached on 2073/4/19 between the Madhes-based parties, the UCPN-M and the Nepali Congress. The same agreement paved the way to form new government under Pushpa Kamal Dahal. The new Prime Minister has agreed that false charges made against the cadets of Madhesi parties during the Madhes protest shall be withdrawn.

THRD Alliance human rights monitors conducted 5 interviews from 6 to 12 January 2017 with the family members of the persons charged with murder and other offences to get their views, see their sufferings and check the status of the cases as well as to see the present situation in the area. THRD Alliance monitors learned that police filed charges against 58 people for different crimes like murder, robbery, theft etc. Among these, 25 people have been arrested and their case is ongoing. Two juveniles Kiran Chaudhary (name changed) a 14-year-old of Munuwa VDC Ward no. 4 Himatpur, Kailali district and Suman Chaudhary (name changed) a 16-year-old of Munnuwa VDC Ward no.4 Latkaniya, Kailali district have been sent to Pokhara Bal Sudhar Griha (Child Reform Home, Pokhara).

According to the family members of five of the 25 who were interviewed the Nepal Police, all of them have been arresting and detaining arbitrarily. It appears that those who were arrested were either fairly well known in the village, or are those who took leadership roles or were active and that they were arrested simply based on suspicion and without any concrete evidence.

The detainees' families have been suffering immensely as in most cases their bread winner is in prison and not able to earn for the family.

Some Cases:

Case 1: Prem Bahadur Chaudhary-40 years old from Trishakti Municipality, ward no. 4, Padariya is a medical doctor who owned a medical shop in Bhajni, Kailali district. He was not involved in the protest at all. He was arrested on 2072/5/8/ afternoon at 4 p.m. on a charge of robbery, theft and

murder. Traditionally in the Tharu community, if a goat is ill and about to die, a group of people gathers and pay money to the owners and slaughter the goat and enjoy the meat together. On the very day, Prem Bahadur did the same as a neighbor's goat was sick and the group paid for the goat; slaughtered and enjoyed the meat together. The police officials thought they were celebrating the death of the seven police officials and the child who were killed in the Tikapur incident. The furious police took him in custody for the charge of robbery, theft and murder and imprisoned him as he was a leader in his village.

He is in the District Prison, Dhangadi along with 22 other alleged suspects arrested on the same charges. His lawyer Adv. Gajendra KC and Nathuram Mahato pleaded the case in the district court on 2072/6/24. The court has ordered to send them to prison for further trial. The lawyers have challenged this court order in the Appeal Court on 2072/9/29. The appeal is pending.

Since Prem Bahadur Chaudhary is in prison, his wife Krishni Devi Chaudhary is having a hard time being a breadwinner for the family. The medical shop is turned into a general shop now. She said "since my husband is not here to earn for the family and run the family, I have to do everything". She had never imagined that this day would come. She is facing difficulties running the family and her children's education is affected. She needs help in the shop and at home for household chores. She has to run the family as well as earn the living. He has two sons; the eldest was studying 10+2 when he got married and left studying. The younger left his school after SLC as the family couldn't afford his further education. They all help in the shop.

Krishni Devi travel 3 hours in a bus every two weeks to visit her husband in prison. She shared that her husband is waiting to be released and they wish to live a happy life together.

She also questions "why is justice prolonged?" She is waiting for justice. According to her, they were not involved in the protest last year but she mentioned she will fully take part in any protest in the future.

Case 2: Chuniram Chaudhary, 32-year-old of Joshipur-7, Badariya was accused of being involved in the Tikapur killings. The Nepal Police filed a case and took him into custody on 2072/11/27 at 4 p.m. for the charge of theft, robbery and murder. He is in the district prison, Dhangadi. His wife Manti Chaudhary is going through a very difficult time. She doesn't have support from her family members as her family has started to believe that her husband is guilty. She couldn't bear this blame and to avoid everything, she has started living separately. Previously, she was living in a joint family but later she couldn't take the blame and she got separated. She works as a maid to earn a living and pay for her 8-year-old son's school fees. If she doesn't go for work, she will have nothing to eat at night as whatever she earns is barely hand to mouth. She is living on a daily wage. She shared that due to lack of money, she can't even go to meet her husband in prison when she wishes to. She wants help for her son's education. Despite her hardship, it is very difficult for her to pay her son's school fee which is Rs.500/- per month. The major burden for her is the school fee or else she can earn living by being a maid and working in different houses.

The case was presented in a hearing by Adv. Nathuram Mahato and Adv. Kamal Dhimi in the District Court on 2072/12/1. The Court has ordered to send the detainee to prison while awaiting trial.

Due to money problems, she only manages to visit her husband once a month or sometimes once in two months as she has to earn. It takes 3.5 hours by bus so she doesn't get to work on that day. Therefore, she needs to manage everything ahead of time.

Case 3: Ram Prasad Chaudhary, 46-year-old of Joshipur-4, Chabahi, Kailali was arrested on the charge of robbery, theft and murder on 2072/5/8 at 3 p.m. Since then his wife, Prema Devi Tharu is living life as a destitute. Ram Prasad Chaudhary earned for the family; he worked in a local NGO and

was a social worker, lately he was also involved in politics. During the season he also helped in the field. They were managing a good life.

Since he is in the district prison, Dhangadi, it is very difficult for his wife to earn a living. She works in a tailor shop whenever she is free; stitching and sewing clothes. From this earning she manages to pay fees of her child schooling. Her son is studying BA and is in 2nd year but due to money crunch he did not get admission in 2nd year. The admission fee is Rs. 10,000/- and monthly fee is Rs. 700/- per month. It is very difficult to manage living. There are currently three members in the house now. Prema Devi, her father-in-law and her only son. Her father-in-law is very old and can't do any work. Mostly she works in her own field and grows rice and vegetables which is enough for the family. Sometimes, she works as a laborer as well. She mentioned that she has some neurological problem in her leg and thus needs to take medicine daily. She needs money for medication as well.

She needs to travel for 3 hours to go to the detention center to visit her husband. She shared that money is needed to visit her husband and she can't manage to find money to visit her husband very often. Therefore, she usually visits once in four months. It's been four months but she hasn't managed to visit him. She had a small general shop which was set on fire by an unknown person. She shared that her husband has diabetes and is under medication in the detention center. She has also been earning living by being a maid in others houses and working in the field as a laborer.

The case against him was presented in the District Court on 2072/6/24 by Adv. Gambhir Singh Ayer. The District Court ordered to send him in the prison pending trial. The lawyers appealed against the District Court order in the Appeal Court on 2072/9/29. The appeal is pending.

Case 4: Ramdaiya Tharu, wife of detainee Bir Bahadur-35 years old of Tikapur Municipality ward no. 1, Thanapur is living a life in agony. This has greatly affected the education of her children. One son and two daughters are school going children. Bir Bahadur Chaudhary used to sell Khukuri Cigarette from shop to shop and earn a living for the family. He was arrested on 2072/5/12 at 1 am while he was sleeping at home on charge of robbery, theft and murder. He is kept in the District Prison, Dhangadi. Ramdaiya is living life in hardship as she must earn for the family.

After Bir Bahadur's arrest, it is burdensome for his wife to be the breadwinner of the family as big responsibility is on her shoulder. Due to cash crunch, her son who is in grade 8 couldn't afford to pay for the registration of district level examination and thus the school announced that he will not be able to sit for the examination. When THRD Alliance staff heard this, they reached out to people seeking help to pay for the registration and got him back to school back to school. Mr. Sanjay Chaudhary-a businessman whose benevolent support of Rs.1000 got the child back to school. According to the conversation with Ramdaiya, her husband was innocent; he was taken from home saying that the police have some questions but he never came back. She also shared that she needs money for her womb operation. Her eyes were wet and full of queries and her children were sitting hopelessly beside her.

She works as a maid in hotels. She has to manage money to visit her husband. Therefore, she visits once in two months.

Adv. Gambhir Ayer presented the case in District Court on 2072/6/24. The District Court ordered to send him to the prison for further trial. The order has been challenged in the appeal court on 2072/9/29. The case is pending.

Case 5: Kebal Chaudhary, a teacher by profession shared that he had also been eyed by Nepal Police. Therefore, he had moved to India for a month. Though he is the principle of a school, his family faced hardship while he was away living in India. He has two sons and they are both married. The sons live in Gujarat, India and work as labourers to earn for the living. The wives and children live in Tikapur with the in-laws. The Tikapur incident was atrocious for everybody. He said that whoever has been

arrested in Tikapur is innocent as they were arrested from their home. Had they been involved, they wouldn't have stayed at home. The detainees' families have been facing hardship being a maid at different houses and earning living. The detainees' families' children's education is affected badly. Therefore, he, being a teacher, requests all the concerned people to do something for the children to continue their education despite the hardship.

Conclusion:

Tharu Struggle Committee has announced a protest from 27 Magh, which may cause violence. The Tharu community has been agitated as their family members have been kept in detention since more than a year awaiting trial. No proper and credible investigation has been conducted so far. Tharus are not happy with the proposed constitutional amendment proposal, as it does not include Kailali and Kanchanpur in Province 5. The Tharu leaders are also against the decision of the local body restructuring commission, which has submitted its report without proper consultation in the Terai districts. Members of the Committee are also angry that the NC, UML and CPN-MC are all set to agree to announce the date of local election soon. Thus, there is an urgent need to address Tharu concerns and dissatisfaction about unfair trial as well as political issues.

The accused was sent to judicial custody by the District Court Kailali. The victims filed an application to the Appellate Court, Dipayal but this court too endorsed the District Court's order to send the accused to judicial remand. Then the victims challenged the Appellate Court's endorsement of District Court in the Supreme Court. The case was scheduled for hearing in the Supreme Court thrice. On two occasions, the joint bench of Justice Baidyanath Upadhaya and Gopal Parajuli, which was supposed to hear the case, could not do so due to lack of time. While the case is still ongoing, Justice Baidyanath Upadhyay, retired from service meaning the case will be assigned to new division bench with new Justice. The case had hearing today on 27 January 2017 under the joint bench of Justice Jagdish Sharma Poudel and Justice Dr. Anand Mohan and it has been postponed until further notice.

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Terai Justice Center provides secretariat to Terai Human Rights Defenders (THRD) Alliance that works to promote equity and justice in Nepal by conducting research and litigations on issues of human rights violations and discrimination with a special focus on Terai.