



## Abuse of Right to Freedom of Assembly

### Issue Brief

**Factual Details of the Incident:** At least 8 policemen and a child<sup>1</sup> were killed in Tikapur, Kailali in the clash between the security personnel and protesters during a protest in Kailali district that turned violent on 24 August, 2015.<sup>2</sup> Head Constable of Armed Police force was reportedly burnt alive by the protesters. Protesters demanding for undivided Tharuhat, were armed with domestic weapons like spears, khukuris, sickles, slingshots and axes.<sup>3</sup>

**Issues Related to the Incident:** Abuse of the freedoms of right to peaceful assembly and right of expression; hate speech; murder of a minor.

### Legal Analysis of the Issues

An assembly is an “intentional and temporary presence of a number of individuals in a public place for a common expressive purpose”<sup>4</sup>. However the assembly has to be peaceful in order to be protected by International Human Rights Law.<sup>5</sup> The violent acts of protesters cannot be hidden behind the name of right to protest, as the issue here, is purely a subject matter of criminal law and the incident should not be given a political color. The protesters were armed with weapons such as spears, sickles, axes and slingshots, which is indicative of their pre-planned violent intent. Irate protesters killed police personnel using methods that created unnecessary sufferings. Protesters who employ violent means and methods to express their dissent should be strongly condemned.

---

<sup>1</sup> Republica, Dil Bahadur Chhantyal, ‘SSP among 8 killed by Tharuhat protesters’, available at <http://www.myrepublica.com/feature-article/story/26925/scores-injured-as-demonstrators-clash-with-police.html> [Accessed on August 25] The two-year old was the son of APF Assistant Head Constable Netra Bahadur Saud.

<sup>2</sup> Republica, Dil Bahadur Chhantyal, ‘SSP among 8 killed by Tharuhat protesters’, available at <http://www.myrepublica.com/feature-article/story/26925/scores-injured-as-demonstrators-clash-with-police.html> [Accessed on August 25]

<sup>3</sup> Himalaya, ‘Tension Grips Kailali Tikapur’, August 24 2015, <http://himalayatv.com/news/2015/08/24/tension-grips-kailalis-tikapur/:en>, [Accessed on 25 August 2015]

<sup>4</sup> OSCE, Office for Democratic Institutions and Human Rights (ODIHR), ‘Guidelines on Freedom of Peaceful Assembly’, OSCE-ODIHR, 2nd edition, p. 15, available at <http://www.osce.org/baku/105947?download=true> [Accessed on August 26 2015]

<sup>5</sup> UNGA, International Covenant on Civil and Political Rights (ICCPR), 1966, entered into force in force from 23 March 1976, Article 21 explicitly states right to “peaceful assembly” should be ensured, which implies that International Human Rights Law only ensures protection for it.

Another issue of concern here is, the political leaders' incitement to commit violence. The International Covenant on Civil and Political Rights 1966 (ICCPR) urges States Parties to prohibit any advocacy on the lines of national, racial or religious hatred and or constitutes incitement to discrimination, hostility or violence.<sup>6</sup> Political leaders should be cautious of what message they convey to their cadres and the public in general. Hate speech cannot be condoned in the name of freedom of expression.

For further information please contact

[akriti@inhuredinternational.org](mailto:akriti@inhuredinternational.org)

[priyanka@inhuredinternational.org](mailto:priyanka@inhuredinternational.org)

---

<sup>6</sup> *ibid* ICCPR, 1966, Article 20.