



**UNITED NATIONS
OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS IN NEPAL**



Press Release

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Media Ordinance

OHCHR is concerned that the 9 October 2005 Media Ordinance promulgated by His Majesty's Government violates international human rights standards, and that the 21 October seizure of broadcast equipment from an FM radio station without a judicial ruling shows lack of respect for the rule of law.

The International Covenant on Civil and Political Rights (ICCPR), ratified by Nepal, provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice" (ICCPR article 19(b)). The Covenant also provides that such rights may be "subject to certain restrictions, but these shall only be such as are provided by law and necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals" (ICCPR article 19(c)). The Human Rights Committee, which is responsible for interpreting and monitoring implementation of the ICCPR, has emphasized that restrictions on the exercise of freedom of expression must be necessary and proportional and must not put in jeopardy the right itself. The Committee also emphasizes that the State must specify the precise nature of the threat which justifies the restrictions and that overly general restrictions with harsh penalties can lead to interpretations that arbitrarily restrict freedom of expression, violating the Covenant.

OHCHR is examining provisions of the new Media Ordinance which considerably expand existing restrictions on the right to freedom of expression. OHCHR considers these restrictions too broad, ambiguously worded, and insufficiently focused on a specific threat. A general ban on the broadcast of news, recently enforced against FM radio, has been effectively introduced, without specifying any threat to national security or public order. The right of political parties to provide information on their programmes during election periods is weakened without explanation. Administrative authority is established to cancel journalists' licenses. Defamation provisions including criminal penalties are extended to cover broadcast media, contrary to the view of the United Nations Special Rapporteur on Freedom of Expression, who has stated that defamation cases involving the media should be resolved under civil law proceedings. These and other restrictions introduced by the government's Media Ordinance appear neither necessary nor proportional to any threat to national security or public order.

Fundamental liberties such as freedom of expression should not be restricted without regard for due process of law. The seizure of broadcasting equipment from Kantipur FM radio station during the night of 21 October 2005, without a prior court order and with a large deployment of armed police, raises serious issues regarding respect for the rule of law as well as respect for freedom of expression. In view of the ambiguity of the new legal provisions, some of which are

clearly in breach of Nepal's international human rights obligations, OHCHR urges that any further enforcement action should be undertaken only with prior judicial authority.