

# **Statement issued by Nepali civil society detainees**

Monday 24 April 2006, by [Collective / Multiple signers](#) (Date first published: 23 April 2006).

**Statement issued on 23<sup>rd</sup> April 2006 by a group of eminent Nepali citizens who were arrested in the capital, Kathmandu on April 8 while breaking curfew to press for democratic rights in Nepal.**

To the Ambassadors  
Of the European Union member states,  
The United States, India, China,  
and the Representative of the United Nations.

23 April 2006  
Duwakot, Bhaktapur District

Excellencies,

We civil society detainees, kept at the Duwakot Armed Police barrack, believe that your governments' welcoming response to Friday's address by King Gyanendra was based on a misperception of Nepali political reality and a misreading of the address itself. Though surely based on the best of intentions, your reaction has needlessly delayed a peaceful transition in the country at a critical hour, when millions of Nepalis are on the streets agitating for an immediate return to democracy. This show of people's solidarity carried out massively and peacefully all over the country and in Kathmandu Valley, deserves more respect than has been accorded by the international community.

While the royal address certainly indicated a step back by the king, and it might even have been adequate sometime ago, at the given moment it was grievously misplaced in both tone and substance. In terms of tone: the king justified his 1 February 2005 coup d'état; spoke in favour of the security forces despite their dubious record; did not acknowledge the need to engage the Maoist rebels; and ignored the incredible show of people power on the streets whose

essential demand is that kingship be abolished or made absolutely powerless.

In terms of substance, the king has talked about returning power that had been given to him for 'safekeeping', when the fact is that the events of 4 October 2002 and 1 February 2005 represented a naked power grab. Further, the king is not the custodian of sovereignty, which is naturally inherent in the people under the constitution of 1990 and it is not up to him to hand it back to the people.

Most importantly, those who welcome the royal address seem to believe that the king has unequivocally conceded sovereignty to the Nepali people. This is not our reading. Nowhere does 'sovereign' or 'sovereignty' occur in the Nepali original, unlike in the translation, apparently provided by the royal palace, where there is reference to "source of sovereign authority". In the Nepali original, the king refers to "state power remaining with the people" as part of listing the terms of reference of the government to be formed. This phrase is included only in passing, and does not amount to the king conceding sovereignty as residing in the people.

According to two jurists, both framers of the 1990 Constitution, who are included in our Duwakot group, 'state power' does not by any stretch of imagination translate as 'sovereign authority'. We believe that there is a sleight of hand involved here, by a royal palace intent on misleading the embassies. Overall, we conclude that the king is not prepared to transfer sovereign power.

As things stand, what king Gyanendra has asked the political parties to do is to set up a government with 'executive power' but without legislative authority. In substance and form, this government would have the same authority, under the much-maligned Article 127 of the Constitution, as given to governments constituted thrice and disbanded as many times by the king between October 2002 and February 2005. The government would be an executive at the king's command, meant to take responsibility for the excesses committed under the royal direct rule. It would only have the power over day-to-day administration, without authority to undo the

ordinances, appointments, and other actions of the king during his period of active rule.

Because the executive would act without the backing of a legislature, the king would be the authority of last resort, retaining the power of dismissing the sitting prime minister.

Given the royal palace's record, we know that the government to be formed would be hindered at every step as the latter seeks to pursue the publicly announced seven-party roadmap for peace and democracy. Nor would this government have the authority *ab initio* to challenge the army's current role and the ongoing militarisation of state and society by the royal regime. Further, the royal address seeks to retain the link of loyalty between the king and the army. This is a far cry from what is needed: a government that works on the mandate of the People's Movement and not that of the royal palace. In sum, the king's grudging concession does not address the great issues that cry out for resolution.

We appeal to your excellencies to also recall the many times that the royal palace has played the game of deception with you, and to introspect whether king Gyanendra, retaining all the powers as head of state not responsible to a legislature, will allow any forthcoming government to act independently. Your attitude seems to be "the king has given this much, take it and make the best of it". Unfortunately, neither the political parties nor we here in Duwakot, are confident that the royal palace will not intervene in the workings of the executive to be formed. This would be in line with the historical record of the royal palace victimizing the people whenever there has been a move toward genuine democracy.

We ask you, in the hours and days ahead, to be more alert to royal machinations and to support the political parties as they challenge the royal palace. For our part, we would hope that the political parties make a pro-active announcement and seize the moment. There is a need for such an initiative in order to prevent anarchy and dangerous collapse of state structures. For this, the political parties should unilaterally declare restoration of the Third Parliament and/or announce a parallel government. Thereafter, they

should consult with the Maoist rebels who have credibly indicated their intention to enter open politics, and announce elections to an unconditional constituent assembly. We hope that the international community will come forward with immediate recognition of such a unilateral declaration, required to prevent Nepal from sinking into the pit of one kind of extremism or another. In such an evolution, we see no role for king Gyanendra other than as a mute spectator.

Please note, Excellencies, that this is the only path to stability in Nepal which both the Nepali masses and the international community want so keenly. The world community, which has harboured such enormous goodwill for the Nepali people and which has been party to our nation-building and development efforts for more than five decades, must respect the maturity of the Nepali political discourse which is speeding the current, exhilarating People's Movement. Please also note, Excellencies, the kingship is not indispensable for the maintenance of Nepali nationhood, and that it should henceforth remain, if at all, at the cognisance of Nepal's 26 million citizens.

The latest announcement by the Indian Foreign Secretary, about respecting the will of the people of Nepal, we believe, provides a corrective to the error evident in the Indian government's initial welcome note. The Indian corrective, we believe, should be emulated by all other international players who wish the Nepali people well.

Sincerely,

Signed by:

Mr. Rupak Adhikari, Mr. Anubhav Ajeet, Mr. Bimal Aryal, Mr. Laxman Prasad Aryal, Mr. Ramesh Bhattarai, Mr. Kanak Mani Dixit, Dr. Saroj Dhital, Mr. Daman Nath Dhungana, Mr. Arjun Parajuli, Mr. Bhasker Gautam, Dr. Madhu Ghimire, Dr. Mahesh Maskey, Dr. Sarad Wanta, Dr. Bidur Osti, Dr. Bharat Pradhan, Mr. Charan Prasai, Mr. Padma Ratna Tuladhar, Mr. Malla K. Sunder

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