

NEPAL

Rajendra Dhakal

Rajendra Dhakal (pictured above with his wife and son), a lawyer and human rights defender, has not been seen since his arrest by police on 8 January 1999 from Jamdi, Khairnitar in Tanahun district. Also arrested with him were two teachers from the village, Prem Bahadur Thapa and Naya Datta Adhikari. All three were taken to the Bel Chautara area police office, a distance of about 10 kilometres away. On arrival at the area police office the two teachers were separated from Rajendra Dhakal who was put into a cell on his own. Prem Bahadur Thapa and Naya Adhikari were released two days later. The whereabouts of Rajendra Dhakal, last seen by the two teachers at the Bel Chautara area police office, remain unknown.

The police had obtained a warrant for the arrest of Rajendra Dhakal from the district court in June 1998 in connection with his alleged involvement in the killing of an assistant sub-inspector of police and the robbery of arms and explosives, suspected to have been carried out by members of the Communist Party of Nepal (Maoist) in Gorkha district in the context of a "people's war" declared by them in February 1996.

Rajendra Dhakal was first arrested in Gorkha district shortly after the start of the "people's war" on 28 February 1996. The court released him but he was re-arrested several times thereafter in connection with a number of charges against him including attempted murder and crimes against the state in Gorkha district. He was acquitted on all charges presented against him in Gorkha district court and, after each case, had been released on the orders of the court. Since charges of homicide and robbery were still pending against him in Tanahun district, he had reportedly gone into hiding and was staying with friends at the time of his arrest.

Rajendra Dhakal is originally from Harmi, Gorkha district, and was aged 30 at the time of his arrest. He is married with three children - two daughters aged nine and seven and a son aged three.

Rajendra Dhakal completed his law degree in 1988 after which he worked for 4 years as an assistant law worker in a law consultancy firm in Kathmandu. He returned to Gorkha in 1993 where he worked in a law firm *Pragati Kanuni Sewa Kendra* (Progressive Legal Services Centre) in the district headquarters, Prithivi Narayan Municipality. He also acted as an assistant lecturer at the Drabya Shah Multiple Campus, Gorkha, where he taught principles of general administration. He became a member of the Nepal Bar Association in 1988 and acted as the chairperson of the Nepal Bar Association, Gorkha District Court Bar Unit. He was also Chairman of the Gorkha district branch of the Forum for the Protection of Human Rights (FOPHUR), a national human rights organization.

Rajendra Dhakal acted as the district secretary of the *Samyukta Jana Morcha*, United People's Front, (UPF) (Bhattarai) until 1995. The UPF is the political wing of the Communist Party of Nepal (CPN) Maoist. Rajendra Dhakal is said to have resigned from this post when the Communist Party of Nepal (Maoist) announced the launch of the "people's war" in February 1996.

On 21 January 1999 a relative of Rajendra Dhakal lodged a writ of *habeas corpus* on his behalf in the Supreme Court. In his petition the relative stated that the two teachers, Prem Bahadur Thapa and Naya Datta Adhikari, after their release from the Bel Chautara area police office, had alleged that Rajendra Dhakal was taken from the Bel Chautara area police office to the District Police Office, Tanahun. He also stated that he made inquiries at District Police Offices in Tanahun, Nawalparasi, Kaski and Gorkha, the Western Region Armed Police Forces in Pokhara and Police Headquarters, Kathmandu, about Rajendra Dhakal's whereabouts. During inquiries made at a number of police stations in the period from 8 to 21 January, the relative was reportedly told by police officers at the District Police Office in Gorkha that Rajendra Dhakal was in their custody but he was not allowed to visit him.

In response to an order by the Supreme Court to the authorities to produce the detainee in court, the authorities responded by denying his arrest. At a further hearing on 23 March 1999, the Supreme Court ordered Police Headquarters to search for Rajendra Dhakal at all places of detention in the country. The response from Police Headquarters stated that charges of homicide were pending against Rajendra Dhakal at the Tanahun District court, in connection with the murder of a police sub-inspector and that police were searching for him. At a further Supreme Court hearing on 11 May 1999 the government attorney was ordered to present the details of the case pending against Rajendra Dhakal in the Tanahun district court to the Supreme Court. On 16 November 1999 the Supreme Court ordered that the two teachers who were arrested along with Rajendra Dhakal should be presented in court in order to record their statements. The court also ordered the Home Ministry to conduct its own inquiry. The Home Ministry responded by stating the Rajendra Dhakal had not been found in custody and that it had ordered the local authorities to ascertain his whereabouts. At the time of writing the *habeas corpus* petition was pending in the Supreme Court.

Background Information:

The establishment of multi-party democracy in Nepal in 1990 providing for a new Constitution with increased protection for human rights and the ratification of all major human rights treaties led to high expectations of an era of stability, development and increased human rights protection. Despite some improvements, progress towards bringing existing legal and administrative provisions fully in line with the principles enshrined in the Constitution and international standards has been slow and a climate of impunity has persisted among members of the police force. Nepal remains one of the poorest countries in the world and many people are denied their basic economic and social rights.

Reports of torture, alleged extra-judicial executions and "disappearances" have been reported in recent years in the context of a "people's war" declared by the Communist Party of Nepal (CPN) (Maoist) on 13 February 1996. Continued poverty and corruption are seen as among the main factors behind this conflict. Support for the "people's war" has been particularly strong in the most economically deprived areas of Nepal. The aims of the CPN (Maoist) include the establishment of a republican state. Members of the CPN (Maoist) have been responsible for scores of deliberate killings, abductions and torture of civilians. Grave human rights violations by the police, including hundreds of extrajudicial executions, dozens of "disappearances" and numerous incidents of torture and arbitrary arrests and detentions have been reported.

Amnesty International recognizes the responsibility of the Nepali state to maintain order and protect life and property, but asserts that this must be done by adherence to the human rights principles laid down in its Constitution and international standards to which it is a party. The organization calls on armed political groups to respect human rights and to halt abuses such as the abduction of civilians, hostage-taking, torture and unlawful killings.

Amnesty International is concerned about reports in recent years of an upsurge in human rights violations in Nepal, most of which have occurred in the context of a "people's war" declared by the Communist Party of Nepal in February 1996. The organization has called upon the government to ensure that all reports of extrajudicial executions, torture and "disappearances" are fully and impartially investigated and that those found responsible are brought to justice. It has also called on the CPN (Maoist) for an immediate halt to deliberate killings of civilians.

The re-emergence of "Disappearances" in Nepal?

Amnesty International is disturbed by a re-emerging pattern of "disappearances" and long-term unacknowledged detention in the context of police operations against suspected members of the CPN (Maoist). Since the beginning of 1998, Amnesty International has recorded a total of 44 "disappearances", all of which have occurred within the context of the Maoist "people's war". There is evidence to suggest that some detainees have been held incommunicado in unofficial places of detention, including the Police Training Centre in Maharajgunj, Kathmandu.

Several "disappearances" were reported in Nepal in mid-1985 in the context of a civil disobedience campaign against the government and a series of bomb explosions in the capital. The United Nations Working Group on Disappearances retains four un-clarified cases from that period. In at least two of these cases, there were credible reports that detainees had been held at the Maharajgunj Police Training Centre.

TAKE ACTION!

Please send telegrams/faxes/express/airmail letters/e-mails in English: -

- expressing concern for the safety of Rajendra Dhakal, whose whereabouts remain unknown following his arrest by police on 8 January 1999;
- calling on the government to take steps to investigate his fate and whereabouts and to make the findings public;
- urging that, if he is found to be in detention, he be promptly charged with a recognizably criminal offence, or immediately released;
- calling upon the government, if he is in detention, to safeguard his physical integrity and to allow him immediate access to his family, legal counsel and medical care;
- expressing concern at the deteriorating human rights situation in Nepal and appealing for a halt to human rights violations.

Addresses:

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Hon Purna Bahadur Khadka

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For further information see:

- Amnesty International, Urgent Action EXTRA 11/99 *Rajendra Dhakal, 30, lawyer, human rights defender* (AI Index: ASA 31/03/99)
- Further information on EXTRA 11/99 *Disappearance/Fear of Torture Rajendra Dhakal*, (AI Index: ASA 31/08/99)
- *Nepal: Human rights and security*, February 2000 (AI Index: 31/01/2000)
- *Nepal: Human rights at a turning point?*, March 1999 (AI Index: 31/01/99)
- *Nepal: Human Rights violations in the context of a Maoist "people's war"*, March 1997 (AI Index: 31/01/97)

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