

PUBLIC

AI Index: ASA 31/008/2003

24 January 2003

Further Information on UA 38/02 (ASA 31/014/2002, 6 February 2002) - Fear of torture/fear for safety

NEPAL

Janak Prasad Adhikari (m), accountant, aged 41

Janak Prasad Adhikari was reportedly rearrested by police today as he left Nuwakot district jail, Central Region following a Supreme Court order for his release. He was seen being taken away in a vehicle belonging to the district education office. There are unconfirmed reports that he may have been taken to the Nuwakot district police office.

Janak Prasad Adhikari, from Thangsing Village Development Committee, Nuwakot district, was first arrested on 1 January 2002. He had been working as an accountant in the office of the River Control Section, Irrigation Department, in Lalitpur district. When he did not return home from his office on the evening of 1 January 2002, his relatives concluded that he had been arrested. This suspicion was corroborated the following day when police officers searched his family home and took away citizenship cards, books and other documents. Janak Prasad Adhikari was later transferred to Nuwakot district jail.

On 21 November 2002, Janak Prasad Adhikari was allegedly released by order issued from the office of the Chief District Officer (CDO) in Nuwakot. On 25 November 2002, reports indicate he was again issued with a detention order and rearrested. Following hearings into a *habeas corpus* petition (requiring him to be brought before a court or judge) lodged on his behalf, on 20 January 2003 the Supreme Court ordered his release. However, on 24 January, when he was released from Nuwakot district jail, he was reportedly immediately rearrested outside the jail premises.

The reasons for the repeated arrests of Janak Prasad Adhikari are not known. It is believed that he may have been detained on suspicion of being a supporter or sympathizer of the Communist Party of Nepal (CPN) (Maoist).

BACKGROUND INFORMATION

Amnesty International has been concerned about the deterioration in the human rights situation in Nepal since the CPN (Maoist) declared a 'people's war' in early 1996. This concern has intensified since the army was mobilized and a state of emergency imposed in November 2001. Since then, the number of reports of alleged unlawful killings, 'disappearances', torture and arbitrary arrests and detention by the security forces has increased dramatically. The authorities have so far failed to provide or enforce strict instructions to the security forces to uphold human rights, or to take appropriate actions against those responsible for reported abuses. Amnesty International has also documented many grave human rights abuses by members of the CPN (Maoist).

Although the state of emergency expired in late August 2002 and has not been re-imposed, the security forces continue to have wide powers under the Terrorist and Disruptive Activities (Control and Punishment) Act (TADA), passed in April 2002. Under Section 9 and 12 of the TADA respectively, people can be held in preventive detention for up to 90 days and in detention for the purpose of investigation for 60 days. However, there is evidence to suggest that hundreds of people suspected of Maoist activities have spent more than one year in detention without being taken to court. In many cases it would appear that the security forces are using a loophole in the TADA to repeatedly issue new detention orders, even if the maximum periods of 90 or 60 days' detention as specified in the Act have expired.

There has been a tendency for the security forces to ignore court orders. The security forces' blatant disregard for the authority and independence of the judiciary is a particularly disturbing aspect of the human rights situation in Nepal. The Supreme Court itself, on 20 January 2003, urged the Prime Minister and Minister of Home Affairs to address the security forces' defiance of several court orders for the release of five detainees held under the TADA. The National Human Rights Commission has also called upon the government to ensure court orders are strictly implemented.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing concern for the safety of Janak Prasad Adhikari, who was reportedly re-arrested by police outside Nuwakot district jail on 24 January 2003;
- appealing to the authorities to make public his whereabouts and give assurances for his safety;
- urging that he be released immediately and unconditionally unless he is to be charged with a recognizably criminal offence;
- urging that he be treated humanely while in custody and not subjected to torture or ill-treatment;
- calling on the authorities to allow him access to his relatives, lawyer and a doctor should he be in need of medical attention.

APPEALS TO:

Prime Minister Lokendra Bahadur Chand
Prime Minister's Office
Singha Durbar
Kathmandu
Nepal

Telegram: Prime Minister, Kathmandu, Nepal
Fax: + 977 1 227 286
Salutation: Dear Prime Minister

Dharma Bahadur Thapa
Minister of Home Affairs
Ministry of Home Affairs
Shital Niwas
Majarajgunj
Kathmandu
Nepal

Telegram: Home Minister, Kathmandu, Nepal
Fax: + 977 1 241 942 / 244 484
Salutation: Dear Home Minister

Shyam Bhakta Thapa
Inspector General of Police
Police Headquarters
GPO Box 407
Naxal
Kathmandu
Nepal

Telegram: Inspector General of Police, Kathmandu, Nepal
Fax: + 977 1 415 593 / 415 594
Salutation: Dear Inspector General

COPIES TO: diplomatic representatives of Nepal accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 7 March 2003.