

UA 204/02

Fear of torture/ fear for safety/
possible "disappearance"/ medical concern

5 July 2002

NEPAL Sangita Khadka (f)] journalists

Atindra Neupane (m)]

Krishna Sen (m), editor of the Janadesh Weekly

The three people named above were arrested in the capital Kathmandu on 20 May. Sangita Khadka is said to be in need of medical treatment as a result of torture inflicted in detention. She is reportedly being held at the New Baneshwor Police post in Kathmandu. The whereabouts of Atindra Neupane are unknown, and Krishna Sen may have died in custody.

It is not known whether they were arrested by army or police personnel, or where they were taken after their arrest. There are unconfirmed reports that the three were initially taken to the Mahendra Police Club in Kathmandu.

On 26 June, it was reported that Krishna Sen had died in custody, although this has not yet been confirmed by the authorities. Local sources allege that he had been subjected to severe torture while in custody. His body was reportedly taken to a police hospital for post-mortem, although it is unclear by whom. His body has not been returned to his family and they fear it has already been cremated. Despite their appeals to the authorities, the family have not been given any information about the results of the post mortem.

Amnesty International wrote to the the authorities on 28 June calling for an immediate investigation into the circumstances of Krishna Sen's alleged death, for the findings to be made public and for the alleged perpetrators to brought to justice. The organization has not yet received a reply from the government.

The organization continues to be concerned about the fate and whereabouts of Sangita Khadka and Atindra Neupane, and over two dozen other journalists who have been detained by the authorities since the imposition of a state of emergency in the country. Those detained were suspected of being members of or sympathizers with the Communist Party of Nepal (CPN) (Maoist).

BACKGROUND INFORMATION

The CPN (Maoist) declared a "People's War" six years ago. Peace talks and an accompanying cease-fire broke down on 23 November 2001, after the Maoists withdrew from the talks and attacked police and army posts in 42 districts. Three days later the authorities responded by declaring a nationwide state of emergency and deploying the army.

On 10 April 2002, the Terrorist and Disruptive Activities (Control and Punishment) Act became law. It replaced an Ordinance of the same name, announced by the King after the state of emergency was declared. Under the Act, the authorities have wide powers to arrest people suspected of being involved in "terrorist" activities without a warrant, and search their properties. The Act will remain in force for two years.

Since the state of emergency was declared, thousands of people have been arrested throughout the country. Among them are many lawyers, students, journalists and teachers who are suspected of being members or sympathizers of the CPN (Maoist). The whereabouts of several of them remain unknown.

Under the state of emergency, a number of fundamental rights guaranteed in the Constitution have been suspended, including the rights to freedom of assembly, freedom of expression and to constitutional remedy. Although the right of *habeas corpus* (order requiring a detainee to be brought before a judge or into court) has not been suspended, very few *habeas corpus* petitions have been filed since the state of emergency was declared. Lawyers are afraid that if they lodge such petitions on behalf of people arrested as suspected CPN (Maoist) members or supporters, they may be arrested themselves for "supporting terrorism".

Following a recommendation to the cabinet by Prime Minister Sher Bahadur Deuba, parliament was dissolved on 22 May and fresh elections called for 13 November. The dissolution of parliament came at a time when it seemed poised to reject a six-month extension to emergency rule. On 27 May King Gyanendra extended the emergency for a further three month period.

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

- expressing concern for the safety of Sangita Khadka and Atindra Neupane;
- asking the authorities to confirm their whereabouts;
- calling for Sangita Khadka and Atindra Neupane to be granted access to their relatives, lawyers and any medical treatment they may require;
- urging that they be released immediately and unconditionally, unless they are to be charged with a recognizably criminal offence;
- calling for an independent and impartial investigation into all allegations of torture and for those responsible to be brought to justice;
- calling on the authorities to confirm whether or not Krishna Sen died in custody and if so for his family to be formally informed;
- urging the authorities to institute an investigation into the reported death in custody of Krishna Sen, to make the findings public and to bring alleged perpetrators to justice;

APPEALS TO:

Rt Hon Sher Bahadur Deuba
Prime Minister
Office of the Prime Minister
Singha Durbar
Kathmandu
Nepal

Telegrams: Prime Minister, Kathmandu, Nepal

Fax: + 977 1 227 286 (It may be difficult to get through but please keep trying)

Salutation: Dear Prime Minister

The Hon Khum Bahadur Khadka
Minister of Home Affairs
Ministry of Home Affairs
Singha Durbar
Kathmandu
Nepal

Telegrams: Home Minister, Kathmandu, Nepal

Fax: + 977 1 241 942

Salutation: Dear Minister

Mr Pradeep Shamsheer J B Rana
Inspector General of Police
Police Headquarters

GPO Box 407

Naxal

Kathmandu

Nepal

Telegrams: 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 16 August 2002.