

PUBLIC

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Possible "disappearance"/Fear for safety/Fear of torture or ill-treatment

NEPAL

Bhim Bahadur B.K. (m)
Gauri B.K. (m)
Manrup Khatri (m)
Lil Bahadur Bogati (m)

The four men named above were released on 2 January on the orders of the Court of Appeal in Birendranagar, in the southwestern district of Surkhet, which ruled that they had been detained illegally. They had been held without charge for between seven months and two-and-a-half years. They were re-arrested immediately, outside the court building, by a group of around 50 security forces personnel in plain clothes.

There are unconfirmed reports that Lil Bahadur Bogati is being held at the Surkhet District Police Office, while the other three are believed to be held at the Surkhet Prison. However, the authorities in Surkhet have given no information about the men's whereabouts or legal status to their lawyers or families, and they are at grave risk of torture or "disappearance".

The security forces beat relatives of Lil Bahadur Bogati who attempted to prevent him from being re-arrested. They also detained two journalists who had recorded what happened. Moti Poudel, a reporter for the national newspaper *Kantipur*, and Kamal Panta, a cameraman for Kantipur Television, were held for several hours at the Surkhet District Police Office, and digital photos Panta had taken were erased.

Bhim Bahadur B.K., Gauri B.K., Manrup Khatri and Lil Bahadur Bogati were arrested at different times and under various circumstances, but by mid-December 2005 all were being held at Surkhet Prison beyond the period specified in their detention orders. It is not clear why they were arrested. On 28 December 2005, a *habeas corpus* petition was filed on their behalf at the Appeal Court in Birendranagar, requiring that they be produced before a court or judge.

Bhim Bahadur B.K. was arrested by soldiers on 5 August 2003 and detained for more than eight months at the No. 4 Bahini army barracks in Neware, Surkhet. On 18 May 2004, the authorities issued an order under the Public Security Act (PSA) for him to be held for 90 days in "preventive detention", and moved him to Surkhet Prison. The detention order was renewed periodically, until on 17 March 2005 an order was issued under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO), authorizing him to be detained for another six months. That order expired in September 2005.

Gauri B.K. was arrested by members of the security forces in Surkhet district on 25 February 2004 and, like Bhim Bahadur B.K., was detained illegally at the No. 4 Bahini army barracks in Neware. On 14 April 2004, he received a 90-day detention order under the PSA, which was renewed periodically until 5 May 2005, when he received an order under TADO authorizing his detention for a further six months. He, too, was transferred to Surkhet Prison and, since November 2005, has been detained without any formal order.

Manrup Khatri was arrested in Jumla district, north of Surkhet, on 19 July 2004 by local police and transferred to the custody of the army on 8 August. On 16 September 2004, he received a 90-day detention order under the PSA and was moved to the Surkhet District Police Office. After that order expired, he was transferred to Surkhet Prison and, on 15 March 2005, was served with a detention order under TADO, authorizing him to be held for a further six months. Even after that order expired, in September 2005, he remained in prison.

Lil Bahadur Bogati was first arrested by officers from the Surkhet District Police Office on 2 June 2005. Three days later an order was issued under TADO, authorising him to be held for six months in preventive detention, and he was transferred to Surkhet Prison.

BACKGROUND INFORMATION

In the course of the decade-long internal armed conflict, Amnesty International has documented thousands of arbitrary arrests and “disappearances” at the hands of the security forces. The human rights situation deteriorated further after the king seized power on 1 February 2005, with the security forces exercising virtually unchecked power. The practice of re-arresting people who have been freed on the orders of a court constitutes arbitrary detention and displays open contempt for the rule of law. Human rights lawyers also have signalled alarm over the practice whereby detainees arrested under the PSA have their status illegally converted to detention under the TADO, which allows for preventive detention for up to one year. Amnesty International believes that both the PSA and TADO contravene Nepal’s Constitution and international law and standards and should be revised or repealed.

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

- expressing concern for the safety of Bhim Bahadur B.K., Gauri B.K., Manrup Khatri, and Lil Bahadur Bogati, who were released on 2 January on the orders of the Birendranagar Court of Appeal, but immediately re-arrested by the security forces, and may be at risk of torture or ill-treatment;
- calling on the authorities to reveal the men's whereabouts immediately, and urging them to ensure that they are treated humanely and not tortured or ill-treated;
- calling for them to be freed immediately and unconditionally, in compliance with the order issued by the Court of Appeal in Birendranagar;
- calling on the authorities to grant them immediate access to their families, lawyers, and any medical attention they may need;
- calling on the authorities to instruct all law-enforcement agencies to halt immediately the practice of re-arresting those who have been released on the order of a judge.

APPEALS TO:

Minister Kamal Thapa
Minister of Home Affairs
Singha Durbar, Kathmandu, Nepal
Fax: +977 1 4225 156 or +977 1 4211 232
Salutation: Dear Minister

Minister Niranjan Thapa
Minister of Law, Justice and Parliamentary Affairs
Singha Durbar, Kathmandu, Nepal
Fax: +977 1 4220 684
Salutation: Dear Minister

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 23 February 2006.