

PUBLIC

AI Index: ASA 31/081/2005

19 October 2005

Further Information on UA 267/03 (ASA 31/033/2003, 17 September 2003) and follow-up (ASA 31/064/2005, 3 August 2005) - Torture and ill-treatment/incommunicado detention/fear for safety/medical concern

NEPAL

Krishna Khatri Chhetri (known as Krishna K.C.) (m), aged 34

Krishna K.C. was released on 22 September, on the orders of the Supreme Court, on the basis that his detention was illegal. However, police re-arrested him as he left the court, with lawyers, journalists and other human rights defenders present.

On 18 October, the Court of Appeal in Patan, a city neighboring Kathmandu, ordered that Krishna K.C. be held by police for an additional 15 days for further investigation into allegations that he was involved in a murder and in the planning of an armed attack by the Communist Party of Nepal (CPN) (Maoist). Krishna K.C. has already been detained illegally for more than two years without being charged with any offence. During this time he has allegedly been tortured and otherwise ill-treated, and he is in poor health.

He is held at the Hanuman Dhoka police station in Kathmandu, but says he is being taken elsewhere for interrogation sessions, during which he has been kept blindfolded and handcuffed, and has been threatened.

Krishna K.C. described the torture and other ill-treatment he has experienced in an interview published by the Nepali-language weekly *Prakash* on 26 September. He said that he was tortured repeatedly at various army barracks, including Bhairabnath Gan and Yudha Bhairab Gan, and by the Ranger battalion at Chhauni army barracks, all in Kathmandu. "I was given electric shocks and hit on the face until I bled," he told the news weekly. "The worst torture was being kept blindfolded for two years." He claims that he was beaten many times, and described one incident when he was kicked by members of the security forces while someone read out newspaper reports about his case. He also said that on one occasion, when he was being transferred from Bhairabnath Gan to Yudha Bhairab Gan, he was "taken to the jungle, put in a sack and beaten." Sources have told Amnesty International that he has scars on his back, and that he appeared "pale and swollen" during recent court appearances.

Krishna K.C. was first arrested without a warrant by plainclothes security forces in Kathmandu on 13 September 2003 and reportedly taken to Bhairabnath Gan army barracks, where he says he was severely tortured. Two *habeas corpus* petitions — requiring that he be brought before a court or judge — were filed in September 2003 and February 2004, but the authorities repeatedly denied that Krishna K.C. had been arrested.

In May 2004, the Supreme Court ordered Nepal's National Human Rights Commission (NHRC) to investigate his case. However, the Royal Nepalese Army (RNA) again denied that it was holding him and refused to allow NHRC representatives to visit Bhairabnath Gan barracks. On 14 June 2004 the Supreme Court ordered the Ministry of Defence to cooperate with the NHRC by making "necessary and suitable arrangements to implement the . . . court's previous order concerning Krishna K.C." When NHRC representatives visited Bhairabnath Gan, the security forces denied that Krishna K.C. was in their custody. Reliable sources indicated that he was being held in the barracks at the time.

On 15 February 2005, following another order by the Supreme Court to clarify the circumstances of Krishna K.C.'s arrest and disclose his whereabouts, the military reportedly confirmed that he had been arrested

under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO), which allows for preventive detention for up to one year.

At the time of his arrest, Krishna K.C. was vice-president of the All Nepal National Independent Student Union (Revolutionary), which was banned by the government because of its links with the CPN (Maoist). This may have been the reason he was arrested.

BACKGROUND INFORMATION

In the course of the nine-year-long conflict between government forces and the CPN (Maoist), Amnesty International has documented thousands of cases of arbitrary arrests, unacknowledged detentions, torture and "disappearances" at the hands of the security forces. The human rights crisis deteriorated further following King Gyanendra's seizure of power on 1 February 2005. The security forces regularly fail to produce detainees when ordered to do so by a judge, and often re-arrest prisoners immediately after they have been freed by the courts. This threatens the authority and independence of the judiciary, and seriously undermines the rule of law in Nepal.

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

- expressing concern for the safety of Krishna K.C., who was re-arrested by police on 22 September 2005, immediately after he was released on the orders of the Supreme Court;
- calling for him to be released immediately, in compliance with the Supreme Court order of 22 September;
- urging that he be treated humanely while in custody and not tortured or ill-treated;
- expressing concern over reports that Krishna K.C. has been tortured and is in poor health, and urging that he be given immediate access to his family, lawyers and any medical attention he may require;
- calling on the government to instruct relevant law enforcement agencies to halt immediately the practice of re-arresting those who have been released on the order of a judge, and expressing concern that the authorities have displayed, in this case and in numerous others, open contempt for the judiciary;
- calling on the government to undertake an investigation into the "disappearance", illegal detention, alleged torture and re-arrest of Krishna K.C., and urging that those responsible for committing or ordering these violations of his human rights be brought to justice in fair proceedings.

APPEALS TO:

Minister Dan Bahadur Shahi
Minister of Home Affairs
Singha Durbar, Kathmandu, Nepal
Fax: +977 1 4211232
Salutation: Dear Minister

General Pyar Jung Thapa
Chief of Army Staff (COAS)
Army Headquarters
Bhadrakali, Kathmandu, Nepal
Fax: + 977 1 4 242 168
Salutation: Dear Commander in Chief

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 30 November 2005.