

PUBLIC

AI Index: ASA 31/035/2004

16 February 2004

Further Information on UA 349/03 (ASA 31/091/2003, 28 November 2003) Fear for safety / possible "disappearance" New Concern: Torture/ ill-treatment

NEPAL                      Gyanendra Prasad Bidari (m), aged 45, farmer  
                                 Manoj Kumar Shah (m), aged 25, farmer  
                                 Kamal KC (m), aged 39, farmer

Released:                      Shyam Raj Acharya (m), aged 50, farmer

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Shyam Raj Acharya was released after 15 days in detention at Chhauni army barracks, Kathmandu. He was freed on condition that he reports to the security forces every week.

Amnesty International continues to be concerned about the safety of Gyanendra Prasad Bidari, Manoj Kumar Shah and Kamal KC who were reportedly arrested on 30 October 2003, 7 November 2003 and 13 November 2003 respectively.

There have been unconfirmed reports that Kamal KC was tortured when he was first detained. According to his family he has still not been formally charged and they are increasingly anxious about his safety.

#### **BACKGROUND INFORMATION**

Amnesty International has been concerned about a deterioration in the human rights situation in Nepal since the Communist Party of Nepal (CPN) (Maoist) launched a "people's war" in February 1996. Reports of human rights abuses by both the security forces and the CPN (Maoist) escalated after the army was mobilized and a state of emergency imposed between November 2001 and August 2002. Many people were arrested under the 2002 Terrorist and Disruptive Activities (Control and Punishment) Act (TADA), which gave the security forces the power to arrest without warrant and detain suspects in police custody for up to 90 days. Scores of people are reported to have been held for weeks or even months in illegal army custody without access to their families, lawyers or medical treatment. In 2002, Nepal recorded the highest number of "disappearances" of any country in the world. The CPN (Maoist) are also reported to have abducted scores of people.

Torture has been a longstanding concern in Nepal and is reported almost daily. Torture methods include rape, electric shock treatment, *belana* (rolling a heavy weighted stick along the thigh muscles), *falanga* (beatings on the soles of the feet), random beatings and mock executions.

Despite Nepal's ratification of the United Nations (UN) Convention against Torture in 1991, torture is not a criminal offence in the country. The 1996 Torture Compensation Act (TCA) allows victims of torture, or relatives of people who have died in custody as a result of torture, to apply to the district courts for compensation. Amnesty International is concerned that police and the judiciary are not fully adhering to the requirements of the TCA and that some officials are putting obstacles in the way of victims trying to file cases or requesting medical examinations in order to gain redress under the Act.

The UN Special Rapporteur on torture, the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson of the Working Group on Arbitrary Detention expressed "profound concern over reports that dozens of individuals are being detained secretly in Nepal and are therefore at risk of suffering torture and other forms of ill-treatment" in a November 2003 press release.

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

- welcoming the release of Shyam Raj Acharya;
- expressing concern about the allegation that Kamal KC was tortured when he was first detained, and calling for a full and impartial investigation into this allegation, with the results made public and anyone found responsible for torture brought to justice;
- calling for assurances that Gyanendra Prasad Bidari, Manoj Kumar Shah and Kamal KC be treated humanely and not tortured or ill treated whilst in detention;
- calling for them to be released immediately and unconditionally, unless they are to be charged with a recognizably criminal offence.

**APPEALS TO: (Faxes may be switched off outside office hours, 5 ½ hours ahead of GMT)**

General Pyar Jung Thapa  
Chief of Army Staff (COAS)  
Army Headquarters  
Kathmandu, Nepal

**Telegram: Commander-in-Chief, Army Headquarters, Kathmandu, Nepal**

**Fax: + 977 1 4 242 168**

**Salutation: Dear Commander-in-Chief**

Colonel Nilendra Prasad Aryal  
Head of Army Human Rights Cell  
Army Headquarters  
Singha Durbar, Kathmandu, Nepal

**Telegram: Colonel NP Aryal, Army Headquarters, Singha Durbar, Kathmandu, Nepal**

**Fax: + 977 1 4 226 292/ 229 451 (If someone answers the telephone please ask them in English to switch on the fax machine, and resend the fax).**

**Salutation: Dear Colonel**

**COPIES TO:**

Prime Minister Surya Bahadur Thapa  
Prime Minister's Office  
Singha Durbar  
Kathmandu, Nepal

**Fax: + 977 1 4 227 286**

**Salutation: Dear Prime Minister**

and 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 29 March 2004.