

PUBLIC

AI Index: ASA 31/051/2004

25 February 2004

Further Information on UA 326/03 (ASA 31/073/2003, 12 November 2003) and follow-ups (ASA 31/087/2003, 26 November 2003; ASA 31/107/2003, 16 December 2003; ASA 31/004/2004, 12 January 2004; ASA 31/011/2004, 28 January 2004) - Fear for safety/ medical concern/ arbitrary detention

NEPAL

**Bhagirath Kharel (m), aged 60, retired school teacher
Maha Prasad Angai (m), aged 22, teacher**

Amnesty International has received reports that Maha Prasad Angai is currently being held in the custody of the Royal Nepal Army's (RNA), at Baireni army camp, in Dhading district. He was reportedly arrested by security forces personnel in plain clothes on 7 November 2003 whilst walking in Sorahkutte, Kathmandu.

Relatives searching for Maha Prasad Angai reported his "disappearance" to the RNA Human Rights Cell at Singha Durbar in Kathmandu, who confirmed that he was held at Baireni army camp. The RNA Human Rights Cell also provided a letter of introduction to his family so that they might gain access to the camp and visit him in detention. However, when the relatives went to the camp, they were prevented from entering, though they were allowed to pass clothing to the guards on Maha Prasad Angai's behalf.

During a meeting between an Amnesty International delegation and the RNA Human Rights Cell in February 2004, senior army officers stated that all detainees were allowed access to their relatives, and that anyone experiencing difficulties should contact the RNA Human Rights Cell for assistance. In this case despite the cooperation of the RNA Human Rights Cell, army personnel at Baireni army camp continue to deny Maha Prasad Angai access to his relatives.

Bhagirath Kharel is still being held at the Central Jail in Kathmandu, following his rearrested on 30 December 2003. A judge had ordered that he be brought to court on 11 February 2004, but reports suggest this did not happen. His relatives are increasingly concerned for Bhagirath Kharel's health, as he suffers from a heart condition. He was previously taken to the government's Bir hospital in early January, but apart from this, has received little medical attention whilst in custody.

BACKGROUND INFORMATION

The human rights situation in Nepal has deteriorated since the Communist Party of Nepal (Maoist) launched a "people's war" in February 1996. Reports of human rights abuses by 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. On 29 January 2003, the CPN (Maoist) and the security forces agreed to a ceasefire. However, the CPN (Maoist) announced they were withdrawing from the ceasefire agreement on 27 August 2003. Since then, fighting between the two sides has resumed and there have been reports of human rights abuses committed by both sides in the conflict. In particular there has been a rise in the number of "disappearances" at the hands of the security forces and abductions by the CPN (Maoist).

The Public Security Act (PSA) allows people to be detained for up to 90 days without charge or trial on the orders of a local authority, which can be extended for up to 12 months with the approval of the Home Ministry and an Advisory Board. Since the beginning of the CPN (Maoist) insurgency it has been used by the government to detain scores of people suspected of sympathising with the CPN (Maoist). However, since 2002 the government has more frequently used the Terrorist and Disruptive Activities (Control and Punishment) Act (TADA) as a legal justification for detention without trial. One woman spent more than two-and-a-half years in almost continuous preventive detention under the PSA because she was rearrested under a new detention order each time she was released. The government claims that it detains people

under the PSA “to maintain the sovereignty, integrity or public tranquillity and order” of the country and not because it intends to prosecute detainees for criminal offences. Amnesty international believes that it is a violation of fundamental human rights for states to detain people they do not intend to prosecute. (For more information about the PSA see *Nepal: A spiralling human rights crisis*, ASA 31/016/2002, April 2002)

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

- expressing concern that relatives of Maha Prasad Angai continue to be refused access to him in Baireni army camp, despite having received written confirmation of his whereabouts, and permission to visit him in custody from the RNA Army Human Rights Cell;
- calling for him to have immediate access to his family, lawyers and any medical attention he may require;
- calling for him to be released immediately and unconditionally, unless he is to be charged with a recognizably criminal offence;
- expressing concern that Bhagirath Kharel has been detained without charge following his release on bail by the Appellate court, and expressing concern for his health in view of his heart condition;
- calling for Bhagirath Kharel to be released immediately, as he has been granted bail by the Appellate court.

APPEALS TO:

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

Telegram: Inspector General of Police, Naxal, Kathmandu, Nepal

Fax: + 977 1 4 415 593 /
4 415 594

Salutation: Dear Inspector General

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

Salutation: Dear Commander-in-Chief

Colonel Nirendra 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 (Faxes may be switched off outside office hours, 5 ½ hours ahead of GMT)

Salutation: Dear Colonel

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 April 2004.