

**PUBLIC**

**AI Index: ASA 31/080/2004**

**24 March 2004**

**Further Information on UA 24/04 (ASA 31/010/2004, 19 January 2004) "Disappearance"/Fear for Safety and new concern: Arbitrary detention**

**NEPAL            Pushpa Lal Dhakal (m), aged 31, farmer  
                      Gopi Bhandari (m), aged 27, businessman**

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Gopi Bahadur Bhandari has been released. Pushpa Lal Dhakal, who was thought to have "disappeared", is now reported to be in jail. Amnesty International is concerned that he appears to have been detained arbitrarily.

Gopi Bahadur Bhandari, who was arrested by armed security force personnel in Kathmandu on 15 January, was released on 10 March. The Army has reportedly written to the Supreme Court denying that he was ever detained.

Farmer Pushpa Lal Dhakal is now confirmed to be in Chandragadi jail, Jhapa. He was arrested by the army on 13 January, but is reported to have been transferred to the jail approximately ten days later. His sister was able to meet him on 22 February. The family has reportedly not been told whether Pushpa Lal Dhakal has been brought before a proper judicial authority, or what legislation he is detained under although they suspect he is being held under the Public Security Act (PSA). Before he was arrested he was reportedly threatened by both the Communist Party of Nepal (CPN) (Maoist) and the security forces: the CPN (Maoist) reportedly pressured him to give them food, and the security forces suspected him of involvement in the CPN (Maoist) rebellion because he had been visited by CPN (Maoist) members.

### **BACKGROUND INFORMATION**

Amnesty International has been concerned about a deterioration in the human rights situation in Nepal since the 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.

The 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 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)

On 29 January 2003, the government and the CPN (Maoist) agreed to a ceasefire, and held three rounds of peace talks, in April, May and August. The CPN (Maoist) had listed among their central demands a round table conference, the formation of an interim government and elections to a constituent assembly to draft a new Constitution.

The CPN (Maoist) announced they were withdrawing from the ceasefire agreement on 27 August 2003. Since then, fighting between the two sides has resumed throughout the country, and Amnesty International has received 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).

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

- welcoming the release of Gopi Bhandari
- expressing concern for the safety of Pushpa Lal Dhakal, who was reportedly arrested by 15 armed security forces personnel on 13 January and is now reportedly held at Chandragadi jail, Jhapa;
- urging that he be treated humanely while in custody and not tortured or ill-treated;
- calling for him to be released immediately and unconditionally, unless he is 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 2 May 2004.