

EXTERNAL

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*TORTURE IN POLICE CUSTODY*

**NEPAL**

There were several positive changes in the human rights situation in Nepal during 1990-91: the lifting of a thirty-year ban on political activity, the introduction of a new Constitution providing substantial human rights protection (including the prohibition of torture and provision against self-incrimination), and Nepal's accession to several international human rights instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The government of Prime Minister Girija Prasad Koirala, which came to office in May 1991 after the first democratic elections in over 30 years, has repeatedly declared its commitment to human rights protection, and the ruling Nepali Congress party included human rights protection in its election manifesto.

Despite these positive changes, however, it appears that torture in police custody is still being used, as was the case under previous governments, both as a means to obtain information or "confessions" by force and possibly, on occasions, to punish political prisoners.

The government has told Amnesty International that it intends to incorporate an element of human rights education in the training given to the police force. Amnesty International would welcome any such step and would hope that all police personnel will be made aware of the human rights of detainees as defined and protected both in Nepali law and in international human rights standards.

During the last twelve months, dozens of opposition supporters are reported to have been arrested on criminal charges and subsequently tortured, usually in regions where the opposition has strong local support. At least 18 people are known to have been tortured between the months of October and December 1992. In one instance the victim, Purna Bahadur Bishwokarma, died shortly afterwards. Although it has not been firmly established whether his death was directly related to torture, the available information suggests that it was related.

**Purna Bahadur Bishwokarma** was among six people arrested on suspicion of theft during the first week of November 1992 in Gorkha District in the west of the country. They were held incommunicado at the district police station for between 7 and 24 days and all were reportedly tortured before being released without charge. Purna Bahadur Bishwokarma, aged 61, is reported to have been receiving long-term medication for "psychotic depression" (no details available). Witnesses to his arrest state that the police forced him into the Daraudi river during arrest and that he appeared to be unconscious on arrival at the police station. According to those held with him, he remained without his usual medication while in detention and was beaten regularly with sticks and with *sisnu* (a plant which causes painful swellings on the skin).

Police allegedly forced him to incriminate four others, including his wife Sanumaya, who were later arrested. On his release he is said to have been unable to walk and was seen by several people crawling in the streets. He died six days after his release. The cause of death is apparently not known; reports cite a doctor stating that the post-mortem report indicated some bruising to the body, but did not give a cause of death.

Those detained with Purna Bahadur Bishwokarma were all medically examined following release and were found to bear injuries consistent with their accounts of torture. They reported having been subjected to severe and lengthy beatings, *falanga* (beating on the soles of the feet), being forced to jump up and down after *falanga*, punching and kicking; most were forced into the *kukhura* position and beaten (this involves the detainee's hands being loosely tied behind the back with a rope, then brought forward under the thighs, with the legs bent at the knee and with the head then pushed forwards between the legs and under the rope).

One of the detainees, who reported that the police had placed a rod across his hands and then stood heavily on it, was found to have a fracture of the left second metacarpal and another had a large infected ulcer on the sole of the left foot. Others were found to have bruising and swelling on the soles of the feet consistent with *falanga* and various other areas of bruising, tenderness and swelling.

### **Sindhuli District, central Nepal**

Seven men and one woman were arrested in Bhiman village on suspicion of involvement in the murder of two men on the evening of 26 October 1992. All eight were subsequently charged with murder, and six of them were reportedly tortured by police who allegedly wanted them to sign false statements implicating themselves or others. They report having been kicked and beaten repeatedly, one while suspended upside down, and another alleges having been threatened with death if he refused to sign a pre-prepared statement. All those arrested were sympathetic to the Communist Party of Nepal, United Marxist-Leninist (UML), which forms the main opposition to the ruling Nepali Congress party. They believe they were arrested because of their political affiliation, and deny any involvement in the crimes.

Witnesses at the murder scene are said to have identified the perpetrator as Mr S, a local supporter of the UML which has strong support in the area. Mr S was not among those detained, having apparently fled the scene.

Medical examination carried out some two weeks after their arrest revealed injuries consistent with their description of torture and ill-treatment.

### **Kathmandu**

A 24-year-old woman, Manikala Rai, was reportedly beaten and raped in police custody in Kathmandu in mid-December 1992 when she was detained overnight. She was released without charge the next day when, according to witnesses, she was crying, had torn clothes and complained that she had been raped by the police. She appeared exhausted and unable to stand. In addition to being raped, she is reported to have been kicked and beaten until she lost consciousness. A medical examination carried out after her release recorded injuries consistent with her account, including severe bruising on the chest, thighs, arms, face and head.

Several people who protested against the rape were arrested, including a lawyer, Rajesh Khadka, and photographer Dev Man Gurung who took photographs of Manikala after her release. It is not known whether they have been charged with any offence or whether they have been released. Before his arrest Dev Man Gurung was allegedly telephoned by a policeman who threatened him with death.

Five policemen, including a sub-inspector, are alleged to have been responsible for the assault and rape. According to reports, the sub-inspector has now been dismissed from the police force for having beaten and raped Manikala Rai, but it is not known whether any other disciplinary action has been taken.

Five people were also ill-treated and severely beaten during arrest by police in the town of Pokhara in Kaski District in the west of the country following a demonstration in late November 1992.

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The government has told Amnesty International that it is considering introducing a law against torture, as required by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Nepal is a party. Amnesty International welcomes this proposal. Torture is forbidden under Nepal's Constitution which states:

"No person who is detained during investigation or for trial or for any other reason shall be subjected to physical or mental torture nor shall he be given any cruel, inhuman or degrading treatment. Any person so treated shall be compensated in the manner determined by law". (Article 14.4)

"No person accused of any offence shall be compelled to be a witness against himself". (Article 14.3)

Although prohibited by the Constitution, torture is not as yet a specific criminal offence and there are no means by which victims of human rights violations, including torture, can initiate effective complaints nor obtain compensation through the courts. In addition to introducing a law against torture, Amnesty International believes that an independent complaints mechanism should be established. An effective complaints mechanism is a basic first step to allow the impartial investigation of all reports of torture. Finally, Amnesty International believes that the government's stated intention of introducing an element of human rights education into police training is essential if police and others in charge of detainees are to be made aware that torture will no longer be tolerated.

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To: Medical professionals  
From: Medical Office / Research Department - Asia  
Date: 19 February 1993

*MEDICAL LETTER WRITING ACTION*

**TORTURE IN NEPAL**

**Keywords**

Theme: Torture/ill-treatment

**Summary**

Although there have been several positive developments in the human rights situation in Nepal since the restoration of democracy in 1990, reports of torture continue. Information on recent cases of torture is given in the attached, including one apparently torture-related death, together with information on further measures to protect against torture which the Nepali Government has said it is considering.

**Recommended Actions**

Letters are requested from medical professionals to the addresses given below:

- expressing concern that there have been continuing reports of torture by police in recent months, including one instance in Gorkha District following which a 61-year-old detainee, Purna Bahadur Bishwokarma, died
- noting reports that he is said to have been in a very poor state when released from Gorkha District Police Office and asking whether there has been any inquiry into his reported ill-treatment in police custody and his subsequent death six days later; seeking information on the cause of death
- welcoming the improvements there have been in the human rights situation in Nepal over the last two years and urging that the government take further steps to ensure that torture is eradicated and that police practices in interrogation change to conform with Nepali law and international human rights standards
- requesting information on current procedures for the investigation of suspicious deaths in custody, including autopsy

**Addresses**

Sher Bahadur Deupa  
Minister of Home Affairs  
Ministry of Home Affairs  
Singha Durbar  
Kathmandu  
Nepal

Maheshwor Prasad Singh  
Minister of Law and Justice  
Ministry of Law and Justice  
Singha Durbar  
Kathmandu  
Nepal

Dinabandhu Aryal  
Assistant Minister  
Ministry of Law and Justice  
Singha Durbar  
Kathmandu  
Nepal

**Copies could be sent to any of the following:**

Gorkha District Deputy Superintendent of Police  
Office of the DSP  
Gorkha  
Nepal

Achyut K. Kharel (Head)  
Police Training College  
Lazimpath  
Kathmandu  
Nepal

Inspector General of Police  
Ratna Shumshere J.B. Rana  
Office of the IGP  
Kathmandu  
Nepal