

PUBLIC

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Fear of torture/fear for safety

6 February 2002

NEPAL

Janak Prasad Adhikari (m), Accountant, aged 39

Janak Prasad Adhikari did not return home from his office in Lalitpur district, Kathmandu, on 1 January 2002. There are fears that he has been arrested and is being held in incommunicado detention where he may be subjected to torture or ill-treatment. His current whereabouts are unknown, though he is believed to be held by the army at an undisclosed location.

Janak Prasad Adhikari, originally from Nuwakot district, Central Region, currently works as an accountant in the office of the River Control Section, Irrigation Department, in Lalitpur, Kathmandu. He had telephoned his family from the office at 1.30pm on 1 January, but failed to return home, after the office closed later that day. On 2 January police officers reportedly searched his home and took away citizenship cards, books and other documents belonging to the family.

The National Human Rights Commission (NHRC) and the International Committee of the Red Cross (ICRC) have been informed about the alleged arrest of Janak Prasad Adhikari. According to reports, when representatives of the NHRC asked the authorities about his case, they were told that he had not been arrested and that security forces personnel were "looking for him".

It is believed that Janak Prasad Adhikari may have been detained on suspicion of being a supporter or sympathizer of the Communist Party of Nepal (CPN) (Maoist).

BACKGROUND INFORMATION

Peace talks, aimed at ending the CPN (Maoist)'s five-year-old "people's war", and an accompanying cease-fire broke down on 23 November 2001, after the Maoists withdrew from the talks and attacked police and army posts in 42 districts. The authorities responded on 26 November by declaring a nationwide emergency, and deploying the army. The King also officially announced the Terrorist and Disruptive Activities (Prevention and Control) Ordinance (TADO), 2001, which grants wide powers to arrest people involved in "terrorist" activities. The CPN (Maoist) was declared a "terrorist organization" under the Ordinance.

According to official sources, more than 5,000 people have been arrested since the state of emergency was declared. Among them are many lawyers, students, journalists and teachers arrested throughout the country as suspected members or sympathizers of the CPN (Maoist).

To Amnesty International's knowledge, very few of those arrested have so far been brought to court. Under the TADO, they can be held without charge or trial for up to 90 days, extendable for another 90 days with the permission of the Home Ministry. It is suspected that many people are held in army camps without access to their relatives, lawyers or doctors. This is in violation of the Army Act which states that anyone arrested by the army has to be handed over to the police within 48 hours and the Constitution of Nepal which requires anyone arrested to be produced before a judicial authority within 24 hours.

Under the state of emergency, a number of fundamental rights guaranteed in the Constitution have been suspended, including the rights to freedom of assembly, freedom of expression and to constitutional remedy. Although the right of *habeas corpus* (order requiring a detainee to be brought before a judge or into court) has not been suspended, no *habeas corpus* petitions have been filed since the state of emergency was declared. Lawyers are reportedly afraid that if they lodge such petitions on behalf of people arrested as suspected CPN (Maoist) members or supporters, they may be arrested themselves under the Ordinance for "supporting terrorism".

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

- expressing concern for the safety of Janak Prasad Adhikari who has not been seen since leaving his office in Lalitpur, Kathmandu, on 1 January 2002;
- appealing to the authorities to make public his whereabouts and give assurances for his safety;
- urging that he be released immediately and unconditionally unless he is to be charged with a recognizably criminal offence;
- if it is established that he is held in custody, urging that he be treated humanely and not subjected to torture or ill-treatment;
- calling on the authorities to allow him access to his relatives, lawyers and a doctor should he be in need of medical attention.

APPEALS TO:

Rt Hon Sher Bahadur Deuba
Prime Minister
Office of the Prime Minister
Singha Durbar
Kathmandu
Nepal

Telegrams: Prime Minister, Kathmandu, Nepal

Fax: + 977 1 227 286

Salutation: Dear Prime Minister

Rt Hon Khum Bahadur Khadka
Minister of Home Affairs
Ministry of Home Affairs
Singha Durbar
Kathmandu
Nepal

Telegrams: Home Minister, Kathmandu, Nepal

Fax: + 977 1 240 942

Salutation: Dear Minister

Padam Kumar Acharya
Secretary
Ministry of Defence
Singha Durbar
Kathmandu
Nepal

Telegrams: Defence Secretary, Kathmandu, Nepal

Fax: + 977 1 228 204

Salutation: Dear Secretary

(Please note that it may be difficult to get through to these fax numbers, but please keep trying)

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 20 March 2002.