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05 February 2004

UA 42/04 **Fear for safety/ incommunicado detention/ fear of torture**

NEPAL **Tula Thapa (m), aged 36, Teacher**
Rajendra Adhikari (m), aged 30
Ram Bahadur Rana (m), aged 30
Man Bahadur Shah (m), aged 52

The four men named above were arrested on 1 February in the far west of Nepal. Several witnesses have reported that all four are being tortured in police custody. Relatives and lawyers have been denied access to the men, and so far the police have not presented them before any court.

All four men live in Bramhatole Village Development Committee (VDC), Bajura district. It is believed they are held in the District Police Office in Martadi, the Bajura district headquarters. Ram Bahadur Rana and Tula Thapa were reportedly arrested in Martadi, whilst Rajendra Adhikari and Man Bahadur Shah were arrested by security forces on patrol in Bramhatole VDC. Witnesses suggest that Rajendra Adhikari and Ram Bahadur Rana were arrested on charges of agreeing to buy rice which had been looted from the government Food for Work Programme by members of the Communist Party of Nepal (CPN) (Maoist). It is not known why Tula Thapa and Man Bahadur Shah were arrested.

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 detention in 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:

- expressing concern for the safety of Tula Thapa, Rajendra Adhikari, Ram Bahadur Rana and Man Bahadur Shah, who were reportedly arrested in Bajura district on 1 February 2004;
- expressing concern at reports that they are tortured and ill-treated during interrogation at the District Police Office, Martadi;
- asking for an impartial and independent investigation into the allegations that the four men were tortured and ill-treated to be undertaken immediately, and the perpetrators brought to justice;
- urging that all four men be treated humanely while in detention and not subjected to any further torture or ill-treatment;
- calling for Tula Thapa, Rajendra Adhikari, Ram Bahadur Rana, and Man Bahadur Shah to be allowed immediate access to their lawyers, family members and any medical treatment they may require;
- calling for them to be released immediately and unconditionally, unless they are to be charged with a recognizably criminal offence;

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

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

Fax: + 977 1 4 227 286 (Faxes may be switched off outside office hours, 5 ½ hours ahead of GMT)

Salutation: Dear Prime Minister

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 17 March 2004.