

PUBLIC

AI Index: ASA 31/048/2002

UA 199/02 Possible "disappearance"/ Fear of torture/
Fear for safety

28 June 2002

NEPAL **Janak Raj Shah (m) bank manager**

There are fears for the safety of bank manager Janak Raj Shah. On 26 June he was arrested from the premises of the Nepal Bank Limited in Kupondole, Lalitpur, by a group of people in plain clothes, believed to be security forces personnel. His whereabouts are unknown.

According to reports, at around 10.30am a white car with number plate Ba.1.Cha 7017 stopped outside the bank. A man and a woman got out of the car, entered the bank and asked for Janak Raj Shah. They were joined by other men dressed in civilian clothes, also believed to be security forces personnel, who arrested Janak Raj Shah. When colleagues in the bank challenged them to show identification, they said they did not carry any, and were from the security forces. They stated they were taking Janak Raj Shah for interrogation. When other staff in the office tried to intervene, the security forces personnel threatened them and told them to shut up. The men forced Janak Raj Shah into a taxi and took him away.

Relatives registered his arrest at the Lalitpur District Police Office on the same day, but the police there denied his arrest and said he may have been arrested by the army.

The reasons for his arrest are unknown but may be due to the fact that since he had recently visited Calcutta, the authorities may suspect him of having links with groups sympathetic to the Maoist movement in India.

BACKGROUND INFORMATION

The CPN (Maoist) declared a "People's War" six years ago. Peace talks 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. Three days later the authorities responded by declaring a nationwide emergency and deploying the army.

On 10 April 2002, the Terrorist and Disruptive Activities (Control and Punishment) Act became law. It replaced an Ordinance of the same name, announced by the King after the state of emergency was declared. Under the Act, the authorities have wide powers to arrest people suspected of being involved in "terrorist" activities without a warrant, and search their properties. The Act will remain in force for two years.

Since the state of emergency was declared, thousands of people have been arrested throughout the country. Among them are many lawyers, students, journalists and teachers who are suspected of being members or sympathizers of the CPN (Maoist). The whereabouts of many of them remain unknown.

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, very few *habeas corpus* petitions have been filed since the state of emergency was declared. Lawyers are afraid that if they lodge such petitions on behalf of people arrested as suspected CPN (Maoist) members or supporters, they may be arrested themselves for "supporting terrorism".

Following a recommendation to the cabinet by Prime Minister Sher Bahadur Deuba, parliament was dissolved on 22 May and fresh elections called for 13 November. The dissolution of parliament came at a time when it seemed poised to reject a six-month extension to emergency rule. On 27 May King Gyanendra extended the emergency for a further three month period.

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

- expressing concern for the safety of Janak Raj Shah;
- urging the authorities to make public his whereabouts;
- asking the authorities to ensure that he is not tortured or ill-treated in custody;
- urging that he be released immediately and unconditionally, unless he is to be charged with a recognizably criminal offence;
- calling on the authorities to allow him access to his relatives and lawyers, and any medical attention he may need.

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 (It may be difficult to get through but please keep trying)

Salutation: Dear Prime Minister

General Prajwal Shamsheer Rana JBR
Chief of Army Staff (COAS)
Kathmandu
Nepal

Telegrams: Commander-in-Chief, Kathmandu, Nepal

Fax: + 977 1 242 168

Salutation: Dear Commander-in-Chief

Padam Kumar Acharya
Secretary
Ministry of Defence
Singha Durbar
Kathmandu
Nepal

Telegrams: Defence Secretary, Kathmandu, Nepal

Fax: + 977 1 228 204

Salutation: Dear Secretary

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 9 August 2002.