

PUBLIC

AI Index: ASA 31/050/2002

UA 206/02 Torture and ill-treatment/
medical concern

8 July 2002

NEPAL Binod Tiwari (m) age 21, Assistant Editor

Assistant Editor, Binod Tiwari is reportedly detained at the Soraw Khutte police station in Thamel, Kathmandu. Since his arrest in late May, he has reportedly been questioned at the army headquarters in Tundikhel on several occasions. He may be in need of medical attention, as a result of allegedly being tortured whilst being interrogated.

Binod Tiwari was first arrested at his home in Kalanki, Kathmandu District, by security forces at 8am on 24 May. His editor Meena Sharma was arrested on the same day and is reportedly detained at the Central Jail in Kathmandu. Binod Tiwari was released a few hours later, but reportedly re-arrested at 6pm on 29 May at his office in Sundhara, Kathmandu. Two computers, a fax machine and press material were also reportedly confiscated and taken away.

Binod Tiwari works for a monthly publication called "*Ekyabaddata*", (Solidarity). The authorities believe "*Ekyabaddata*" has been critical of the government and supports the aims of the Communist Party of Nepal (CPN) (Maoist). His father, Jayanaran Tiwari is reported to be wanted by the authorities, as he is suspected of being a member or supporter of the CPN (Maoist).

BACKGROUND INFORMATION

Peace talks, aimed at ending the Communist Party of Nepal (CPN) (Maoist)'s six-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.

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 declaration of the state of emergency. Under the Act, the authorities have wide powers to arrest people suspected of being involved in "terrorist" activities without 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 Binod Tiwari who was arrested in Kathmandu on 29 May, and who has allegedly been subjected to torture and ill-treatment while in custody;
- asking the authorities to ensure that he is not subjected to further torture or ill-treatment while 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 provide him with adequate medical treatment and allow him access to his relatives and a lawyer.

APPEALS TO:

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

Telegram: Prime Minister, Kathmandu, Nepal

Fax: + 977 1 227 286 (It may be difficult to get through but please keep trying)

Salutation: Dear Prime Minister

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

Telegram: Home Affairs Minister, Kathmandu, Nepal

Fax: + 977 1 241 942

Salutation: Dear Minister

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

Telegram: Commander-in-Chief, Kathmandu, Nepal

Fax: + 977 1 242 168

Salutation: Dear Commander-in-Chief

Madan Prasad Aryal
Defence Secretary
Ministry of Defence
Singha Durbar
Kathmandu, Nepal

Telegram: Defence Secretary, Kathmandu, Nepal

Fax: + 977 1 228 204

Salutation: Dear Defence Secretary

Mr Pradeep Shamsheer J B Rana
Inspector General of Police
Police Headquarters
GPO Box 407
Naxal

Kathmandu, Nepal

Telegram: Inspector General of Police, Kathmandu, Nepal

Fax: + 977 1 415 593/415 594

Salutation: Dear Inspector General

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 19 August 2002.