

PUBLIC

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UA 228/05 Possible "Disappearance"/Fear for safety/Fear of torture or ill-treatment

NEPAL Radha Bhusal (f), aged 15, student
Geeta Nepali (f), aged 15

On 5 September, Radha Bhusal and Geeta Nepali were re-arrested by police shortly after they were released before the district court in Kapilvastu, in southern Nepal, close to the border with India. The reasons for their re-arrest are not known. They are at risk of torture, ill-treatment or "disappearance".

The girls were arrested in the presence of lawyers and other human rights defenders and taken away in a Toyota police van with the license plate "Ba 1 Jha 6431". The van drove off in the direction of the Kapilvastu district police station, in Taulihawa, the district capital, where it is believed that the girls are being held. When a lawyer asked about the detention of the girls, an officer at the police station replied, "You have done your job. Don't disturb us from doing our job." Later, police denied any knowledge of their detention.

Radha Bhusal was first arrested on 17 April 2005 by security forces in the neighbouring district of Arghakhanchi, where she comes from. She is a resident of the Khidim Village Development Committee (VDC), and attended the Pharsahawa Secondary School there. She was held for two days at the Thada army barracks in Arghakhanchi district, transferred to the Sandhikharka army barracks, in the district capital, for four days, and was then sent to the district police office in Sandhikharka. During this period she was held incommunicado and allegedly tortured by members of the security forces, including by being kicked and beaten. She was also reportedly subjected to sexual harassment.

Geeta Nepali, a resident of Pali VDC in Arghakhanchi, was arrested on 10 May 2005 and held overnight at the Sandhikharka army barracks before being transferred to the district police office. She too was held incommunicado and was allegedly kicked and beaten in custody.

On 17 June 2005, Radha Bhusal and Geeta Nepali were transferred to the Kapilvastu prison, where they were held under the provisions of the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO), which allows for preventive detention for up to one year. The girls were detained on suspicion of involvement with the Communist Party of Nepal (Maoist).

Lawyers from the Nepali rights group Advocacy Forum filed a *habeas corpus* petition on behalf of Radha Bhusal, Geeta Nepali and two other juveniles also detained at the Kapilvastu prison, requiring that they be produced before a court or judge. The case was filed before the Appeal Court in Butwal, in neighbouring Rupandehi district. On 4 September, the Appeal Court ruled that their detention was illegal and that they should be released immediately in the presence of the district court in Kapilvastu. (The two others freed were not re-arrested and are safe with their families.)

BACKGROUND INFORMATION

In the course of the nine-year-long internal armed conflict, Amnesty International has documented thousands of cases of arbitrary arrests, unacknowledged detentions, torture and "disappearances" at the hands of the security forces. The human rights crisis deteriorated further following the king's seizure of power on 1 February 2005, with the security forces exercising virtually unchecked power. The practice of re-arresting those who have been freed on court order constitutes arbitrary detention, undermines the authority of the courts, and displays open contempt for the rule of law.

Children suspected of affiliation with the CPN (Maoist) are among those detained for long periods, often held incommunicado without being subjected to any legal process. Nepal has failed to meet its obligations under

the United Nations Convention on the Rights of the Child, which requires that children deprived of their liberty are separated from adults, have access to prompt legal and other appropriate assistance, and are not subjected to torture or other ill treatment.

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

- expressing concern for the safety of Radha Bhusal and Geeta Nepali, who were re-arrested by police in Kapilvastu district on 5 September 2005 and are at risk of "disappearance", torture or ill-treatment;
- urging that they be treated humanely while in custody and not tortured or ill-treated;
- calling for Radha Bhusal and Geeta Nepali to be freed immediately and unconditionally, in compliance with the order for their release issued by the Appeal Court;
- calling on the government to instruct relevant law enforcement agencies to halt immediately the practice of re-arresting those who have been released on the order of a judge;
- calling on the government to ensure that children are not held accountable, detained or charged under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance;
- calling on the government to meet its obligations under the terms of the UN Convention on the Rights of the Child.

APPEALS TO:

Minister Dan Bahadur Shahi
Ministry of Home Affairs
Singha Durbar, Kathmandu, Nepal

Fax: + 977 1 4211232

Salutation: Dear Minister

Minister Niranjana Thapa
Ministry of Law, Justice and Parliamentary Affairs
Singha Durbar, Kathmandu, Nepal

Fax: + 977 14220684

Salutation: Dear Minister

Shyam Bhakta Thapa
Inspector General of Police
Police Headquarters
GPO Box 407, Naxal, Kathmandu, Nepal

Fax: + 977 1 4 415 593

Salutation: Dear Inspector General

Puskar Karki
Deputy Superintendent of Police
Head, Human Rights Cell
Police Headquarters
GPO Box 407, Naxal, Kathmandu, Nepal

Fax: + 977 1 4415593

Salutation: Dear Deputy Superintendent

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 October 2005.