

PUBLIC

AI Index: ASA 31/056/2005

24 June 2005

Further Information on UA 122/04 (ASA 31/077/2004, 23 March 2004) and follow-up (ASA 31/194/2004, 23 December 2004) - Fear for safety/possible "disappearance"

NEPAL

**Govinda Ghimire (m), aged 23, student
Achyut Kumar KC (m), aged 38, farmer**

Govinda Ghimire was released on 22 June, on the orders of the Supreme Court, but re-arrested immediately by security forces personnel in plain clothes. His whereabouts are now unknown: he may have "disappeared" and is at risk of torture.

Achyut Kumar KC, who was arrested on 17 November 2003, has been released, according to a government report.

The Supreme Court had found that Govinda Ghimire had been detained illegally for the nearly two years he had been in custody, and on 17 June ordered that he be released at the Kathmandu district court. On 22 June, he was brought to the district court and left the building at around 4pm, escorted by lawyers and relatives. As he left, a group of around six men in civilian clothes seized him and took him away in a white Isuzu pick-up van, license number "ba 4 cha 6735". The license plate was red, denoting a civilian vehicle.

Lawyers, human rights defenders and relatives had come to meet him to ensure that he got away from the court building safely. Several were assaulted by the men who arrested Govinda Ghimire. Among those injured by the security forces during the incident were Govinda's aunt, two lawyers with the Nepal-based organization Advocacy Forum, and an activist with the Nepal-based human rights organization HimRights. The security forces also prevented a journalist from photographing the incident.

Govinda Ghimire had been arrested in August 2003 at his home in Kathmandu by a group of armed security forces personnel in plain clothes. His family tried to find out where he was, but the authorities denied all knowledge of his arrest. With legal assistance provided by Advocacy Forum, his family filed a *habeas corpus* petition (requiring him to be produced before a court or judge) with the Supreme Court in October 2003 and registered a complaint with the National Human Rights Commission the following month.

In October 2004, a committee investigating "disappearances" submitted to the home ministry a list of 126 missing people with information about their status or whereabouts. Among them was Govinda Ghimire, who was discovered to be held at the Bhairabnath army barracks, in Maharajgunj, Kathmandu. By this time Govinda Ghimire had spent over a year in unacknowledged incommunicado detention.

The authorities told his family that Govinda Ghimire would be released from the Sundarijal detention centre in Kathmandu on 16 October. However, when the family arrived there that day, along with the relatives of other detainees who had "disappeared", they saw a police van parked outside the centre and suspected it would be used to re-arrest those who were about to be released. Authorities at Sundarijal told families that the centre had no responsibility for people once they had been released, increasing their suspicions. Govinda Ghimire was not released that day.

According to Advocacy Forum, official records provided by the authorities to the attorney general's office indicate that Govinda Ghimire was initially held under the Public Security Act, which allows for preventive detention for up to 90 days, with a possible extension of up to 12 months. His status was later illegally converted to detention under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance

(TADO), which offers fewer options for judicial oversight.

A permanent resident of Bethan village development committee in Ramechchap district, southeast of Kathmandu, Govinda Ghimire had come to Kathmandu as a student at Pashupati Campus. It is believed that he may have been targeted because of his links to the All Nepal National Independent Students' Union (ANNISU) (Revolutionary), which is aligned with the Communist Party of Nepal (CPN) (Maoist).

BACKGROUND INFORMATION

In the course of the nine-year-long conflict between government forces and the CPN (Maoist), Amnesty International has documented thousands of cases of arbitrary arrest, unacknowledged detention, torture and "disappearance" at the hands of the security forces. Hundreds of people are believed to be held illegally in army barracks, where they are at particular risk of torture, "disappearance" or extrajudicial execution. The human rights crisis has deteriorated further since King Gyanendra seized executive power on 1 February 2005.

The security forces regularly fail to produce detainees when ordered to do so by *habeas corpus* rulings, and often re-arrest prisoners immediately after they have been freed by the courts. This threatens the authority and independence of the judiciary, and seriously undermines the rule of law in Nepal. Lawyers in the country worry that the increasing use of plainclothes officers to make such arrests will only worsen the problem of impunity for these violations.

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 Govinda Ghimire, who is believed to have been re-arrested by security forces personnel on 22 June 2005, after he was released on the orders of the Supreme Court;
- calling on the authorities to immediately make public his whereabouts and grant him immediate access to his family, lawyers and any medical attention he may require;
- urging the authorities to ensure that he is treated humanely while in custody and not tortured or ill-treated;
- calling for him to be released immediately and unconditionally, in compliance with the order of the Supreme Court.

APPEALS TO:

General Pyar Jung Thapa
Chief of Army Staff (COAS)
Royal Nepalese Army
Bhadrakali, Kathmandu, Nepal

Fax: + 977 1 4 242 168

Salutation: Dear Commander-in-Chief

Lieutenant Colonel Raju Nepali
Royal Nepalese Army Human Rights Cell
Singha Durbar, Kathmandu, Nepal

Fax: + 977 1 4 245 020 (Please ask for the fax)

Email: humanrights@rna.mil.np

Salutation: Dear Lieutenant Colonel

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 5 August 2005.