

PUBLIC

AI Index: ASA 31/060/2005

11 July 2005

Further Information on UA 159/05 (ASA 31/052/2005, 9 June 2005) Possible "disappearance"/fear for safety /fear of torture or ill treatment

NEPAL

**Karna Bahadur Thapa Magar (m), aged 34, farmer
Bal Krishna Poudel (m), aged 35**

Karna Bahadur Thapa Magar was released on 4 July on the order of the Supreme Court, but narrowly avoided being rearrested outside the court house in Kathmandu. He had been rearrested previously, on 8 June, following an earlier Supreme Court order for his release. Amnesty International has no further information on the whereabouts of Bal Krishna Poudel, who was also arrested on 8 June outside the Kathmandu district court house.

The Supreme Court first ordered Karna Bahadur Thapa Magar's release on 1 June, ruling that he had been held illegally since his arrest in October 2004. He was released on 8 June at the Kathmandu district court, but was rearrested as soon as he stepped outside the building. At the same time, security forces detained Bal Krishna Poudel, who was among the bystanders waiting outside the court. Bal Krishna Poudel is not, as previously stated, Karna Bahadur Thapa Magar's brother-in-law. Amnesty International has received no further information on the detention of Bal Krishna Poudel and is investigating his whereabouts.

When the Supreme Court ordered Karna Bahadur Thapa Magar to be released for a second time on 4 July, the judges reportedly warned the authorities that to rearrest him would be unconstitutional. Despite this warning, at least a dozen security force personnel in plain clothes waited outside the Supreme Court building for Karna Bahadur Thapa Magar to emerge. Mandira Sharma, a lawyer with the Nepal-based non-governmental organization Advocacy Forum, was assaulted by six members of the security forces when she attempted to take photographs documenting their presence.

Karna Bahadur Thapa Magar, fearful that he could "disappear" for a third time, or even be killed, refused to leave the court premises until his security could be guaranteed. After a few hours the security forces had apparently dispersed, and Karna Bahadur Thapa Magar was escorted to safety.

Karna Bahadur Thapa Magar's whereabouts were unknown for four months after his initial arrest on 8 October 2004. On 11 February 2005, local newspapers reported that he was among the detainees listed in a report issued by the government committee charged with investigating "disappearances". Four days later, Karna Bahadur Thapa Magar was allowed to telephone his family, and soon afterwards relatives were able to visit him at the Sundarijal detention centre in Kathmandu. He told lawyers that he was severely tortured when he was first taken into custody and detained at the Bhairab Nath Gan army barracks in Maharajgunj, Kathmandu, and that he was repeatedly interrogated and accused of being a member of the Communist Party of Nepal (CPN) (Maoist). After his release and rearrest on 8 June, Karna Bahadur Thapa Magar believes he was taken first to an army barracks at Singha Durbar, Kathmandu, and then detained at Singha Nath barracks in nearby Bhaktapur district.

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 arrests, unacknowledged detentions, torture and "disappearances" at the hands of the security forces. The human rights crisis deteriorated further following King Gyanendra's seizure of power on 1 February 2005. The security forces regularly fail to produce detainees when ordered to do so by a judge, and often rearrest 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:

- acknowledging the release on 5 July 2005 of Karna Bahadur Thapa Magar, but expressing continued concern for his safety;
- calling on the government to instruct relevant law enforcement agencies to refrain from arresting or otherwise harassing Karna Bahadur Thapa Magar, and to halt immediately the practice of rearresting those who have been released on the order of a judge;
- calling on the government to undertake an investigation into the “disappearance”, illegal detention, rearrest, and attempted rearrest of Karna Bahadur Thapa Magar, urging that those responsible for committing or ordering these violations of his human rights should be brought to justice in fair proceedings;
- calling on the authorities to immediately make public the whereabouts of Bal Krishna Poudel, who was arrested by security forces personnel on 8 June 2005, and to grant him immediate access to relatives, lawyers and any medical attention he may require;
- urging that Bal Krishna Poudel be treated humanely while in custody and not tortured or ill-treated;
- calling for Bal Krishna Poudel to be released immediately, unless he is to be charged with a recognizably criminal offence.

APPEALS TO:

Minister Dan Bahadur Shahi
Minister of Home and Law, Justice and Parliamentary Affairs
Ministry of Home Affairs, Singha Durbar, Kathmandu, Nepal

Fax: + 977 1 4 225 156

Salutation: Dear Minister

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 23 August 2005.