

## Nepal Crisis Alert Action: Human Rights Defenders

### Case sheet

### Krishna Pahadi: Prisoner of Conscience

*“I think the situation will be okay one day, and we will continue our human rights work, so I am not depressed...”*

Krishna Pahadi, 30 March 2005



Irene Khan speaks to detained human rights activist Krishna Pahadi © AI

#### Case information

**Krishna Pahadi**, the founding chairman of the Human Rights and Peace Society (HURPES) and the former Chairman of Amnesty International's Nepal Section, was detained on 9 February 2005, for helping to plan a political demonstration. He is being held at the police compound in Naxal, Kathmandu, where he has been served with a 90-day detention order under the Public Security Act (PSA). Under those terms, Krishna Pahadi should be freed by 9 May. However, there is concern that the detention order may be extended.

Amnesty International considers Krishna Pahadi to be a Prisoner of Conscience, as he has been detained purely for his peaceful and legitimate activities in defense of human rights. AI is calling for his immediate and unconditional release.

Krishna Pahadi was arrested from the HURPES office in the Kalikasthan area of Kathmandu at around 3:15pm on 9 February. According to witnesses, four security forces dressed in plainclothes entered the office and said that Krishna Pahadi was required to report to the traffic police. The officers did not produce an arrest warrant. However, they drove him away in a police van and took him to the police compound in Naxal, Kathmandu, where he remains in detention.

In the days prior to his arrest, Krishna Pahadi was involved in organizing a demonstration protesting against King Gyanendra's seizure of power on 1 February and the suspension of fundamental rights under the State of Emergency. In an article published by the Reuters news agency on 7 February, Krishna Pahadi was quoted as saying that human rights defenders had no choice but to protest. "Under the king's direct rule there is no future for those who are for

fundamental human rights and freedom," he said. "The government would like to make Nepal a big jail."

Irene Khan, Secretary General of AI, visited Krishna Pahadi in police custody in February 2005. Following this, two other AI delegations were also able to visit him, most recently on his 42nd birthday on 30 March 2005. "I think the situation will be okay one day," Krishna Pahadi told his visitors then. "And we will continue our human rights work, so I am not depressed." Though he is said to be maintaining good spirits, recent reports indicate that during April 2005, the authorities had restricted access to Krishna Pahadi to his immediate family.

### **Background information**

Human rights defenders have been on the frontlines helping to protect the rights of ordinary people who have borne the brunt of the nine-year conflict between the Communist Party of Nepal (CPN) (Maoist) and the government. However, their human rights investigations and reporting have often made them unpopular with both sides to the conflict. As a result of their work, they have been threatened, tortured, abducted, detained, "disappeared" or even killed. Human rights defenders working remote districts away from the scrutiny of the national press and the international community are at particular risk.

On 1 February 2005, King Gyanendra dismissed the government, assumed direct power, and declared a nation-wide state of emergency. In an apparent attempt to silence any opposition, a number of fundamental rights—including the right to privacy and freedom of expression, press, assembly, movement and association—were suspended.

The King's takeover has brought new dangers for human rights defenders in Nepal. Since 1 February, at least 45 human rights defenders, are reported to have been arrested, some of whom remain in prison. Hundreds of political leaders and student activists have also been detained. Many of them are being held under the Public Security Act (PSA) which allows the authorities to detain a person who allegedly threatens the "sovereignty, integrity or public tranquillity" of Nepal for up to 90 days without charge or trial. Human rights lawyers have reported that some detainees arrested under the PSA are having their status illegally converted to detention under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO), which allows for preventive detention for up to one year. These laws do not meet international human rights standards.

Human rights defenders who have attempted to continue their work of investigating and reporting on human rights abuses, have faced a range of obstacles. Several have been prevented from leaving Kathmandu to carry out investigations as a result of travel restrictions imposed by the government. Others have faced intimidation and harassment including death-threats by members of the security forces, and threatening phone-calls from unknown persons. In some cases members of the security forces have entered and searched their offices. A number of activists have reported that they are under surveillance, and that their phone lines are tapped or have been cut. Fearing for their security, some human rights defenders have left Nepal.

The media were hit particularly hard by the state of emergency, with army "censors" actually based in media offices in the days following the king's takeover. Private and community radio—the most widely accessible form of media in Nepal—are banned from carrying independent news. International press freedom organisations estimate that more than 40 journalists have been detained since 1 February, and that, at the beginning of April, ten of these remained in custody.

In a worrying development, in March 2005 the government warned that human rights defenders who speak against the government at the United Nations Commission on Human

Rights in Geneva (meeting from 14 March - 22 April 2005) would face sanction on return. Furthermore, high ranking members of the police and the Royal Nepalese Army were sent to the Commission, apparently in part to monitor the activities of Nepali human rights defenders who attended the session.

On 20 April, the Commission adopted a resolution calling on the Government of Nepal “to immediately reinstate all civil and political rights; to cease all State of Emergency related and other arbitrary arrests; to lift the far-reaching censorship; to restore freedom of opinion, expression and the press as well as the freedom of association; to immediately release all detained political leaders and activists, human rights defenders, journalists and others; to allow all citizens to enter and exit the country freely and to respect all international and national obligations” and urging the Government “to take appropriate measures to ensure the protection of civil and political rights of political leaders and activists, human rights defenders, journalists and others.”

Another important step taken during the Commission was the signing on 12 April of a Memorandum of Understanding between the Government of Nepal and the United Nations High Commissioner for Human Rights providing for deployment of an international human rights presence to Nepal. The agreement calls for UN offices to be established in Kathmandu and, importantly, in regional centres, to help establish accountability for rights abuses and prevent further violations by both government forces and Maoist rebels.

Although these achievements are very welcome, it is vital that the international community does not become complacent, but stays alert to the very grave human rights situation in Nepal. The international community must act in coordination to ensure that every pressure is placed on the government of Nepal to restore full rights and freedoms to the Nepali people and on both parties to respect human rights and end impunity for abuses.

In the meantime, violations against human rights defenders are ongoing. In the current context, human rights organizations, journalists, lawyers, trade union activists and others are finding it difficult, if not impossible, to operate freely. In the absence of credible, independent monitoring and reporting, the risk of human rights violations is dramatically increased, and the civilian population is likely to be denied much needed protection.

**Amnesty International is calling on the Nepali government to:**

- Immediate and unconditionally release Krishna Pahadi, whom Amnesty International considers to be a Prisoner of Conscience as he has been detained purely for his peaceful and legitimate activities in defense of human rights.
- Release all other human rights defenders, unless they are to be charged with a recognizably criminal offence.
- Make public commitments that there will be no further arrests of human rights defenders or other individuals purely for engaging in the peaceful exercise of their right to freedom of opinion, belief, expression and association.
- Ensure that human rights activists, journalists, lawyers and other members of civil society are able to carry out their peaceful and legitimate work without fear of arrest or harassment.
- Repeal or amend repressive legislation used to imprison human rights defenders including the Public Security Act (PSA) and the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO).
- Abide by the terms of the resolution adopted by the United Nations Commission on Human Rights on 20 April 2005, which calls on the Government of Nepal “to immediately release all detained political leaders and activists, human rights defenders” and urges the Government “to take appropriate measures to ensure the protection of civil and political rights of political leaders and activists, human rights defenders, journalists and others.”
- Provide detailed information to the Committee on Human Rights regarding the suspension of certain rights enshrined in the International Covenant on Civil and Political Rights (ICCPR), in accordance with Nepal’s obligations as a States party to the ICCPR.
- Issue standing invitations for United Nations Mechanisms to visit Nepal. Priority should be given to the Special Rapporteur on Freedom of Expression, the Special Rapporteur on Torture and the Special Representative on Human Rights Defenders.
- Reminding the authorities of their obligations under the United Nations Declaration on Human Rights Defenders to protect human rights defenders so that they can carry out their legitimate and peaceful work without fear of being subjected to human rights violations.