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## **Human Rights Defenders at Risk**

Human rights defenders around the world face serious dangers and difficulties on account of their work to promote and defend the human rights of others. This report is part of a series of Amnesty International documents illustrating the different patterns of repression faced by human rights defenders worldwide. The appeal cases highlighted in this document show how in some countries legal measures or the threat of prosecution are used to dissuade or prevent activists from conducting human rights work.

The misuse of the judicial system to harass or punish human rights defenders for their legitimate work is not new. However, Amnesty International believes the cases in this report reflect a growing trend in which some government officials or private individuals try to gag and silence human rights defenders by threatening them with detention either on spurious criminal charges or charges that are politically motivated. Amnesty International also believes that such legal measures or charges are designed to discredit the claims of human rights defenders and detract attention from the abuses they report.

Human rights defenders are all those men and women who act on their own or collectively to contribute to the effective elimination of all violations of the fundamental rights and freedoms of peoples and individuals. Across the world, human rights defenders have fought, often against the odds, to establish fairer, more equitable societies. In so doing they have enhanced human dignity and helped alleviate the hardships of many of the most impoverished, marginalised and deprived sectors of the population. They have campaigned to compel governments to deal with gross inequalities in the distribution of wealth, access to basic health facilities, education, water and food. They have fought to protect the environment and defend economic, social and cultural rights. They have sought justice for crimes against humanity, and for violations committed by state agents including extrajudicial killings, “disappearances” and torture. They have insisted on democratic and judicial reform and exposed government corruption.

The United Nations Declaration on the Right and Responsibility Of Individuals, Groups and Organs of Society to Promote And Protect Universally Recognized Human Rights and Fundamental Freedoms, commonly known as the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on 9 December 1998, sets out the rights of human rights defenders, identifying specific freedoms and activities which are fundamental to their work, including the right to know, seek, obtain and receive information about human rights and fundamental freedoms, the right to participate in peaceful activities against violations of human rights and the right to criticize and complain about the non-compliance of governments with human rights standards, and to make proposals for improvement. By

referring to the right to act collectively the Declaration pays special attention to freedom of association and the right to act in collaboration with others for the protection of human rights.

The Declaration requires that states address these rights and freedoms to ensure human rights defenders may carry out their work freely, without interference or fear of threats, retaliation or discrimination. Legally, under international human rights treaties, governments are accountable for attacks, harassment, including the misuse of the judicial system carried out by law enforcement officials and other agents of the state. However, human rights defenders in countries from Guatemala to Turkey, from Belarus to Nepal, from Indonesia to Iran and Honduras are increasingly facing spurious or false criminal or politically motivated charges, fines, trials, arbitrary detention, criminal investigation, or restrictions on the right to freedom of association or the right to peaceful assembly.

Amnesty International is urging its members and governments around the world to take effective action to ensure that human rights defenders are able to carry out their legitimate work without fear of prosecution. Amnesty International is asking all governments to present a plan for the implementation of the principles of the UN Declaration on Human Rights Defenders.

## **Middle East and North Africa**

### ***Iran***

#### **Emaddedin Baqi: human rights defender at risk**

Amnesty International is concerned that shortcomings in the judicial system in Iran facilitates the targeting and harassment of human rights defenders, limiting their ability to carry out human rights work.

In Iran flaws in the structure of the administration of justice mean that politically motivated criminal charges frequently result in the sentencing and imprisonment of HRDs such as Emaddedin Baqi.

The misuse of justice systems to prosecute HRDs often results in the silencing of HRDs. Action such as this strike at the heart of the place that HRDs have in society. This action is aimed at fighting this practice.

### **Iran**

Since the election of President Mohammad Khatami in 1997, numerous non-governmental organisations (NGOs) have been formed. As a result of the perceived political sensitivity or threat posed by these bodies, most have been affiliated to a political body or powerful social forces. With the awarding, in 2003, of the Nobel Peace Prize to an Iranian HRD, children's rights activist and lawyer, Shirin Ebadi, many in Iran learned about human rights defenders and their important place in society and since then a small number of independent human rights NGOs have been formed.

One of these is the Society for the Defence of the Rights of Prisoners (SDRP), which was granted permanent permission to operate in July 2004. The SDRP works to protect detainees and promote prison reform. Amongst the objectives of the SDRP is the establishment a small fund to provide free legal advice to prisoners; provision of material goods such as books and newspapers where these are not available<sup>1</sup>.

The founders of the SDRP include former prisoners of conscience Emaddedin Baqi and Mohammad Hassan Alipour. Both men have been imprisoned and frequently appeared in court because of their work as journalists. Emaddedin Baqi was in prison between 2000 and 2003 in connection with articles that questioned the place of the death penalty in Iranian society.

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<sup>1</sup> For more information, please see: <http://web.amnesty.org/wire/September2004/Iran>

Since his release from prison in 2003, Emaddedin Baqi has been summoned to court around six times, facing politically motivated complaints or charges based on vaguely worded provisions relating to defamation and insult of state authorities and propagating against the state (*tabligh 'aleyeh nezam*). No further details have reportedly been provided by the judicial authorities<sup>2</sup>.

In August 2004 he wrote an article about a man who had been left hanging by his wrists, forgotten by prison guards. The man's hands had to be amputated because the nerves had been torn by this torture. This article, on prison reform, is now the subject of an official complaint, lodged against him in his capacity as head of the SDRP.

On 4 October 2004, Emaddedin Baqi was scheduled to travel to North America and Europe where he was going to take part in international human rights conferences. Having received the exit stamp at the immigration desk at Tehran airport, he, his wife and daughters proceeded to board the aircraft when, suddenly they were escorted to small room, their luggage retrieved from the aircraft, emptied out and – finally – Emaddedin Baqi's passport was confiscated<sup>3</sup>.

*Emaddinen Baqui*  
©Javad Montazeri

According to news reports on 4 October 2004, the order preventing him from travelling reportedly came from the Special Court for the Clergy (SCC), an extra-constitutional institution which Amnesty International and several United Nations bodies have urged be fundamentally altered or abolished on account of the Court's inherent incapacity of providing the basic guarantees of due process. Up to that point Emaddedin Baqi had never received a summons from the SSC let alone a conviction.

On 14 October 2004, a Tehran appeal court overturned a one year suspended sentence which was issued one year ago by Bench 6 of the Tehran Revolutionary Court on grounds of vaguely worded provisions concerning propagating against the state (see above). Emaddedin Baqi had dismissed the competence of this court on account of its lack of a jury, a provision routinely ignored in Iranian cases.

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<sup>2</sup> Amnesty International has stated that restrictive, contradictory and vaguely worded provisions contained in the Penal Code and other laws undermine the full exercise of the right to freedom of opinion and expression. Please see the section entitled *Criticism, insult, defamation and dissemination of false information* in the report, *Iran: A legal system that fails to protect freedom of expression and association* (AI Index: MDE 13/045/2001), 21 December 2001, which can be viewed at: [http://web.amnesty.org/library/pdf/MDE130452001ENGLISH/\\$File/MDE1304501.pdf](http://web.amnesty.org/library/pdf/MDE130452001ENGLISH/$File/MDE1304501.pdf)

<sup>3</sup> For more information about this event, please see: <http://web.amnesty.org/library/Index/ENGMDE130392004?open&of=ENG-IRN>

The appeal was sought by the Office of the Prosecutor of Tehran province, Said Mortazavi. On 17 October, Amnesty International received reliable information indicating that Said Mortazavi had personally ordered the confiscation of Emaddedin Baqi's passport – despite earlier statements that the SSC had issued this order. This report also indicated that Said Mortazavi issued a directive permanently closing the newspaper for which Emaddedin Baqi was working, *Jomhouriyat* (the Republic). Emaddedin Baqi is currently considering whether to appeal the sentence, for which he has 20 days. He has reportedly stated to colleagues that “step by step they are getting closer to imprisoning me once again...” If he is imprisoned in connection with these charges, Amnesty International will again consider Emaddedin Baqi a prisoner of conscience.

### **TAKE ACTION**

The United Nations Declaration on the Right and Responsibility Of Individuals, Groups and Organs of Society to Promote And Protect Universally Recognized Human Rights and Fundamental Freedoms, commonly known as the UN Declaration on Human Rights Defenders<sup>4</sup> provides for, in Articles 1 and 5, individuals and associations which “promote and to strive for the protection and realization of human rights” and for the right “to complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms...” It sets out ways in which activists peacefully and legitimately campaign for the protection of their communities' rights; are not threatened, harassed; imprisoned or subject to malicious prosecution, but rather are recognised and supported in their struggle.

Yet the judicial authorities in Iran have ignored international human rights standards and the provisions made for human rights defenders in moves set out to silence independent HRDs.

### **Please send appeals to the government and judiciary of Iran:**

- Expressing concern that flaws in the administration of justice in Iran are leading to harassment and the threatening of human rights defenders, by using the case of Emaddedin Baqi to illustrate your point;
- Urging the judiciary of Iran to review the sentence handed down to Emaddedin Baqi with a view to amending the procedures in administration of justice in this case;
- Calling on the judicial authorities and governments of Iran to develop national plans of action to implement the UN Declaration on Human Rights Defenders as an important first step to ensure that human rights defenders are able to safely carry out their legitimate work without fear.

### **Addresses for appeals:**

<b><u>President of Iran</u></b>	<b><u>Head of the Judiciary, Iran</u></b>
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<sup>4</sup> Please see: <http://www.unhchr.ch/html/menu6/2/fs29.pdf>

<p>His Excellency Hojjatoleslam val Moslemin Sayed Mohammad Khatami The Presidency, Palestine Avenue, Azerbaijan Intersection, Tehran, Islamic Republic of Iran E-mail: khatami@president.ir (please resend your message if it does not get through the first time) <b>Salutation: Your Excellency</b></p>	<p>His Excellency Ayatollah Mahmoud Hashemi Shahrudi Head of the Judiciary, Ministry of Justice Park-e Shahr, Tehran, Islamic Republic of Iran Email: irjpr@iranjudiciary.org (mark 'Please forward to HE Ayatollah Shahrudi') <b>Salutation: Your Excellency</b></p>
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## **Europe and Central Asia**

### ***Turkey***

#### **Judicial harassment of human rights defenders Turkey – ‘repeal one law, use another’**

Human rights defenders in Turkey continue to be targeted for harassment and intimidation by state officials. Trials and investigations are frequently opened against human rights defenders. While such trials usually end in acquittal or a sentence which is suspended or commuted to a fine, Amnesty International considers them to be a form of state harassment designed to intimidate human rights defenders and restrict their activities.

The level of this judicial harassment means that many human rights organizations and activists have great trouble keeping track of the investigations and cases opened against them and the result is a heavy impediment to their work. Such pressure has the impact of discouraging others from becoming involved in the defence of human rights. Many such cases result in financial penalties against an individual or organization. Such fines are often a heavy burden upon human rights organizations who struggle to pay them.

Despite recent legal and constitutional reforms, the law contains many possible pretexts with which to restrict or punish the work of human rights defenders in Turkey. As some laws have been changed, new regulations are found with which to obstruct their activities - a case of ‘change one law, use another’. Prosecutions are arbitrary and vary throughout the country – activities which may go allowed in one province will be restricted, investigated or prosecuted in another.

An example of these ‘alternative charges’ are the legal proceedings which were opened against the Human Rights Association (İnsan Hakları Derneği, IHD) when it printed posters to commemorate Human Rights Day in December 2003. The posters, which were distributed nationally, carried the words “Peace will win, everybody is equal, everybody is different” in Turkish and Kurdish.

In Van, a city in eastern Turkey, the posters written in Kurdish were confiscated on the order of the Public Prosecutor on the basis that the display of posters in Kurdish ‘was damaging to the basic qualities of the [Turkish] Republic’. Subsequently, the posters were confiscated in other cities. While this decision was swiftly overruled by the Ministry of Justice, the damage had already been done since by that time Human Rights Week had passed.

Instead, legal proceedings were opened against IHD representatives under other pretexts. Trials were opened against Vetha Aydın, the chair of the Siirt branch, and Hüseyin Cangir, the chair of the Mardin branch, ostensibly because posters had been hung on

municipal billboards without permission from the governor. While Vetha Aydin was acquitted on 19 April 2004, Hüseyin Cangir was given a heavy fine on 21 April.

Furthermore, a trial began on 12 October 2004 in which lawyer Mikail Demiroğlu is being prosecuted for ‘exerting influence and force to prevent the execution of any of the provisions of law or regulations.’ According to his statement and those of several witnesses, he had advised members of the IHD branch in Hakkari, whose offices are in the same building as his, that police officers were entitled to confiscate the posters if they had a warrant to do so. The police officers did not have a copy of the warrant with them and therefore had to return later.

Confiscated posters in Kurdish  
© Private

**Take Action!**

Please send politely worded letters to the Turkish authorities in English or your own language:

- expressing concern about the ongoing trial against Mikail Demiroğlu, and the fine against Hüseyin Cangir – both human rights defenders;
- calling on them to act to ensure that state officials respect the legitimacy of the work of human rights defenders and allow them to carry out this work without hindrance or harassment;
- asking them to review all outstanding prosecutions of people for the peaceful exercise of their rights to freedom of expression, association and assembly;
- requesting that they closely monitor investigations opened against human rights defenders and take effective action to sanction state officials who abuse their powers to harass human rights defenders or restrict their legitimate activities.

Minister of Justice  Mr Cemil Çiçek Ministry of Justice Adalet Bakanlığı 06659 Ankara, Turkey  E-mail: <a href="mailto:cemilcicek@adalet.gov.tr">cemilcicek@adalet.gov.tr</a>  Fax: +90 312 287 3869  Salutation: Dear Minister	State Minister with responsibility for Human Rights  Mr Abdullah Gül, Office of the Prime Minister, Başbakanlık, 06573 Ankara, Turkey  E-mail: <a href="mailto:abdullah.gul@basbakanlik.gov.tr">abdullah.gul@basbakanlik.gov.tr</a>  Fax: + 90 312 287 8811  Salutation: Dear Minister
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Please send copies of your letters to diplomatic representatives of Turkey accredited to your country.

## **Belarus**

### **End the Silencing of Human Rights Defenders: the case of the Belarusian Helsinki Committee**

In the course of their work human rights defenders in Belarus face a deliberate campaign by the Belarusian authorities to frustrate and undermine their activities, aimed at silencing them. In 2003 and the beginning of 2004 a disturbing number of non-governmental organizations (NGOs), directly and indirectly engaged in the promotion and defence of human rights in Belarus, have been closed by a judiciary whose independence has been repeatedly called into question by the international community (see *Belarus: stifling the promotion of human rights*, AI Index: EUR 49/004/2004).

On 21 June 2004 the UN Secretary General's Special Representative on human rights defenders, Hina Jilani, issued a statement about her serious concern at the reported curtailment of the freedom of association in Belarus. She expressed "particular alarm with regard to the situation of the Belarusian Helsinki Committee (BHC), reportedly the last nationally operating human rights NGO, which is threatened with closure". One of the last remaining officially registered human rights organizations in Belarus is the BHC. The organization is active on a range of national human rights issues, including the determination of the fate of leading "disappeared" opposition politicians, including Viktor Gonchar.

In January 2004 the tax inspection office of the Minsk Moskovskaia District accused BHC of using a grant, provided by the EU TACIS<sup>5</sup> program without registering the foreign humanitarian aid and not paying taxes in accordance with national legislation. A 1994 memorandum, agreed by the Belarusian authorities and the European Union, grants tax exemption to this program. In June 2004 BHC was cleared by the Minsk Economic Court of all charges for tax evasion, a decision which was upheld by the Appellate Court at the end of July 2004. The court decision confirmed that the organization's activities were lawful and complied with all procedures as required by the Belarusian authorities.

Despite this court decision a criminal investigation into the alleged tax evasion is ongoing against the chair of BHC, Tatiana Protsko, and BHC's head accountant, Tatiana Rutkevich. If convicted, they could face a sentence of up to seven years' imprisonment. As part of the criminal investigation an additional audit of the BHC's activities was announced, to be coordinated by the Ministry for Taxes and Collections, which will involve the Ministries of Economic Affairs, Foreign Affairs and Justice. The BHC interpreted these actions by the Belarusian authorities as deliberate steps aimed at curtailing its legitimate human rights work.

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<sup>5</sup> European Union Technical Assistance to the Commonwealth of Independent States.

On 16 September 2004 the Belarusian Helsinki Committee learned through the media that the Ministry of Justice had submitted a complaint against the organization with the Supreme Court to close the organization down. The BHC did not receive any information about these legal proceedings or the content of the allegations against it. The BHC later learned that the Supreme Court had requested further information, after which the Ministry reportedly withdrew the complaint. One of the alleged reasons for the reported legal proceedings was BHC's complaint, filed with the Supreme Court on 15 September, which questioned the legality of the decision to call a referendum on changing the constitution's restrictions to presidential terms in office. BHC expects further pressure from the authorities as the organization has been actively involved in the monitoring of the parliamentary election and the controversial referendum.

Amnesty International is concerned that the closure and pressure on NGOs and their members, referred to above, are in violation of international human rights law and standards. The rights to freedom of association and peaceful assembly are enshrined in Articles 21 and 22 of the International Covenant on Civil and Political Rights, to which Belarus is a state party. These rights are also enshrined in the United Nations (UN) Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, otherwise known as the UN Declaration on Human Rights Defenders.

#### TAKE ACTION NOW!

#### **Urgent action is needed. Please write appeals calling on the Belarusian authorities to:**

- stop the deliberate pattern of obstruction, harassment and intimidation of human rights defenders, by closures, and threats thereof, of several NGOs, including *Legal Assistance to the Population, Spring-96* and the *Belarusian Helsinki Committee*, directly and indirectly engaged in the promotion and defence of human rights in Belarus;
- adhere to the principles of the UN Declaration on Human Rights Defenders (*Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* adopted by the United Nations General Assembly, 9 December 1998).

**Please write appeals to:**

**1) President of the Republic of Belarus**

**Alyksandr G. LUKASHENKA**

Karl Marx Str. 38

220016 g. Minsk

Belarus

Fax: +375 (172) 26 06 10 or +375 (172) 22 38 72

E-mail: [pres@president.gov.by](mailto:pres@president.gov.by)

or send a letter directly from his web-site:

[www.president.gov.by/eng/president/mail.shtml](http://www.president.gov.by/eng/president/mail.shtml)

**2) Minister of Justice**

**Viktor G. GOLOVANOV**

Kollektornaia Str. 10

220084 g. Minsk

Belarus

Fax: +375 (172) 20 9755

E-mail: [info@minjust.belpak.by](mailto:info@minjust.belpak.by)

**3) Chairman of the Belarusian House of Representatives**

Sovetskaia Str. 11

220010 g. Minsk

Belarus

Fax: +375 (172) 27 37 84

\*Showing support and international solidarity for Belarusian human rights defenders is one of the objectives of this action; please send a copy to the Belarusian Helsinki Committee, Karl Libknekht Str. 68-1202, 20036 g. Minsk, Belarus.

## **Asia**

### **Indonesia**

#### **Bestari Raden, environmental activist**

Bestari Raden (m), an environmental and indigenous peoples activist from Nanggroe Aceh Darussalam Province (NAD), was arrested in March 2004 and charged with “separatism” (Kitab Undang-undang Hukum Pidana, KUHP Article 106), “rebellion” (KUHP Article 108) and “inciting acts of violence” (KUHP Article 160). On 2 October 2004, he was acquitted of the charges of “rebellion” and “separatism” but found guilty of “inciting acts of violence” and sentenced to two years and six months’ imprisonment by Tapak Tuan District Court, South Aceh. He is currently appealing the sentence.

Bestari Raden was arrested by members of the Southeast Aceh District Military Command (Kodim) on 23 March 2004 during a visit to the district as part of a 37 member government team set up to review the Ladia Galaska road project. The proposed 500 km-long Ladia Galaska highway has been strongly opposed by environmental groups because it will cut through virgin tropical rainforest in the Gunung Leuser National Park in NAD and North Sumatra. In contrast, there is reported to be support for the project by members of the security forces.<sup>6</sup> Some observers believe that Bestari Raden’s arrest may be connected to his efforts to halt the construction of the highway as well as his earlier activities protesting against logging operations in NAD. Fellow activists have suggested that the reason for his arrest may also involve the settling of old scores by members of the police and businessmen in the area.

On his arrest Bestari Raden was accused of membership of the armed opposition group, Free Aceh Movement (Gerakan Aceh Merdeka, GAM) which is involved in an armed struggle for independence in NAD. He was also accused of carrying out operations with, and extorting money on behalf of, GAM; of organizing demonstrations in support of a referendum for NAD in 1999; of protesting against environmental damage caused by the logging operations by PT Medan Remaja Timber; and of inciting others to commit an arson attack on the company’s logging camp in South Aceh District also in 1999.

Bestari Raden is reported to have confessed to all of the charges soon after his arrest because he feared that he would be subjected to torture or ill-treatment. There is no information to suggest that he was tortured on this occasion, but his fear was based on earlier experiences in 1999 when he was detained on at least two separate occasions by police in

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<sup>6</sup> There is speculation that the support of the security forces for the proposed highway is because it is linked to increased opportunities for logging operations in the area in which the military has traditionally had business interests.

South Aceh. On one of these occasions he is alleged to have been beaten by members of the Police Mobil Brigade (Brigade Mobil, Brimob). These earlier arrests are reported to have been linked to his anti-logging protests which had earned him the reputation as a *provocateur* which, in the NAD context, implies GAM membership. His name was subsequently placed on a “wanted list” of GAM members. Colleagues, friends and relatives have always asserted that he is not a member of GAM nor linked to it in any way.

The arrests, beating and other forms of intimidation and harassment to which he was allegedly subjected in 1999, caused Bestari Raden to leave the province and take up residence in the Indonesian capital of Jakarta. From 2001 to 2003 he served as a Coordinator for the Alliance of Indigenous Peoples of the Archipelago (Aliansi Masyarakat Adat Nusantara, AMAN), a nationwide alliance that campaigns for the rights of indigenous people. In 2004 he became the national coordinator of the Environmental Caucus (Kaukus Lingkungan), a new alliance of Indonesia-based environmental groups.

Bestari Raden’s defence team in 2004 claimed that there was no basis for any of the current charges against him. Indeed, some way into the trial, the prosecution dropped the charge of “separatism” on the basis that there was insufficient evidence. His lawyers also claimed that he had not taken part in any activities in support of a referendum on NAD’s political future. They also pointed out that, although he has always been vocal in his opposition to the environmental damage caused by logging, this did not amount to inciting others to commit acts of violence against logging companies.

Bestari Raden is currently detained in Tapak Tuan Prison where he is serving the two years and six months’ prison sentence handed to him by Tapak Tuan District Court on 2 October 2004. He is appealing the sentence.

#### **Take Action!**

- expressing concern that Bestari Raden may have been imprisoned solely because of his legitimate campaigning activities in defence of environmental protection, and urging the authorities to release him if this is the case;
- reminding the authorities of their obligations under the UN 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.

#### **Please write politely worded appeals to:**

President of the Republic of Indonesia  
Susilo Bambang Yudhoyono  
President RI  
Istana Merdeka

Jakarta 10110  
Indonesia  
Fax: + 62 21 345 2685 / + 62 21 526 8726 / + 62 21 380 5511  
Salutation: Dear President

Minister for Justice and Human Rights

Hamid Awaluddin  
Menteri Kehakiman dan HAM  
Jl. H.R. Rasuna Said Kav No. 4 - 5  
Kuningan  
Jakarta Selatan 12950  
Indonesia  
Fax: +62 21 525 3095 / + 62 21 310 4149 / +62 21 522 5036  
Salutation: Dear Minister

## ***Nepal***

### **Hira Lal Khadka and other human rights defenders must be protected**

Lawyers, journalists, civil society activists and families of victims of human rights violations, have found themselves on the front-line of the country's human rights crisis during the eight-year conflict between the Communist Party of Nepal (CPN) (Maoist) and the government. These human rights defenders (HRDs) have spoken out against the dramatic increase in human rights abuses that has followed the breakdown of the latest ceasefire in August 2003. As a result of their work, they have been targeted by both sides in the conflict. They have been threatened, tortured, abducted, detained, “disappeared” or killed for investigating and publicising human rights violations. HRDs are particularly at risk in remote districts away from the scrutiny of the national press and the international community.

Among those HRDs killed by the CPN (Maoist) was Dekendra Raj Thapa, a development worker, journalist and member of a human rights organisation. He was abducted in Dailekh district on 27 June 2004 after being summoned by the CPN (Maoist) to discuss a drinking water project he had been managing. On 11 August 2004 he was killed by CPN (Maoist) members. The CPN (Maoist) at first justified his killing by accusing him of spying for the security forces and acting as master of ceremonies at an event attended by the King of Nepal, but later admitted it was a “mistake”. After his killing, other journalists in Dailekh district were reportedly threatened and harassed by CPN (Maoist) members.

Amnesty International is particularly concerned about the Nepal government's obstruction of the work of the National Human Rights Commission (NHRC), which is an independent government-funded institution that has a mandate to investigate human rights violations. The NHRC has repeatedly been denied access to army barracks where it is believed that people are being secretly detained. Members of staff have been threatened by anonymous callers who claim they are from the army. Lawyer, Bal Krishna Devkota was arrested in February 2004 for five days in an army barracks and questioned about his work for the NHRC.

Several members of human rights organisations have also been arrested or killed by the security forces. **Hira Lal Khadka** was arrested on 28 August 2004 because of his human rights work and held in arbitrary detention for over three months.

On 29 August 2004, over 40 police officers surrounded the building, which serves as both Hira Lal Khadka's office and his home in Jumlikhalanga, Rukum district, mid-western

Nepal. This is a remote district that has been particularly badly affected by the conflict. The police reportedly searched the building before taking Hira Lal Khadka away to Rukum District Police Office. There are concerns that he was tortured while he was being detained there.

A detention order was issued under the Terrorist and Disruptive Activities (Punishment and Control) Act (TADA), which authorised Hira Lal Khadka's detention for 90 days without trial. He was reportedly accused of printing pamphlets written by relatives of members of the CPN (Maoist) who have "disappeared". Police say that they have found several of the pamphlets in his office. Hira Lal Khadka runs a printing business and says that he printed the pamphlets as part of his work for the business. On 6 September Hira Lal Khadka was transferred to Nepalgunj prison in Banke district.

**Hira Lal Khadka**  
©Amnesty International

Amnesty International believes that Hira Lal Khadka was targeted because of his work for Human Rights and Peace Society (HURPES). HURPES is a well respected national human rights organisation, which regularly makes public statements condemning human rights violations by both the CPN (Maoist) and the government. Hira Lal Khadka had been Chairman of the Rukum district branch of HURPES for 15 months. During that time he made several public statements condemning human rights abuses by the security forces. Hira Lal Khadka publicly campaigned against the arrest by security forces of four local journalists on 11 July. The journalists were detained after they were accused of assault by a local official, who they had criticised for corruption, but released after 13 days. HURPES and other human rights

organisations claimed that the charges against the journalists were politically motivated.

Around 1 November, a court reportedly ordered that Hira Lal Khadka should be released because his detention order had expired. However, on leaving prison he was rearrested by security forces and taken to Phultekara police station. He was released soon afterwards. He has not been able to return to his home in Rukum district because he fears that he will be targeted by the security forces if he returns.

Amnesty International is concerned that Hira Lal Khadka's case illustrates a pattern of arbitrary detention by the security forces to harass and intimidate human rights defenders in Nepal.

**Take Action:**

Write to the government of Nepal:

- Expressing concern about a pattern in the use of arbitrary detention to harass and intimidate human rights defenders.
- Urging the government to ensure that no human rights defenders are targeted by security forces in Nepal and to ensure that all human rights defenders, including members of the NHRC, are allowed to operate freely and without fear of arbitrary arrest, torture or “disappearance”;
- Urging the government to ensure that all reports of human rights violations against human rights defenders are subject to full, independent and impartial investigations and that the perpetrators of such violations are brought to justice.

**Appeals to:**

Sher Bahadur Deuba

Prime Minister

Prime Minister’s Office

Singha Durbar, Kathmandu, Nepal

**Telegram: Prime Minister, Singha Durbar, Kathmandu, Nepal**

**Fax: + 977 1 4 227 286 (faxes may be switched off outside office hours, 5 and a half hours ahead of GMT)**

**Salutation: Dear Prime Minister**

**And to diplomatic representatives of Nepal in your own country**

## Americas

### *Honduras*

#### **25 year sentence for indigenous activists**

AI is gravely concerned that, in Honduras, the judicial system appears to have been misused to target environmental and indigenous activists and those who support them, in order to prevent them from carrying out their work on behalf of their communities claiming rights to communal land titles. The actions of community representatives and social activists, like the Miranda brothers, pursuing land and environmental protection initiatives are frequently viewed as an impediment by those involved in land and environmental exploitation. The harassment through the judicial system of environmental and grassroots activists, including indigenous people, is part of a pattern of human rights abuses against those involved in defending the environment in Honduras. Amnesty International has documented killings, death threats, as well as the targeting of activists through spurious criminal charges.

On 8 January 2003, brothers Marcelino and Leonardo Miranda, indigenous leaders of the *Consejo Cívico de Organizaciones Indígenas Populares*, (COPINH), Civic Council of Indigenous and Popular Organisations, were taken by 21 armed police officers from the *Policía Nacional*, National Police, and armed civilians wearing ski masks, from the indigenous Lenca community in Montaña Verde, municipality of Gracias, Lempira department. According to reports the two men were tortured in front of their relatives, who were also threatened, during the arrest. The torture reportedly continued as the two men were taken to prison in Gracias municipality. At the prison, the police officers reportedly stabbed Leonardo Miranda in the head with a knife and threatened to kill him and his brother in their cells. Marcelino Miranda was forced to sign a confession under torture for unknown charges. They have reportedly been tortured further while in prison by *Cobra* officers from an elite group in the National Police force. Leonardo Miranda was reportedly threatened with death unless he signed a piece of paper accepting the charges brought against him.

The *Fiscalía Especial de las Etnias* (Special Prosecutor for Ethnic Affairs) brought a lawsuit against several police personnel on charges of torture and abuse of authority during the Mirandas' arrest. The torture charges against the police involved were dismissed (*sobreseimiento definitivo*) in September 2003. On 29 September 2003, the Special Prosecutor for Ethnic Affairs appealed against the dismissal. The Prosecutor for Santa Rosa de Copán confirmed the dismissal, but with a provisional character (*sobreseimiento provisional*) which allows for new elements to be put forward in the case against the police.

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Leonardo and Marcelino Miranda were initially accused of illegal seizure of land (*usurpación*), battery (*lesiones*) and manslaughter (*homicidio*). In addition, Marcelino was charged with grand larceny of livestock and damages (*hurto de ganado mayor y daños*), and Leonardo was charged with “attack against the State of Honduras” (“*atentado contra el Estado de Honduras*”). Several of these charges were dropped and the charges of battery and murder (*asesinato*) for the 2001 killing of Juan Reyes Gómez in an alleged land dispute remained. On 16 December 2003, they were sentenced to 25 years in prison for the murder charge. An appeal was lodged in January 2004.

Amnesty International has received information which would suggest that due process was not properly observed during the trial and sentencing of the Miranda brothers. Two men, who were reportedly not at the scene of the crime when Juan Reyes Gómez was killed, were called on by the mayor to tend to the body, thus removing or disturbing important crime scene evidence. The sentence for murder is based largely on witnesses’ statements for the prosecution which many believe to be unreliable and contradictory and which are not supported by evidence (regarding the number of shots fired and the location of the murder). These reported contradictions in the witness statements were not followed up or analysed.

Amnesty International believes they were also denied a fair trial as they were not guaranteed the right to equality before the law and courts, the right to call and examine witnesses and the principle of “equality of arms”<sup>7</sup> was not observed. Despite the fact that 10 witnesses placed the Miranda brothers far away from the scene of the crime at the time of the murder, their testimony was ignored; instead there has been total acceptance of the prosecution’s witnesses’ statements. Given that there are strong political and economic interests in Gracias, which are opposed to COPINH’s work on behalf of indigenous communities, Amnesty International is concerned that the charges against the Miranda brothers were politically motivated, that they were not offered a fair trial, and considers the two political prisoners.

Amnesty International has also received information that would indicate that the Miranda brothers were also denied the right to the presumption of innocence during their trial. While there does not seem to be conclusive evidence to link the Miranda brothers to Juan Reyes Gómez’s murder, at least one of the witnesses stated that he knew that the Miranda brothers were guilty because there were already suspicions about them, “*digo que ellos fueron porque ya hay sospechas...yo de la muerte de Juan no vi nada, pues yo no estaba en la montaña*”. “I say that it was them because there is already suspicion...about the death of Juan [Reyes Gómez] I didn’t see anything, because I wasn’t there.” Ballistic evidence, that indicated that the nature of the metal fragments found in the body of the deceased could not

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<sup>7</sup> The principle of “equality of arms” between the parties in a case, which must be observed throughout the trial process, means that both parties are treated in a manner ensuring that they have a procedurally equal position during the course of the trial, and are in equal position to make their case. Each party must be afforded a reasonable opportunity to present its case, under conditions that do not place it at a disadvantage vis-à-vis the opposing party.

be identified as bullets, was reportedly ignored and the weapons used in the killing (a firearm and a machete) were not submitted as evidence.

In June 2004, the Appeals Court in Santa Rosa de Copán ratified the 25 year sentence. An appeal was submitted to the Supreme Court. On 11 November 2004, the Supreme Court issued its decision upholding the appeal. The Supreme Court found serious problems and irregularities in the judicial process, including witnesses evidence. The Supreme Court is sending its decision to the Appeals Court in Santa Rosa de Copán. Further proceedings at the court of appeals could take weeks or months depending on its decision on whether to accept or reject the Supreme Court ruling. A decision to reject the ruling can still be appealed by the Miranda brothers.

For many years Amnesty International has been concerned about abuses against indigenous people in Honduras and the failure of the authorities to investigate the abuses and bring those responsible to justice. According to information Amnesty International has received, much of the abuse and arbitrary detentions against indigenous people has apparently been intended to obstruct the efforts of indigenous leaders to secure recognition of their community's land rights. COPINH fought for and won the first Communal Land Title in Montaña Verde. COPINH's fight for communal land titles has placed them in direct opposition to landowners and other powerful people in the Gracias municipality, interested in using the disputed land for cattle, logging and the cultivation of coffee beans.

Amnesty International is concerned that the judicial system in Honduras has failed to provide due process to the Miranda brothers inhibiting as a result of the prison sentence imposed on them their ability to carry out their human rights work on behalf of their community.

### **Take Action!**

#### **Please send appeals to the president of Honduras:**

- Express concern at the way the judicial system in Honduras is misused to harass human rights defenders using the cases of the Miranda Brothers to illustrate your point;
- Calling for the immediate and unconditional release of the Miranda brothers, unless clear evidence against them can be produced;
- Urge the authorities to ensure that national and international fair trial standards are upheld.

#### **Please send your appeals to:**

President of the Honduras Republic

Lic. Ricardo Maduro  
Presidente de la República de Honduras  
Casa Presidencial  
Boulevard Juan Pablo Segundo  
Palacio José Cecilio del Valle  
Tegucigalpa, Honduras  
**Fax: +504 2357700**  
Salutation: Dear President/Señor Presidente

**Please send copies of your appeals to:**

Special Prosecutor for Ethnic Affairs

Licda. Jany del Cid  
Fiscal Especial de las Etnias  
Edificio Castillo Poujol, 4a Avda,  
Colonia Palmira, Boulevard Morazán  
Tegucigalpa, Honduras  
**Fax: +504 221 3099 extension 2123**  
Salutation: Dear Licda del Cid / Sra. Fiscal Especial de las Etnias

## **Guatemala**

Amnesty International is seriously concerned that the judicial system in Guatemala is being misused to harass communities who have been campaigning for compensation, in relation to past human rights violations. Evidence collected by Amnesty International suggests disproportional charges have been levied against activists campaigning on their behalf to prevent them from carrying out their legitimate human rights work. Amnesty International believes that the charges may be politically motivated and in the event that these activists were detained and prosecuted, Amnesty International would consider them political prisoners.

Members of several communities in the Rabinal municipality, Baja Verapaz Department were evicted from their land over 20 years ago to allow for the construction of the Chixoy hydroelectric dam. Most residents refused eviction and resettlement during the planning and development phases of the project in the 1970's, finding conditions in other areas inferior to what was promised and returned to Río Negro.

Five massacres were carried out at the Achí village of Río Negro, Rabinal municipality, between 1980 and 1982 in the course of operations by the Guatemalan military to combat armed groups. Local human rights groups say 4,000 to 5,000 people were killed during that period in the wider Rabinal area, and that 444 of the 791 inhabitants of Río Negro were extra-judicially executed. According to numerous studies, Río Negro may have been especially targeted because the land was required to build the Chixoy hydroelectric dam. The dam was part of a government economic development plan. Initial funding for the dam construction came from the Inter-American Development Bank and the World Bank.

In March 1982 the army and a civil defence patrol marched 70 women and 107 children from Río Negro into the mountains and killed them. Three women escaped and 18 children were captured and detained by patrollers. Several of these children have become key witnesses in efforts to bring those responsible for the massacres to justice and to obtain compensation for the community's lost lands and possessions.

On 7 September 2004, around 2,000 members of the Chixoy dam affected communities participated in a peaceful protest at the Chixoy hydroelectric dam. The communities were protesting the lack of reparations for past human rights violations, for the losses incurred during the construction of the dam, and for the lack of free running water and electricity in the communities as offered to the communities before the construction of the dam. On 8 September 2004, the community ended the protest following an agreement with representatives of the *Instituto Nacional de Electrificación*, (INDE), State Electricity Institute, the authorities and observers from the *Procuraduría de los Derechos Humanos*, PDH, the state human rights ombudsman's office, to negotiate with the communities.

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The week of September 14 2004, INDE representatives formally presented a complaint to the *Ministerio Público*, Public Prosecutor's Office, in Cobán against members of the Chixoy dam affected communities. Those who took part in the protest were accused of '*actividad contra la seguridad de la nación*,' activity against national security<sup>8</sup>. INDE claimed that in occupying the hydroelectric dam, the communities could have closed the dam's flood gates, thereby putting at risk the electricity supply for the whole nation, damaging the national economy and provoking a catastrophe. However, according to a report of the *Fiscal Regional*, or regional prosecutor, a police report claimed that the members of the community were participating in a peaceful protest, calling for the fulfilment of promises made by INDE since 1976. According to the regional prosecutor, the police report also stated, following an inspection, there were no damages to the Chixoy dam.

Once the accusation had been presented to the *Ministerio Público* in Cobán, the regional prosecutor was obliged to determine whether there was sufficient evidence in order to prosecute. The regional prosecutor has allegedly been disinclined to prosecute due to the lack of evidence of criminal damage to the dam, he has allegedly been instructed by the *Fiscal General de la República*, Attorney General, to individualize responsibility, to bring criminal charges and to issue arrest warrants against individuals.

As a result, several representatives of the 18 dam affected communities involved in the protest, who signed the agreement with INDE on 7 September 2004, are currently facing criminal charges. Those facing charges include: Carlos Chen Osorio a survivor and key witness to the 1982 Rio Negro massacre; Juan de Dios García, director of the *Asociación de Víctimas de Rabinal* (ADIVIMA), Rabinal Victims' Association; other leaders of other Chixoy dam affected communities, including Domingo Sic, Rafael Santiago Frenández, Félix Alonso Raymundo, Antonio Vásquez Xitumul and Víctor Lem Colorado.

Also facing charges is Daniel Pascual, Director of the *Comité de Unidad Campesino*, CUC, Peasants' Unity Committee. According to reports, on the day prior to the occupation of the hydroelectric dam site, Daniel Pascual gave two declarations to the press in which he stated that the protests against the Chixoy dam had links to Guatemala's long-running land conflict. He stated that the government had failed to fulfil its obligations to the Chixoy dam affected communities and claimed the World Bank was also responsible for the current impoverished situation of the communities. The Attorney General has urged the regional prosecutor in Cobán to initiate investigations against Daniel Pascual in relation to these statements to the press.

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<sup>8</sup> According to the Guatemalan Penal Code Article 390: Activity against the security of the Nation is punishable by prison sentences of one to five years and a fine of 1,000 to 15,000 quetzales (about US \$130 to US \$2000) for those who carry out acts which have the objective of sabotage, destruction, stoppage or creating disorder of the businesses that contribute to the economic development of the country with the purpose of hindering the national production of important services of public utilities (unofficial translation).

Although no arrest warrants have been issued at the time of writing, the criminal investigations against community representatives and Daniel Pascual reportedly remain open.

Parallel to efforts to bring criminal charges against members of the communities the negotiation process regarding compensation for past violations has begun. On Friday September 24 2004, a meeting took place between INDE and the communities affected. At this meeting, INDE refused to drop charges. On 13 October community representatives held a meeting with representatives of the World Bank, during which the World Bank reportedly committed to participating in the negotiating table. However, during the most recent meeting organized for 28 October 2004, World Bank representatives as well as senior government officials failed to attend.

Amnesty International is concerned that the charges against the community members may be politically motivated in order to discredit and prevent community members from participating in negotiations on behalf of the Chixoy dam affected communities.

**TAKE ACTION!**

Please send appeals to the President and Attorney General of Guatemala:

- Urge the authorities to ensure that any criminal investigation against members of the Chixoy affected dam communities comply with domestic and international standards regarding due process, the right to an adequate defence and fair trial;
  
- Expressing concern that in the case of the Chixoy affected dam communities, criminal charges may be used to punish and prevent community representatives from actively participating in negotiations for compensation and reparations in relation to past human rights violations.

**Please send appeals to:**

President of the Republic of Guatemala

Licenciado Oscar Berger Perdomo  
Presidente de la República de Guatemala  
Casa Presidencial, 6 a. Avenida, 4-18 zona 1  
Ciudad de Guatemala, Guatemala

**Fax: +502 221 4423**

**Salutation: Excelentísimo Sr. Presidente/Dear President Berger**

Attorney General

Juan Luis Florido  
Fiscal General  
Fiscalía General del Ministerio Público  
8a. Avenida 10-67, Zona 1,

Ciudad Guatemala, Guatemala

**Fax:** + 502 251 2218

**Salutation:** Estimado Fiscal General/Dear Sir

## **Africa**

### ***Mauritania***

#### **Press for the legal recognition of Mauritanian human rights organizations!**

Several human rights organizations have difficulty operating in Mauritania, especially those working on slavery. *SOS Esclaves* is the sole human rights NGO to have made slavery its main focus, but others, such as the *Association Mauritanienne des Droits de l'Homme* (AMDH), Mauritanian Human Rights Association, are also active in this area. Although recognized by the African Commission on Human and Peoples' Rights and other international human rights bodies, these two organizations, plus several others, remain illegal as the government has failed to grant them official recognition. *SOS Esclaves* produces annual reports on its activities. It has intervened many times on behalf of former slaves who are seeking to be reunited with their children or other members of their families, to have access to land, or to inherit the belongings of their own relatives.

In early 1998 five human rights defenders, including Boubacar Messaoud, President of *SOS Esclaves*, Professor Cheikh Saad Bouh Kamara and Maître Fatimata M'Baye, respectively President and Vice-President of the AMDH at the time, were convicted to a term of imprisonment for running unauthorized organizations. Although these human rights defenders were granted presidential clemency in March 1998 after almost three-months' detention, on the very day that the Appeal Court rejected their appeals and confirmed their 13-month prison sentences, their organizations still remain without official recognition by the Ministry of the Interior. They were all considered prisoners of conscience by AI. The defenders continue their activities to promote and protect human rights, but their lack of official recognition is a constant threat to their organizations' survival as well as their personal safety and effectively stifled debate on the necessary measures for eradicating slavery.

In May 2002, Boubacar Messaoud was arrested by Mauritanian security forces and briefly detained after the publication of a statement by *SOS Esclaves* in which it was alleged that a detainee had been tortured by the police. He was accused of defamation and the Nouakchott regional police director announced his intention to take him to court on these grounds.

More recently, in November 2004, during a press conference, the Minister of Communication reportedly accused AMDH and *SOS Esclaves* of being "enemies and plotters against the country in the pay of the outside world" ("ennemis et de comploteurs contre le pays à la solde

de l'étranger"). They had been denouncing torture and ill-treatment against military officers arrested in connection with allegations of coup attempts. Public smear campaign is not new for these two organizations. In 2002 for instance, they were condemned by the press following the launch of AI's report "Mauritania: a future free from slavery?" in which they had participated.

The 1964 Mauritanian law on association, amended in 1973, provides for criminal sanctions of one to three years imprisonment and a fine to "those who, in any capacity, run or continue to run associations operating without authorization, associations which have been dissolved (...)." The power to give authorization belongs to the Minister of Interior.

### **Take action!**

Please send appeals in French, Arabic or your own language:

- expressing concern that several human rights organizations are still not recognized which poses a constant threat to the organizations' survival as well as the personal safety of their representatives; urging the Mauritanian authorities to authorise these organizations so that they are able to operate freely;
- urging the Mauritanian Government to ensure that human rights defenders are not threatened, harassed and that their lives are not put at risk as a result of their legitimate activities;
- urging the Mauritanian Government to abide by its obligations under the African Charter on Human and Peoples' rights, in particular the rights to freedom of expression and association, by allowing everyone in the country to enjoy these rights without undue interference;
- urging the Mauritanian authorities to respect the UN Declaration on Human Rights Defenders adopted by the UN General Assembly on 9 December 1998 which states in Article 1 that "everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels".

Please send your letters in French, Arabic or your own language to:

Minister for the Interior, Post and Telecommunications  
Ministre de l'Intérieur, des Postes et Télécommunications  
M. Mohamed Ghaly Ould Chérif Ahmed  
B.P. 195  
Nouakchott, Mauritania

**Salutation: Monsieur le Ministre / Dear Minister**

President of the Republic  
Président de la République

Maaouya Ould Sid' Ahmed Taya  
Présidence de la République  
B.P. 184  
Nouakchott, Mauritania

**Salutation: Monsieur le Président / Dear Mr President**

Please send copies to **AMDH**, BP 5012, Nouakchott, Mauritania, Fax +222 525 71 54 and **SOS Esclaves** BP 4302, Nouakchott, Mauritania, Email: [afrique@sosesclaves.org](mailto:afrique@sosesclaves.org)

And to diplomatic representatives of Mauritania accredited to your country.