

PUBLIC

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09 June 2005

UA 159/05 **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 8 June, on the orders of the Supreme Court, but rearrested immediately, by members of the security forces in plain clothes. The men beat him, and also detained his brother-in-law, Bal Krishna Poudel, who had come to meet him. Their whereabouts are now unknown, and both men are at grave risk of torture.

Karna Bahadur Thapa Magar had been released at the Kathmandu district court. The Supreme Court had ordered his release on 1 June, in response to a *habeas corpus* petition, ruling that he had been held illegally since his arrest on 8 October 2004. The Supreme Court further ordered that he should be released in the presence of the Kathmandu district court, as lawyers believed that there was a danger he would be rearrested. Karna Bahadur Thapa Magar was escorted by a district court, as well as several lawyers, but a group of around eight men in civilian clothes seized him outside the court premises and took him by force to a cream-colored pick-up truck waiting nearby (with a red license plate with the Nepali letters "ba, a, cha" followed by the numbers "6778"). The men treated Karna Bahadur Thapa Magar roughly and beat him on the back, and also punched one of the lawyers accompanying him.

Bal Krishna Poudel was among the family members waiting outside the district court. He is a resident of Dana Bari village development committee in Ilam district, in eastern Nepal.

Karna Bahadur Thapa Magar's whereabouts were unknown for four months after his initial arrest in 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 center in Kathmandu.

He told lawyers that he was severely tortured when he was first taken into custody and detained at Yuddha Bhairab Gan, at the Bhairab Nath Gan army barracks in Maharajgunj, Kathmandu. During his first two weeks in custody there, he was beaten with a baton on his head, back, arms, feet, and legs. He told lawyers that he once passed out from the beatings, and that he still suffers from back pain. He was interrogated repeatedly and accused of being a member of the Communist Party of Nepal (CPN) (Maoist). Karna Bahadur Thapa Magar says that following his transfer to Sundarijal detention center in early 2005, he was not tortured, though he continued to be interrogated.

In response to the *habeas corpus* petition before the Supreme Court, the District Administrative Office of Kathmandu acknowledged that, as of 7 January 2005, Karna Bahadur Thapa Magar was being 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.

His family suspect that Karna Bahadur Thapa Magar was accused of being a CPN (Maoist) cadre by a resident of his home village, Danda Kharka village development committee in Dolakha district, in revenge for reporting to police the alleged rape of a 15-year-old girl.

BACKGROUND INFORMATION

Amnesty International has repeatedly raised concerns over the number of people who are "disappearing" in Nepal. This is happening during counter-insurgency operations by the security forces, in response to the "people's war" that the CPN (Maoist) has been waging since 1996. The problem intensified after a ceasefire between the government and the CPN (Maoist) broke down in August 2003. Amnesty International has received information on more than 400 people who have "disappeared" since then.

In addition to these widespread "disappearances", the organisation has received reports of hundreds of extrajudicial executions, thousands of arbitrary arrests and widespread torture by the security forces. At the same time, the CPN (Maoist) has been responsible for thousands of abductions and hostage-takings, as well as killings and torture. At the heart of the problem is the fact that both the security forces and the CPN (Maoist) operate in an environment of impunity.

The human rights crisis has deteriorated further following the events of 1 February, when King Gyanendra of Nepal seized direct power. The King's takeover has strengthened the hand of the military, reduced the prospect of a political process towards peace, and increased the likelihood of intensified violence, with the attendant risk of increased human rights abuses.

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 Karna Bahadur Thapa Magar and Bal Krishna Poudel, who are believed to have been abducted by security forces personnel on 8 June 2005;
- calling on the authorities to immediately make public their whereabouts and grant them immediate access to relatives, lawyers and any medical attention they may require;
- urging that they be treated humanely while in custody and not tortured or ill-treated;
- calling for them to be released immediately and unconditionally, in compliance with the order for Karna Bahadur Thapa Magar's release issued by the Supreme Court and in recognition of the fact that Bal Krishna Poudel was an innocent bystander.

APPEALS TO: (It may be difficult to get through to fax numbers in Nepal. Please keep trying.)

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 21 July 2005.