

PUBLIC

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19 August 2005

UA 213/05 **Fear for safety/ legal concern**

NEPAL **Raj Kumar Pariyar (m), aged 25**

On 12 August, Raj Kumar Pariyar was re-arrested by plainclothed security personnel at the Kathmandu district court, despite a Supreme Court order for his release. He is being held at the Hanumandhoka district police station in Kathmandu and there are concerns for his safety.

Raj Kumar Pariyar was detained without charge for 19 months before the Supreme Court ruled on 10 August that his detention was illegal and that he should be released in the presence of the district court. When he was brought before the Kathmandu district court on 12 August, security forces personnel in plain clothes were waiting outside. As well as arresting Raj Kumar Pariyar, they also arrested his father and three brothers. His father, Gyan Bahadur Pariyar, aged 60, was detained together with Srawan Kumar Pariyar and Kiran Pariyar at the Singha Durbar ward police station in Kathmandu; the three were released the next day without charge. Prakash Pariyar, aged 18, was detained along with his brother Raj Kumar Pariyar at the Hanumandhoka district police station, but was released on 13 August without charge.

On 15 August, Raj Kumar Pariyar was brought by police before an appeal court, which ordered his detention for up to 30 days. Raj Kumar Pariyar is allowed to receive visitors in detention. He reportedly has been blindfolded, interrogated and threatened.

Raj Kumar Pariyar was first arrested by Royal Nepalese Army (RNA) personnel on 11 January 2004 and “disappeared” for nearly one year. During this time, he was reportedly tortured while in custody of the Jagadal battalion at Chhauni army barracks in Kathmandu. The authorities repeatedly denied any knowledge of his arrest or detention, including in formal responses to a *habeas corpus* petition which was filed before the Supreme Court by the Nepal-based rights organization Advocacy Forum on 30 September 2004. In written responses to the court, the RNA, the Defense Ministry, the Home Ministry, and the Chief District Office of Kathmandu denied that they had arrested or detained him.

However, on 14 December 2004, local newspapers reported that Raj Kumar Pariyar was among the detainees identified in a report issued by the government committee investigating “disappearances”. He was reportedly being held at the Sundarijal detention centre in Kathmandu. His father was permitted to visit him at Sundarijal, but authorities did not provide any information about the reasons for Raj Kumar Pariyar’s detention.

On 27 July 2005, Advocacy Forum filed a second *habeas corpus* petition before the Supreme Court on behalf of Raj Kumar Pariyar. This time, the Chief District Officer of Kathmandu responded that he 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. According to the account provided to the court by the Chief District Officer, Raj Kumar Pariyar was held under TADO as of 18 October 2004, on the recommendation of the Jagadal battalion at Chhauni army barracks. (In a written reply issued on 27 October 2004 in response to the first *habeas corpus* petition, the Royal Nepalese Army had denied that Raj Kumar Pariyar was held in army custody.) The home ministry reportedly authorized his detention for a further six months on 15 April 2005. However, the Supreme Court found that his detention was illegal on 10 August 2005.

BACKGROUND INFORMATION

In the course of the nine-year-long internal armed conflict, 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 the king’s seizure of power on 1 February 2005, with the security forces exercising virtually unchecked power. The practice of rearresting those who have been freed on court order constitutes arbitrary detention, undermines the authority of the courts, and displays open contempt for the rule of law.

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 Raj Kumar Pariyar, who was re-arrested by security forces personnel on 12 August 2005;
- urging that he be treated humanely while in custody and not tortured or ill-treated;
- calling for Raj Kumar Pariyar to be freed immediately and unconditionally, in compliance with the order for his release issued by the Supreme Court;
- calling on the government to instruct relevant law enforcement agencies to halt immediately the practice of re-arresting those who have been released on the order of a judge;
- calling on the government to undertake an investigation into the “disappearance”, illegal detention, and rearrest of Raj Kumar Pariyar, urging that those responsible for committing or ordering these violations of his human rights should be brought to justice in fair proceedings.

APPEALS TO:

Minister Dan Bahadur Shahi
Minister of Home Affairs
Singha Durbar, Kathmandu, Nepal
Fax: + 977 1 4 225 156
Salutation: Dear Minister

Minister Niranjan Thapa
Ministry of Law, Justice and Parliamentary Affairs
Singha Durbar, Kathmandu, Nepal
Fax: + 977 14211232
Email: molaw@wlink.com.np
Salutation: Dear Minister

Shyam Bhakta Thapa
Inspector General of Police
Police Headquarters
GPO Box 407, Naxal, Kathmandu, Nepal
Fax: +977 1 4 415 593 / 4 415 594
Salutation: Dear Inspector General

Puskar Karki
Deputy Superintendent of Police
Head, Human Rights Cell
Police Headquarters
GPO Box 407, Naxal, Kathmandu, Nepal
Fax: +977 1 4 415 593 / 4 415 594
Email: hrcell@nepalpolice.gov.np
Salutation: Dear Deputy Superintendent

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 30 September 2005.