

Case NPL 160704.1
Arbitrary re-arrest and detention / Forced disappearance

Geneva, 20 July 2004

The International Secretariat of OMCT requests your **URGENT** intervention in the following situation in **Nepal**.

New information

The International Secretariat of OMCT has been informed by the Asian Human Rights Commission (AHRC), a member of the OMCT network, that **Mr Yek Raj Basnet**, **Mr Khagendra Sambahamfe**, **Mr Ram Bahadur Ingaram** and **Mr Tek Bahadur Bista**, who were re-arrested by the security force from the courtyard of the Morang District Court on 14 July 2004, are being detained in Morang prison under "preventive detention".

It is reported that the four persons are being detained under Section 9 of the Terrorists and Disruptive Activities (Control and Punishment) Ordinance 2001 (TADO), which allows for a maximum of 90 days of detention if there are grounds to believe that if not prevented, the person would commit terrorist activities. Although **Mr Yek Raj Basnet**, **Mr Khagendra Sambahamfe**, **Mr Ram Bahadur Ingaram** and **Mr Tek Bahadur Bista** are not allowed access to any visitors from outside, including their family members, after being pressured, a lawyer from Advocacy Forum, a human rights NGO in Nepal, was allowed to see them in prison in the presence of police guards. Even though the meeting was very short (less than two minutes), the lawyer was able to check their safety.

The International Secretariat of OMCT remains gravely concerned by these cases of arbitrary re-arrest, and fears for the physical and psychological integrity of **Mr Yek Raj Basnet**, **Mr Khagendra Sambahamfe**, **Mr Ram Bahadur Ingaram** and **Mr Tek Bahadur Bista**. OMCT calls for the Nepalese government to guarantee their personal integrity at all times and to order their immediate release in the absence of legal charges that are consistent with international law and standards. Furthermore, OMCT calls on the authorities to immediately launch thorough and impartial investigations into these cases, in order to identify those responsible, bring them to justice, and award adequate compensation to the victims.

Reminder of the situation

According to information received on 14 July 2004, **Mr Yek Raj Basnet**, **Mr Khagendra Sambahamfe**, **Mr Ram Bahadur Ingaram** and **Mr Tek Bahadur Bista** were arrested by security force personnel as soon as they were released by the Morang District Court. The security force personnel were in plain-clothes, but the driver and guards in the vehicle were in uniform. According to the same information, the security forces are from Morang District so can be identified by **Mr Dolakha Bahadur Gurun**, the Chief District Officer (CDO).

The detailed conditions of the arrest and detention of these four persons remain unclear. It is only reported that they were arrested on different days by the security forces about nine months ago [**Mr Ram Bahadur Ingaram** was arrested on 27 September 2003], remained disappeared for some months and were later found in prison in Morang. According to the prison records, the four victims were given detention orders on the same day (15 January 2004) for preventive detention under Public Security Act (PSA) for 90 days. Their detention order was extended for another 90 days.

On 12 July 2004, the prison authority wrote a letter to the Morang District Court to release these four persons as they had spent the "authorized" term under PSA. When a person who is detained under this Act is released, the PSA states that the person should be released in the presence of the judge of the district court or the registrar in his absence. It is also reported that these four persons were very afraid of being released because they thought that they would be executed or disappeared once they were released. Thus, they asked the prison authorities to release them only in the presence of persons from independent institutions or bodies. After receiving the request letter, the Morang District Court asked the local bar association to receive these four persons, and four lawyers from the Bar Association signed the paper to receive the detainees.

However, on 14 July 2004, as soon as **Mr Yek Raj Basnet**, **Mr Khagendra Sambahamfe**, **Mr Ram Bahadur Ingaram** and **Mr Tek Bahadur Bista** came out from the judge's chamber of the Morang District Court, all of them were re-arrested by the plain-clothes security personnel even though four lawyers were accompanying them. Ignoring the lawyers' protests, the security forces pulled the victims into a vehicle parked in the courtyard and took them away. Until this most recent update, the four persons' whereabouts were unknown.

Action requested:

Please write to the authorities in Nepal urging them to:

- i. take all necessary measures to guarantee the physical and psychological integrity of Mr **Yek Raj Basnet**, Mr **Khagendra Sambahamfe**, Mr **Ram Bahadur Ingaram** and Mr **Tek Bahadur Bista**;
- ii. order their immediate release in the absence of legal charges that are consistent with international law and standards, or, if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times;
- iii. order a thorough and impartial investigation into the circumstances of these arrests and forced disappearances, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- iv. guarantee that adequate reparation is provided to the victims of these abuses;
- v. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards.

Addresses:

- Prime Minister Surya Bahadur Thapa, Prime Minister's Office, Singha Durbar, Kathmandu, Nepal, Fax: + 977 1 4 227 286
- General Pyar Jung Thapa, Chief of Army Staff (COAS), Army Headquarters, Kathmandu, Nepal, Fax + 977 1 4 242 168
- Deputy Brigadier General Nirendra Prasad Aryal, Head, Army Human Rights Cell, Army Headquarters, Kathmandu, Nepal, Fax: + 977 1 4 226 292/ 229 451
- Mr. Dolakha Bahadur Gurung, Chief District Officer – Morang, Tel/fax: +977 21 530 372
- Mr. Raju Nepali, Royal Nepal Army, Human Rights Cell, Tel/fax: +977 1 4245020
- Mr. Shyam Bhakta Thapa, Inspector General of Police, Police Headquarters, Naxal, Kathmandu, Fax: + 977 1 4 415 593 / 415 594
- H. E. Gyan Chandra Acharya, Ambassador, Permanent Mission of the Kingdom of Nepal, 81 rue de la Servette, 1201 Geneva, Switzerland, Fax: +4122 7332722, E-mail: mission.nepal@ties.itu.int
- Mr. Nain Bahadur Khatri, Chairman of the National Human Rights Commission, Pulchowck, Lalitpur, Nepal, Tel: +977 1 5 547 974 or 525 659 or 547 975, Fax: +977 1 5 547 973, Email: nhrc@ntc.net.np

Please also write to the embassies of Nepal in your respective country.

Geneva, 20 July 2004

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.