



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE  
Thirty-fourth session  
Geneva, 2-20 May 2005

**List of issues to be considered during the examination of the  
second periodic report of NEPAL (CAT/C/33/Add.6)**

**Articles 1 and 4**

1. Please inform the Committee about any steps taken to bring the definition of torture in article 2 (a) of the Torture Compensation Act of 1996 into line with the definition in the Convention against Torture.
2. Please provide information on steps taken to include a legal provision in domestic law which would make torture a criminal offence. Please provide the Committee with an update on the current status of the draft Criminal Code.

**Article 2**

3. Please indicate how the right to be free from torture and other cruel and inhuman treatment or punishment is being protected in the context of the current state of emergency and mobilization of security forces. What initiatives has the State party undertaken to ensure the protection of civilians and non-combatants? What is the current status of the “integrated security plan”?
4. Please provide more information on the laws providing for preventive detention. What is the current status of the Terrorist and Disruptive Activities (Prevention and Punishment) Act 2002, the Public Security Act and the Local Administrative Act? What progress has been made towards the release of detainees held for prolonged periods of time without trial under the Public Security Act?

5. Has the State party taken any measures to ensure that members of the judiciary at all levels receive support and training in order to raise their awareness of domestic and international human rights standards and to strengthen their integrity and independence as judges? How does the State party ensure that court orders, including habeas corpus, are respected and implemented by the law enforcement authorities?

6. Please provide more detailed information on the new institutions for the protection and promotion of human rights. What measures are taken to ensure that their functions are public and transparent?

7. Please inform the Committee about any financial and other support provided by the State party to the National Human Rights Commission? Will monitors be given powers to visit all places of detention, including army barracks, without prior notice?

8. Does the State party envisage signing the Human Rights Accord drafted and proposed by the National Human Rights Commission?

9. Please tell the Committee whether legislation prohibiting torture and cruel, inhuman and degrading treatment contains specific provisions regarding gender-based breaches of the Convention, including sexual violence. Please also describe the effective measures taken to monitor the occurrence of, and to prevent such acts, and provide data, disaggregated by the sex, age and ethnicity of the victims, and information on investigation, prosecution and punishment of the perpetrators.

### **Article 3**

10. Please inform the Committee about the specific safeguards in place against non-refoulement to a State where there are substantial grounds for believing that a person would be in danger of being subjected to torture, and the practice of the State party in this respect. Please provide examples of cases where the authorities did not proceed with extradition, return or expulsion because of fear that the persons might be tortured. Please provide information on any anti-terrorism legislation that Nepal may have adopted and whether it complies with the requirements of article 3. Does the State party envisage ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol?

### **Article 5**

11. Please provide information on domestic legislation establishing universal jurisdiction over the offence of torture.

### **Article 10**

12. Please provide more detailed information on the education and information regarding the prohibition against torture included in the training provided for law enforcement and medical personnel, and other public officials. Please provide information on training in areas such as non-coercive investigatory techniques. What forms of monitoring and evaluation are used to assess the impact of these programmes, if any? What is being done to enhance the knowledge and skills of the lower ranks of the security personnel?

13. Please indicate further whether there are programmes to train medical personnel assigned to identify and document cases of torture and assist in the rehabilitation of victims. What steps are being taken to counter the lack of scientific equipment and of experience in carrying out autopsies and forensic investigations? What safeguards are in place to ensure that medical personnel are not subject to police intimidation and are able to examine victims independently of the police?

#### **Article 11**

14. Please inform the Committee of any measures taken to ensure that interrogation rules, instructions, methods and practices as well as custody arrangements are kept under review. What steps are being taken to ensure effective and independent supervision of detention facilities? How is the prison management reform programme being implemented? How are the special needs of female prisoners taken into account?

15. Please provide updated information on the number of imprisoned persons and the occupancy rate with respect to capacity for 2002, 2003 and 2004. Does the State party envisage ensuring that information is made available on the number of detainees, disaggregated by gender, including the number of persons below 18 years, in all places of detention, including army barracks, as well as in a national registry?

#### **Article 12**

16. Please provide more detailed information on specific measures taken with regard to prevention, investigation, prosecution and punishment in response to numerous allegations of torture, extrajudicial executions and disappearances committed by State agents.

17. Please inform the Committee about the number of State officers (police, prison, army, medical, etc.) who have been found in torture-related cases to have violated the human rights guaranteed by the Constitution since 1994. Are State officers suspended during the investigation? The State party is requested to provide a list of these cases to the Committee if one exists.

18. Please comment on the allegations by international non-governmental organizations of torture in custody, including gang rape and other acts of sexual violence against women and children by security forces?

19. Please provide information on the number of cases brought with respect to rape or sexual assault in custody. Please also indicate whether the perpetrators were police, prison or army officials or fellow detainees. What mechanisms have been established to counter these crimes? How many persons were convicted, and for what offences? What punishments were meted out to such persons? The State party is requested to provide a list of such cases to the Committee if one exists.

### **Article 13**

20. Please indicate whether the State party plans to establish an effective witness protection programme, particularly for cases of torture, extrajudicial executions and other abuses. Is this matter under review? In particular, are there financial or other resources allocated for this purpose?

21. Are prisoners examined by a medical doctor upon arrival? If so, are injuries systematically recorded and, if reported to have been inflicted by the police, are they investigated.

### **Article 14**

22. Please provide information on compensation measures ordered by the courts and actually provided to victims of torture or their families since 1994. Please provide further statistics and examples of compensation received by victims in such cases. With reference to article 115 (10) of the Constitution, how is the right to fair and adequate compensation implemented in the context of the current state of emergency? What safeguards are in place against further harassment or intimidation of complainants?

23. Please provide information on any services that exist for the treatment of trauma and other forms of rehabilitation of torture victims. What financial allocations have been made for this purpose?

### **Article 15**

24. In cases where it is alleged that a confession was extracted under torture, and with reference to article 9 of the Evidence Act 1974, please inform the Committee of any measures taken by the State party to ensure that the burden of proof is in fact with the prosecution.

### **Article 16**

25. Please comment on allegations of ill-treatment of detainees, including overcrowded and unhygienic detention centres, and of incommunicado detention in army barracks. Does the State party envisage a complete prohibition of incommunicado detention?

26. Please comment on the allegations by international non-governmental organizations of the continued recruitment of child soldiers by the Communist Party of Nepal-Maoist (CPN-M). What measures are being taken to protect children? Does Nepal envisage prohibiting all recruitment of children into any armed forces or groups, and ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict?

### **Other**

27. Does Nepal envisage signing and ratifying the Optional Protocol to the Convention against Torture? If so, does Nepal envisage setting up or designating a national mechanism that would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment?

28. Please indicate whether Nepal envisages signing and ratifying the Rome Statute of the International Criminal Court.

29. Is there legislation in Nepal aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment? If so, please provide information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.

30. Please provide information on the legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these have affected human rights safeguards in law and practice.

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