



17 April 2012

Dear Prime Minister,

We are writing in response to the recently announced government plan for a law to criminalize torture. Nepal has been a party to the Convention Against Torture (CAT) since 1991, and it has been a longstanding concern that despite this, torture has not been adequately defined as a crime in law.

International law regards torture as among the most serious of all offences, amounting to a crime against humanity under certain circumstances. The severity of the problem of torture in Nepal is confirmed by the experiences of the many torture victims interviewed by our organizations and the devastating injuries resulting from it, both physical and mental, that thousands of Nepalese people are plagued by.

We therefore welcome the government's initiative to table a bill in parliament shortly. During the Universal Periodic Review in January 2011, at least twelve countries (including Austria, Brazil, Denmark, Germany, Hungary, Japan, Maldives, New Zealand, Slovenia, Sweden, Switzerland and the United Kingdom) expressed concerns relating to torture. Many also made specific recommendations for the prevention, investigation and reparation relating to torture.

The Committee against Torture, the body supervising implementation of the CAT, has also repeatedly expressed concern at the lack of criminalization of torture. In April 2005, when considering Nepal's second periodic report under the Convention, the Committee recommended that Nepal should "adopt domestic legislation which ensures that acts of torture, including the acts of attempt, complicity and participation, are criminal offences punishable in a manner proportionate to the gravity of the crimes committed."

Similarly, the Human Rights Committee, the body supervising implementation of the International Covenant on Civil and Political Rights, to which Nepal has been a party since 1990, has made repeated recommendations for the criminalization of torture. The Human Rights Committee has also found singular and cumulative violations of Article 7 of the Covenant in two communications under the Optional Protocol alleging torture and enforced disappearances: in *Yubraj Giri v. Nepal* decided in March 2011 and *Sharma v. Nepal* decided in October 2008.

In addition, the UN Special Rapporteur on Torture and other special procedures of the Human Rights Council have repeatedly made recommendations to the Government of Nepal for the criminalization of torture and the establishment of effective safeguards for its prevention as well as the proper independent investigation and prosecution of alleged perpetrators; and the provision of adequate redress.

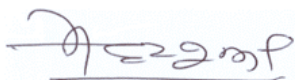
We strongly recommend that the Government of Nepal ensures that the views of these expert bodies are fully incorporated into the bill to be put before the Legislative Parliament.

Indeed, in December 2007, the Supreme Court made public a detailed judgment in which it ordered the Government of Nepal to criminalize torture. In its opinion, the court affirmed that Nepal has an international obligation to pass a law criminalizing torture in accordance with Articles 2 and 4 of the CAT.

Torture has been one of the prime human rights concerns of civil society; and much work has been done by national and international human rights organizations to assist the government in upholding the state's obligations under the CAT and other treaties. You may recall that in June 2009, Advocacy Forum, FOHRID, REDRESS, INSEC, CVICT, PPR, ICJ, INHURED- International, AWC and other organizations as well as the National Human Rights Commission submitted a model bill for the criminalization of torture to the then government, a copy of which is attached here.

We request as a matter of urgency to be provided with a copy of the bill to be put before the parliament shortly. This will provide us with an opportunity to submit more detailed comments. In the meantime, please find attached a note setting out a number of priority issues to take into account to ensure Nepal's obligations under the CAT are fully upheld.

Yours sincerely,



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CC:

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