



PRESS RELEASE

UN HUMAN RIGHTS COMMITTEE: NEPAL RESPONSIBLE FOR DISAPPEARANCE AND TORTURE OF TEACHER, URGES GOVERNMENT TO PROSECUTE PERPETRATORS & CHANGE LAWS

Kathmandu, 23 August 2012 – The United Nations Human Rights Committee has again found the government of Nepal responsible for the disappearance and torture of one of its citizens, and called on it to investigate and prosecute the perpetrators.

And in a first for such a case, as part of the remedy awarded, Nepal's government has specifically been told to enact a law defining and criminalising torture, and to repeal all laws granting impunity to alleged perpetrators of torture and enforced disappearance.

The Committee found that teacher Dev Bahadur Maharjan had been the victim of arbitrary detention, torture, and ill-treatment inflicted by members of the Royal Nepal Army ("RNA") over a period of 13 months.

Mr Maharjan was dragged from his house by RNA personnel in the middle of the night on 23 November 2003. He was held in secret detention at Chhauni Army Barracks for nearly a year, where he was kept blindfolded or hooded at all times, and subjected to severe beatings. In September 2004 he was moved to an official place of detention, and was finally released on 7 January 2005 on the orders of the Supreme Court.

After failing to achieve justice in Nepal, Mr Maharjan took his case to the UN Human Rights Committee in Geneva, represented by Advocacy Forum Nepal, and supported by international human rights organisation REDRESS.

The Government defended the case, but the Committee found Mr Maharjan's allegations proved. It also found his wife and parents to be victims of violations arising from the distress and anxiety caused by his disappearance.

In its decision, the Committee called on the Government to undertake a "thorough and diligent" investigation into his torture, to prosecute and punish those responsible, and to provide Mr Maharjan and his family with adequate compensation for all of the violations suffered.

Stressing that monetary compensation alone would not be enough in this case, the Committee held that "to sue for damages for offences as serious as those alleged in the present case cannot be considered a substitute for the charges that should be brought by the authorities against the alleged perpetrators".

This is the third case in which the Committee has found Nepal in violation of its international obligations for failing to investigate and prosecute crimes committed during the conflict period.

Welcoming the decision of the committee Mandira Sharma, Legal Counsel in the case, said “This case has established that there is no possibility for amnesty in the case of torture and disappearances. In addition, the government is under an obligation to investigate Dev’s case, bring those responsible to justice and provide reparation to victims. This decision has raised some hopes of victims of the conflict who have been neglected in Nepal's peace process”.

The Government is required to widely publicise the decision in the Nepali language, and to report to the Committee within 180 days of the steps it has taken to implement the views.

To read the **COMMITTEE’S VIEWS** please visit: <http://www.redress.org/case-docket/dev-bahadur-maharjan-v-nepal->

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Notes for Editors:

Five years ago a peace agreement brought to an end a decade of violent conflict in Nepal which saw thousands arbitrarily detained and arrested, forcibly disappeared, extrajudicially killed, raped and tortured. Since then, not one person has been properly brought to justice for the crimes committed, and successive governments have granted amnesties to many of those responsible for abuses – both during the conflict and since. Impunity for serious human rights abuses remains the norm.

Dev Bahadur Maharjan was dragged from his house in the middle of the night on 26 November 2003 by members of the Nepal Army. He was illegally detained at the Chhauni military barracks from the time of his arrest until 17 September 2004, when he was transferred to an official detention facility at Sundarijal. He was not able to contact his family, friends, or consult with a lawyer during this time, and his family did not know where he was being held.

While Mr Maharjan was detained in the military barracks, he was subject to torture and ill-treatment. Soldiers severely beat him during interrogation for four consecutive nights, and would randomly beat him and other detainees throughout his detention. Mr Maharjan suffered injuries from these beatings, but was not provided with medical treatment. On the last night of his interrogation Mr Maharjan was taken outside the barracks, and saw the soldiers kill a person at the perimeter fence. Throughout the entire period of his detention at the military barracks he was kept blindfolded or made to wear a hood which allowed him to look downwards only.

Once transferred to the official detention facility he was kept in overcrowded rooms infested with lice, was made to sleep on a blanket on the floor, and was allowed to wash only three times during the period of his detention.

Mr Maharjan was finally released on 7 January 2005, after his sister filed a petition for a writ of habeas corpus. There has been no investigation by the state into Mr Maharjan’s enforced disappearance and torture, and Mr Maharjan has not been given any compensation for his illegal arrest and detention, or torture.

In 2008 Mr Maharjan took his case to the UN Human Rights Committee, represented by Advocacy Forum Nepal and supported by REDRESS. Mr Maharjan also alleged that his wife and parents were victims of human rights violations because of the anxiety and distress caused to them by his disappearance.

Mr Maharjan, being a victim of enforced disappearance and torture, has been actively engaged in the movement for the rights of all conflict victims of Nepal, after becoming the member of Conflict Victims' Society for Justice (CVSJ)- Nepal in 2009. Mr Maharjan is also the coordinator of Conflict Victims' Society for Justice (CVSJ), Kathmandu District Committee, a branch of CVSJ Nepal. Conflict Victims' Society for Justice (CVSJ)- Nepal is a national network of the survivors of violence and relatives of those killed, disappeared, tortured and the sufferers of sexual violence at the hands of both the state and the then Maoist rebels during the decade-long armed conflict in the country.

The United Nations Human Rights Committee the body of 18 independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its State parties. It meets three times a year in Geneva and New York to consider reports on state parties and cases submitted to it by individuals, known as 'communications'.

Advocacy Forum is a leading non-profit, non-governmental organization working to promote the rule of law and uphold international human rights standards in Nepal. Since its establishment in 2001, AF has been at the forefront of human rights advocacy and actively confronting the deeply entrenched culture of impunity in Nepal.

REDRESS is an international human rights organisation based in the United Kingdom with a mandate to assist survivors of torture and related international crimes to achieve justice and reparation. REDRESS fulfils its mandate through a variety of means, including casework, law reform, research and advocacy. It has accumulated wide experience on the various facets of the right to reparation for victims of torture under international law and regularly takes up cases on behalf of victims of torture before national, regional and international human rights mechanisms and courts and tribunals.

Advocacy Forum and REDRESS have been working together for a number of years on promoting law reform, supporting domestic casework, and bringing individual cases before international human rights bodies to combat impunity.