



For Immediate Release

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Nepal: Despite new criminal laws, impunity for acts of torture prevails

On the occasion of the International Day in Support of Victims of Torture, the International Commission of Jurists (ICJ), Advocacy Forum (AF) and Terai Human Rights Defenders Alliance (THRD Alliance) voiced concerns about the near total failure by authorities to investigate and prosecute acts of torture in Nepal.

Nearly two years after provisions in the new Penal Code that criminalized torture came into effect, not a single torture prosecution appears to have been brought. There have also been very few instances in which victims have received an effective remedy and reparation for their ill-treatment. Nepal has failed to meet its obligations in this regard under article 2(3) of the International Covenant of Civil and Political Rights and article 14 of the Convention Against Torture.

“Nepal has an obligation under international law to hold perpetrators accountable for acts of torture and cruel, inhuman or degrading treatment. This includes obligations as a party to the Convention Against Torture and the international Covenant on Civil and Political Rights,” said Frederick Rawski, ICJ Asia-Pacific Director. “It is disturbing to see that two years after the rightfully celebrated Penal Code provisions criminalizing torture have come into effect, the government has yet to successfully prosecute any acts of torture, which by all accounts continue to occur on a frequent basis.”

The Advocacy Forum and THRD Alliance both published reports today that document instances of torture and other ill-treatment against detainees over the past year. Some 20 percent of the more than 1000 detainees interviewed reported some form of unlawful ill-treatment during confinement.

“Although in some locations there appears to be some improvement in the treatment of detainees, torture and ill-treatment remains far too prevalent,” said Om Prakash Sen Thakuri, Advocacy Forum Executive Director. “Police still continue to rely on “confessions”, typically obtained by ill-treatment or coercion during interrogation, as opposed to conducting proper investigations. Our police institutions need serious reform to ensure that investigative practices conform to international law and standards.”

In a separate report analyzing the obstacles faced by victims in seeking justice for torture and ill-treatment, the THRD Alliance documented the complex challenges faced by torture survivors seeking accountability in the formal justice system. These obstacles included a frequently refusal by police to file a First Information Report on allegations of ill-treatment, statutes of limitation preventing cases from being prosecuted, and a lack of independence of police investigations in the rare cases when they do move forward.

“Despite repeated public commitments by justice sector and human rights institutions, such as the National Human Rights Commission and the Office of the Attorney General, torture

survivors still struggle to have their voices heard or have their cases addressed,” said Mohan Karna, Executive Director of the THRD Alliance. “We urge the authorities at both the federal and provincial levels to take action to address the concerns of victims and to institute policies – such as establishing robust detention monitoring and internal accountability mechanisms – that will deter future acts of torture and ill-treatment.”

On the occasion of the International Day in Support of Victims of Torture, the three organizations urged the Government of Nepal to:

- Carry out prompt, thorough, impartial and effective investigations into all allegations of torture and ill-treatment, and to bring prosecutions where warranted under the criminal provisions of the Penal Code.
- Institute structural reform within the police including the establishment of a separate and independent mechanism to investigate allegations of torture and ill-treatment involving police personnel.
- Ensure public availability statistics on the investigation, prosecution and other action taken in response to allegations of torture and ill-treatment.
- Amend the Penal Code and other relevant provisions of law to eliminate the statute of limitations in torture cases, and to ensure that the definition of torture is in line with international law.
- Establish an independent preventative mechanism for monitoring of detention centers.
- Become party to the Optional Protocol of the Convention on Torture

Background

International Day in Support of Victims of Torture is marked worldwide on 26 June every year. Under the International Covenant on Civil and Political Rights (ICCPR) and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which by Nepal is a party, the authorities to investigate, prosecute, punish and provide effective remedies and reparation for the crimes of torture and other acts of ill-treatment.

The Penal Code criminalizing torture came into force in August 2018. While it was welcome as positive step, the provisions fall short of international standards in a number of respects, including failure to recognize the continuous nature of the crime of enforced disappearance or its status as a crime against humanity; an unacceptably brief six-month limitation period to file complaints; and penalties incommensurate with the gravity of the crimes.

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