



**Welcoming Remarks by Richard Bennett,
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United Nations High Commissioner for Human Rights in Nepal**

**Delivered at the Seminar,
*The Domestication of the UN Convention against Torture
and Its Optional Protocol,*
Hotel de l'Annapurna, Kathmandu, 6 September 2007**

It is a pleasure to join you this morning at this seminar to discuss the UN Convention against Torture and its Optional Protocol in the context of Nepal. I would like to thank Advocacy Forum and the Association for the Prevention of Torture for organizing the seminar, and I appreciate the opportunity for OHCHR-Nepal to be a partner in this initiative.

Torture and other forms of cruel, inhuman and degrading treatment are among the most serious human rights violations. Human dignity is at the heart of human rights and there is no greater affront to human dignity than torture. It was, of course, systematically applied by both parties to the conflict. But it would be wrong to think that it no longer exists now that the conflict has ended. These violations of human rights continue to be committed in places of detention in many parts of the country. Moreover, acts of ill-treatment and torture have also been committed by non-state actors often in the context of their parallel 'law enforcement' activities. Thus, vigilance towards torture remains as important today as before.

OHCHR's own work to address torture includes monitoring and documenting systematic torture during the conflict and regular visits to police stations to monitor police custody cells. Several deaths in custody over the past year occurred quite likely as a result of torture, either in police custody or in the custody of national park wardens. The Office has also been monitoring attempts by victims of torture to seek justice and compensation.

In Nepal, there is almost total impunity for those who committed torture. No one has been prosecuted for such an act despite the fact of ratification of the Convention against Torture by Nepal. It would seem possible for the authorities to prosecute under existing law, and for the courts to refer to the obligations assumed under the Convention. Last year OHCHR-Nepal published two reports, one on torture and disappearances by the Bhairabnath Battalion, the other on the torture and death of Maina Sunuwar during the conflict. In neither case have there been full and impartial investigations to determine and punish those responsible. They are just two of many pending cases.

The fact that the act of torture is not defined by Nepalese law, and therefore not a criminal offence – as was again underlined by the United Nations Committee against Torture in its most recent concluding observations – constitutes a very serious obstacle to the prosecution of the perpetrators of such acts. That is why today's seminar on applying the Convention Against Torture in Nepal is essential.

An important positive development is the requirement included in the Interim Constitution that torture be criminalized. However, the draft bill that would address this has not been made public or tabled before Parliament. The Torture Compensation Act does provide opportunities to seek compensation, but it has rarely resulted in the paying out of compensation, and is limited because it focuses primarily on financial compensation. Any new legislation, in line with international standards, must ensure that prosecution for torture can only be carried out by civilian courts and that the Army Act of 2006 – which requires that NA personnel responsible for “the offence” of torture be tried by a special court martial – is amended.

Concerted action and continuing political will is needed to ensure that appropriate measures are taken to stop ill-treatment and torture, and especially to end impunity for such acts. Incorporating the provisions of the Convention against Torture into domestic law, ratifying the Optional Protocol, defining torture as a crime in national criminal law, and prosecuting those responsible will be important steps to that end. OHCHR-Nepal stands ready to support all initiatives to help end torture in Nepal.

Thank you.