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Nepal: Prosecute, Don't Promote, Notorious Army Officer

Military Adds Insult to Injury for Victims by Ignoring Allegations

Nepal's government should investigate, not promote an Army colonel implicated in dozens of cases of enforced disappearance and torture, the International Commission of Jurists (ICJ), Human Rights Watch, and Amnesty International said today. The Nepal army should adopt a policy of not promoting anyone accused of human rights abuses until the allegations are investigated in an independent and transparent manner.

The Nepal Army has reportedly recommended Colonel Raju Basnet for promotion to the rank of Brigadier General. Colonel Basnet commanded the Bhairabnath Battalion in 2003, when systematic enforced disappearances and torture are alleged to have been committed by forces under his command at the battalion's Kathmandu barracks, according to investigations by the UN and the National Human Rights Commission of Nepal (NHRC). In June 2007, Nepal's Supreme Court ordered an independent investigation and prosecution of these crimes. That order includes allegations that Colonel Basnet himself committed acts of torture.

"The allegations against Colonel Basnet, his superiors, and those under his command in 2003 are very serious and backed by substantial and consistent evidence reported by the UN and Nepal's own national human rights commission," said Brad Adams, Asia director at Human Rights Watch. "Not only has the Nepali army refused to prosecute or dismiss officers responsible for atrocities during the civil war, it is now adding insult to injury by promoting a notorious officer to the rank of general."

At least 13,000 people were killed in Nepal's decade long conflict between government forces and Communist Party of Nepal (Maoist) combatants. The fighting ended with a 2006 peace agreement consolidating a series of commitments to human rights. However, the government has yet to take steps to identify and prosecute those responsible for human rights violations during the fighting.

A May 2006 report by the UN Office of the High Commissioner for Human Rights alleged that the Bhairabnath Battalion was implicated in at least 49 cases of enforced disappearances and torture, and urged a full investigation. The UN agency investigated allegations of violations by the army at the Maharajgunj barracks in Kathmandu in 2003 after hundreds of people were arrested on suspicion of being linked to the Maoists. In early 2007, an independent report by the National Human Rights Commission of Nepal echoed these findings.

On June 1, 2007, the Supreme Court ordered the executive and legislature to, as a high priority, take measures required for a full and independent inquiry as a basis for criminal investigations and prosecutions. To date however, that the government has not taken such action.

"There is strong evidence that most of those held in the Maharajgunj Barracks in 2003 and 2004 were subject to torture or other inhumane treatment," said Polly Truscott, Amnesty International's South Asia Director. "This includes weeks and months, blindfolded, in secret detention, with their hands tied behind

their backs.”

When OHCHR sought information about the 49 people who disappeared in army custody, the Bhairabnath battalion denied all knowledge. Officials admitted to the detention of 137 people at that time, but said that they were all either released or transferred. The 49 missing were not included in the army list. OHCHR said it had “consistent, credible and corroborated testimony of victims and witnesses” that these people were last seen in army custody at Maharajganj.

Many of those reported alive by other detainees in the Maharajgunj Barracks have not been heard from again. Further enforced disappearances, secret detentions, torture, and other ill-treatment are credibly reported as having occurred at the Battalion’s Maharajgunj Barracks well into 2004.

“Many Nepalis had hoped the OHCHR report back in May 2006 would lead to the release of at least some of the “disappeared”,” stated Sam Zarifi, ICJ Asia-Pacific director. “Sadly, the families suffering from these and other alleged conflict-era crimes have received little respect for their rights from either side in the conflict. The Nepali Government needs to fulfill its duty to investigate, prosecute and punish those responsible for these crimes.”

International principles applicable in Nepal require the removal or suspension of those suspected of human rights violations and crimes under international law, pending completion of full investigations, with full respect for the due process rights of the suspects. (Article 16 of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance and Principles 3(b) and 15 respectively of the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).