

NEPAL

Follow-up - State Reporting i) Action by Treaty Bodies

CAT, A/61/44 (2006)

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania,

Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

44. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

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B. Follow-up reply due May 2006 and November 2006

State party	Date due	Date reply received	Document symbol number	Further action taken/required
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Nepal	November 2006			
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CAT, A/62/44 (2007)

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IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In Chapter IV of its annual report for 2005 2006 (A/61/44), the Committee described the framework that it had developed to provide for follow up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala,

Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

53. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

Follow up procedure to conclusions and recommendations from May 2003 to May 2007

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Thirty fifth session (November 2005)

State party	Information due in	Information received	Action taken
...			
Nepal	November 2006	Not received**	Reminder
...			

** Information received after the thirty eighth session: CAT/C/NPL/CO/2/Add.1.

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.³ However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. Since the recommendations to each State party are crafted to reflect the specific situation

in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44).*

**Follow-up procedure to conclusions and recommendations
from May 2003 to May 2008**

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Thirty-fifth session (November 2005)

State party	Information due in	Information received	Action taken
...			
Nepal	November 2006	1 June 2007 CAT/C/NPL/CO/2/Add.1	Request for further clarification
...			

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CAT, A/64/44 (2009)

IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

Follow-up procedure to conclusions and recommendations from May 2003 to May 2009

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Thirty-fifth session (November 2005)

State party	Information due in	Information received	Action taken
...			
Nepal	November 2006	1 June 2007 CAT/C/NPL/CO/2/Add.1	Request for further clarification
...			

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Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for

improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

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Thirty-fifth session (November 2005)

State party	Information due in	Information received	Action taken
...			
Nepal	November 2006	1 June 2007 CAT/C/NPL/CO/2/Add.1	Reminder Request for further clarifications
...			

...

ii) Action by State Party

CAT, CAT/C/NPL/CO/2/Add.1 (2007)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Comments by the Government of NEPAL* to the conclusions and recommendations of the Committee against Torture (CAT/C/NPL/CO/2)

[1 June 2007]

Recommendations, paragraphs 12 and 13

Definition and widespread use of torture

1. A draft Torture Act has been prepared which incorporates the definition of torture in the spirit of the Article 1 of the Torture Convention. The draft has been referred to the Ministry of Law, Justice and Parliamentary Affairs for technical approval. The draft Act broadens and widens the definition of torture in the spirit of the torture convention.

2. As far as the allegation of the widespread use of torture is concerned, the democratic government of Nepal does not condone torture of any kind. The laws of the land and the policy of the State are geared to completely ban torture of all kinds. Government does not spare anyone found guilty of involving in torture is who is liable to a stern punishment. Isolated and sporadic incidents cannot be generalized as widespread use of torture. This has to be viewed in the changed context of the country where overall human rights situation has improved fundamentally after April 2006.

Recommendation, paragraph 14

Detention

3. The Terrorist and Disruptive Act (Control and Punishment) Ordinance, 2004 has been repealed. No person has been detained under the Public Security Act. The Interim Constitution of Nepal has made mandatory provision that any detained person has to be present before the competent judicial authority within 24 hours of the arrest and one should not be held longer without the order of the court. The Government of Nepal has been seriously implementing these provisions and is totally committed to uphold this constitutional imperative. The Government has sincerely adhered to the principles of internationally recognized human rights and fundamental freedom and is totally committed to uphold them. Article 118 of the Civil Code (Muluki Ain) requires an accused to remain in judicial custody only for trial of certain serious crimes or under certain exceptional circumstances. In rest of the cases, accused are tried under bail or without requiring them to remain in custody.

Recommendation, paragraph 15

National Human Rights Commission

4. The Government of Nepal has been cooperating with all works of the National Human Rights Commission. It has responded properly and adequately to the queries sent by the commission and has extended all cooperation in its tasks of monitoring human rights situation in the country. The Government has taken appropriate actions to provide compensation to the victims of human rights violation as per the recommendation of the NHRC. Thirteen victims of human rights violations were provided with financial support of NRs. 16,25000.00 between December 19, 1005 to August 6, 2006.

Recommendation, paragraph 16

Independence of judiciary

5. The State has adhered to the principle of judicial supremacy and all security agencies have been issued appropriate instructions to abide by the judicial orders of the courts. They have also been instructed not to arrest the individuals who have been released by the order of the court. They have no instances of such arrest by the security personnel after April 2006. The royal Commission on Control of Corruption (RCCC) constituted by the erstwhile regime has been dissolved. An independent inquiry was commissioned by the Government of Nepal to investigate the excesses done by the RCCC. Report of the inquiry has already been submitted and the Government has initiated the process of its implementation through the Commission on Investigation of Abuse of Authority.

Recommendation, paragraph 17

Non-refoulement

6. No one has been forcefully expelled from Nepal. As an active member of the United Nations and State party to many international human rights instruments, Nepal has been providing shelter to more than one hundred thousand Bhuranesse refugees on humanitarian ground despite itself not being a State party to the Refugee Convention of 1951. There is no record of cases of extradition, forced return or expulsion of anyone from Nepal since 1994. In past three years, total 125 foreigners have been deported under the procedure established by the immigration laws of the country and after having completed due legal procedure.

Recommendation, paragraph 18

Universal Jurisdiction

7. The Interim Constitution of Nepal has guaranteed rights against torture as a fundamental rights. It prohibits any kind of physical or mental torture against any individual taken into custody or detained under any circumstance. Torture has been made punishable by law and person subjected to torture is entitled to reparation as stipulated under laws. The draft Criminal Code has made torture as a criminal offence and public officials have been made liable to punishment and

fine proportionate to their offence.

Recommendation, paragraph 19

Education on prohibition against torture

8. Both the Government and civil society organizations have been involved on imparting training and organizing workshops, seminars and other awareness raising programs against torture and other cruel, inhuman or degrading treatment or punishment. According to the statistics, a large number of personnel from Nepal Army, Nepal Police and armed Police Force have been trained in various issues of human rights. Such workshops, trainings, and seminars have been regarded as effective tools for not only in changing the behaviour of the targeted officials but also raising general awareness among the mass population against torture. The Government of Nepal has conducted regular monitoring and evaluation of such trainings.

9. A Human Rights Promotion Section has been established in the Office of the Prime Minister and Council of Ministers. Similarly, there are human rights units established in the Ministry of Home Affairs, Nepal Army, Nepal Police and Nepal Armed Police Force. These institutional arrangements have worked for the monitoring of human rights protection and are involved in bringing the human rights violators to the justice as well as provide compensation to the victims of such violations.

Recommendation, paragraphs 20 and 21

Interrogation and detention

10. The government is totally committed to follow the interrogation methods compatible with the provisions of the Convention. As per the Government Cases Act, 1993, all interrogations are conducted in presence of Government Attorney where there is no room for employing torture or any other methods prohibited by the Convention. Any official found guilty of employing torture have been made subject to stern departmental action.

11. Regular monitoring has been taken place to prevent and stop any kind of torture, ill treatment, violence, gender based violence, abuse against children and women. Appropriate legal action has been taken against any person found guilty of such acts. During the last year, 10 security personnel were punished on the charges of torture, 4 on the charge of employing excessive force and 4 more on the charge of murder. The new Act provides that any official tried under the charge of torture shall remain suspended from the job until the final decision of the case by the competent court.

12. There is no state of impunity in Nepal. The democratic government installed after the successful people's movement of April 2006 has taken the policy of employing high priority to the protection of human rights and not to condone impunity under any pretention.

13. At present there is not a single individual detained in the Army barracks. The incidence in the past should have to be viewed in the context of armed conflict in the country prevailed at tht

time. Now this has been effectively ended. As far as the question of absence of systematic recording of the detainees is concerned, the Office of the Prime Minister and Council of Minister has arranged to maintain systematic of the people under preventive detention. The process is already in place.

14. Article 15 of the Government's Litigation Act, 1049 (1992) expressly has provided that any accused can request for his/her medical examination while in detention. People in detention or police custody has not been denied such facilities if he/she has sought it. To further improve the process of medical examination, the proposed draft law on torture has incorporated mandatory provision of medical examination before taking any individual into custody and at the time of release.

15. No one has been held in incommunicado detention and the Government has no policy of such practice under any circumstance.

16. The Government is committed to the compliance of the orders of the court. During the last tow years, total 1287 habeas corpus orders were issued from the courts. Security forces and police have been instructed to strictly comply with all judicial orders and alerted that non-compliance shall not be tolerated. The Government is sincere to extend all cooperation to the enforcement of the court orders and ensure its compliance.

17. There is separate juvenile bench established at all the 75 district courts in the country, which are also the courts of first instance/trial courts. This system is already in place and has begun to function.

Recommendations, paragraphs 22 and 23

Systematic review of the all places of detention

18. The National Human Rights Commission, Office of the High Commissioner of Human Rights and the International Committee of Red Cross have been provided with unfettered access to all places of detention.

19. The so called code of conduct for the NGOs floated by the Royal regime has already been scrapped by the democratic government and it no more exists.

Recommendation, paragraphs 24 and 25

Impunity

20. The Government of Nepal is fully committed to end torture and degrading treatment. Allegations of torture are seriously taken up and the persons found guilty of committing torture have been brought to justice. Actions have been taken against number of officials both in the police and army in this regard. On occasions, victims of torture have been awarded with compensation as per the verdict of the competent court of law.

21. No cases of torture have been reported after the political change in the country in April

2006 which demonstrates marked improvement in the situation and signifies fundamental change on the ground. Serious and resolute efforts are being made to end all kinds of torture and degrading treatment. The Comprehensive Peace Agreement (CPA) signed between the Government and the Nepal Communist party (Maoist) on November 21, 2006 unequivocally prohibits arbitrary detention, torture and ill treatment and is committed to end impunity. The Interim Constitution of Nepal, 2007 commenced since 15th of January this year has provided specific rights against torture which prohibits application of torture against any individual under arrest or detention for the investigation of crime or trial or any other reason. Torture shall be made punishable under law and the victim of torture shall be provided with compensation under the laws. The CPA also provides that no one shall be subject to arbitrary detention, kept in captivity or abducted. These provisions of the CPA and of the Interim constitution are strong testimonies that the State does not condone torture under any pretension nor is it a state policy to let the perpetrators go with impunity. The National Human Rights Commission as well as the Office of the High Commissioner for Human Rights and the representatives of the International Committee of Red Cross are allowed unhindered access to visit the prisons and places of detention.

22. Sustained efforts have been made to inculcate human rights values in the security personnel. They have been continuously sensitized to uphold the human rights and humanitarian law in the discharge of their duties. Clear directives have been issued to them to abide by the human rights obligations. Every military and security training course curriculum has a human rights package incorporated as an integral part of the syllabus. Any individual anomaly of human rights violations is taken seriously through departmental and punitive action against the perpetrators.

23. The draft Act on Torture has proposed to set up a separate entity to investigate the cases of torture.

Recommendation, paragraph 26

Marginalized, disadvantaged groups or caste

24. The Government of Nepal is seriously conscious of its responsibility to protect the rights of all members of the society, in particular people belonging to the marginalized and disadvantaged groups or castes. The Constitution and the laws of the country provide for equality before law. The practice of untouchability has been criminalized and is punishable under the laws. No Citizens are discriminated to enter in the service of the State be it civil service, military service or police service. A separate National Dalit Commission has been formed with the view of protecting and promoting the rights of the Dalit communities. Similarly, an independent National Foundation of Indigenous Nationalities has been formed for the protection and promotion of the rights of indigenous nationalities.

Recommendation, paragraph 27

Gender-based violence

25. The amendments on some Nepal Acts 2006 has made sexual harassment punishable under the laws. This includes the Acts on Nepal Police and Nepal Civil Service. Separate Women's cells have been established in different police offices to deal with the cases of violence against women including the sexual violence, trafficking and other crimes against women. Departmental action has been taken to 11 police officials who have been found guilty of sexual harassment.

Recommendation, paragraph 29

Compensation on torture victims

26. Compensation has been provided to victims of torture as per the decision of the competent courts of law. During the last year, 5 victims of torture have been compensated and additional 3 are in the process of being compensated. During this year, Hariraj Chilwal and Thmsher Rai (father of deceased Ganesh Rai) were compensated with amount of Rs. 75,000.00 and Rs. 100,000.00 respectively. The compensation procedure has been streamlined and there is no delay in the process as such once final decision of compensation has been delivered by the competent courts. Ministry of Home Affairs hosts a separate unit for the management of assistance to the victims of conflict.

Recommendation, paragraph 30

Use of Statements made as a result of torture

27. The courts in the country do not take statements made under intimidation, duress, coercion or torture as evidence against the accused. Statements have to be made without duress and coercion and independently corroborated by independent and substantial evidence.

Recommendation, paragraph 31

Improvement of detention facilities

28. Necessary work on the improvement of the physical infrastructures of jails is undergoing. A Bill has been produced to the Interim Legislature (Parliament) for the protection of the rights of the convicted prisoners as per the international norms and standards, including the introduction of system of open jail and community service to the inmates under certain qualifications in order to allow them improve their past behavior and prepare grounds for their rehabilitation in the society after they complete the terms of their sentence.

Recommendation, paragraph 32

Trafficking

29. No officials are involved in the acts of trafficking. The Government has adopted series of both policy and programmes to control the crime of trafficking in persons in general and trafficking of girls and children in particular. Broad-based and multi-pronged strategies are in place to address this problem in its entirety that involves prevention, strengthening of administrative and law enforcement measures and, rescue and rehabilitation. Correspondingly, national laws have been formulated, amended and reformed and action plans devised to effectively deal with the problem. The Trafficking in Person (Control) Act, 1987, as amended in 2003 has incorporated harsher penalties to the culprits and elaborated provisions to address new complexities of trafficking.

30. Following an extensive consultation with different stakeholders, a National Plan of Action against Trafficking in Children and their Commercial Sexual Exploitation (NPA) was formulated. In July 2001, a thorough review of the NPA was undertaken in order to incorporate the changing dynamics of the trafficking in human being and new obligations evolving from the SAARC Regional Convention on Preventing and Combating Trafficking of Women and Children for Prostitution. The establishment of the Ministry of Women and Social Welfare in 1995, which has later expanded to include the component of children and renamed the Ministry of Women, Children and Social Welfare (MWCSW) in 2000, provided further impetus to strengthening institutional capacity of the Government in its fight against trafficking. The Ministry currently works as the national focal point for implementing the NPA and all other activities geared against the trafficking of women and children. A 16-member high level National Co-ordination Committee is in place, which includes representatives from various line ministries, including NGOs. Under the NCC there is a broad-based National Task Force, District Level Task Force in selected vulnerable districts. The District Task Forces co-ordinate and implement both preventive and curative activities against trafficking at the district level. Similarly, there is Village/Municipality Level Task Force, in the villages considered vulnerable in terms of trafficking of girls, comprising both government and civil society actors that conduct preventive activities and reduce the push factors of trafficking. Nepal Police has created a Women's Cell at its headquarters and in 19 other districts to effectively deal with the issues of violence against women, including the trafficking of women and children.

31. Cases of trafficking have been seriously prosecuted and culprits have been brought to the book. The followings are the examples of few cases of trafficking, wherein final judgment has been delivered by the Supreme Court and the culprits have been sentenced. There are numbers of cases to which prosecution is in progress whereas others are under adjudication in the courts.

- a) Pasang Lama vs. H.M.G./N; Criminal case no. 560 of 2045 B.S. Held 20 years imprisonment.
- b) Krishna Bahadur Ghalan vs. H.M.G./N / Lal Bahadur Moktan vs. H.M.G./N Criminal case no. 531/580 of 2045 B.S. Held 20 years imprisonment.
- c) Dal Bahadur Ghalan vs. H.M.G./N; Criminal case no. 321 of 2048 B.S. Held 20 years imprisonment.

- d) Jivan Gole vs. H.M.G./N; Criminal case no. 1331 of 2053 B.S. Held 15 years imprisonment and fine of NRs 30,000.
- e) Sim Bahadur Nepali alias Shyam Bahadur Nepali vs. H.M.G./N; Criminal case no. 2508 of 2057 B.S. Held 20 years imprisonment.
- f) Chandra Prasad Bautam vs. H.M.G./N; Criminal case no. 2426 of 2057 B.S. Held 12 years imprisonment and fine of NRs 160,000
- g) Ramesh Thapa Magar vs. H.M.G./N; Criminal case no. 3101 of 2058 B.S. Held 15 years imprisonment
- h) Renuka Poudel vs. H.M.G./N; Criminal case no. 2843 of 2059 B.S. Held 20 years imprisonment.
- i) Dhak Bahadur Tamang vs. H.M.G./N; Criminal case no. 2940 of 2059 B.S. Held 10 years imprisonment and fine of NRs. 32,000.
- j) H.M.G./N vs. Madan Pariar alias Dane: Criminal case no. 2758 of 2059 B.S. Held 15 years imprisonment and fine of NRs. 160,000
- k) Bhimsen Pariar alias Khajur vs. H.M.G./N; Criminal case no. 3235 of 2059 B.S. Held 12 years imprisonment and fine of NRs. 128,000
- l) H.M.G./N, as per the complaint of Sumitra Aryal, vs. Rajesh Lama alias Raghu Criminal case no. 3232 of 2060 B.S. Held 5 years imprisonment and fine of NRs. 30,000
- m) Ram Bahadur Magar vs. H.M.G./N; Criminal case no. 3002 of 2060 B.S. Held 12 years imprisonment and fine NRs. 128,000.
- n) Nava raj Gamal Shrestha vs. H.M.G./N / Asha Ram Tamang vs. H.M.G./N; Criminal case no. 3004/3357 of 2060 B.S. Held 12 years imprisonment and fine of NRs. 240,000 to each person.
- o) Uttam Lama vs. H.M.G./N; Criminal case no. 17 of 2061 B.S. Held 10 years imprisonment and fine of NRs. 56,000 to each person.

32. In view of the need for special care and protection of the victims of trafficking, the Ministry of Women, Children and Social Welfare has run a "women self-reliance and rehabilitation home" since 1998. Civil society organizations are being encouraged to run such centers. Many NGOs are doing this. In addition, many NGOs are working at the grassroots level for the prevention of trafficking.

Recommendation, paragraph 33

Child soldiers

33. No person under the age of 18 is recruited in the Nepal Army. The security forces have not used children as spies or messengers. Since the United Nations Mission in Nepal has been entrusted with the task of monitoring and registration of the arms and combatants of the Maoists as per the Comprehensive Peace Agreement between the Government and Nepal Communist Party (Maoist), it is understandable that no child soldiers can remain in the Maoist side as well.

Recommendation, paragraph 34, c

On becoming of State party to ICC

34. The Parliament of Nepal has already passed a resolution that Nepal shall initiate the process of acceding to the Rome Treaty. Necessary groundwork is in progress towards this end.

35. The High Level Commission led by former Justice of the Supreme Court of Nepal, Mr. Krishna Jung Rayamajhi, has already submitted its report on the excesses done by various entities to suppress the People's Movement of 2006 with recommendations to take action against 202 people found guilty of such excesses.

36. The historic Comprehensive Agreement signed between the Government of Nepal Communist Party (Maoist) on 21 November 2006 has effectively ended the ten year long conflict. This has resulted in the fundamental improvement in the overall human rights situation in Nepal. The CPA also provides for the establishment of Truth and Reconciliation Commission to create an environment of peace and harmony in the society.

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services