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**Human Rights Committee**

 Views adopted by the Committee under article 5 (4)
of the Optional Protocol, concerning communication No. 2756/2016[[1]](#footnote-2)\*,[[2]](#footnote-3)\*\*

*Submitted by:* Lakpa Tamang (represented by TRIAL)

*Alleged victim:* The author

*State Party:* Nepal

*Date of communication:* 10 March 2016

*Document references:* Special Rapporteur’s rule 97 decision, transmitted to the State party on 26 April 2016 (not issued in document form)

*Date of adoption of Views:* 21 March 2018

*Subject matter:* Torture of child by Nepalese police

*Procedural issues*: Exhaustion of domestic remedies

*Substantive issues:* Prohibition of torture, protection of the child, effective remedies

*Articles of the Covenant:* 2(2), 2(3), 7, and 24(1)

*Articles of the Optional Protocol:* 5(2)(b)

1. The author of the communication is Lakpa Tamang, a Nepalese national born in 1999. He claims to be victim of a violation of article 7, read in conjunction with articles 2(2), 2(3) and 24(1) of the Covenant. He is represented by the non-governmental organisation TRIAL, based in Geneva, Switzerland. The Optional Protocol entered into force on 14 August 1991.

 The facts as presented by the author

2.1 The author belongs to the indigenous community of the Tamangs[[3]](#footnote-4) and lives with his parents and four sisters in the Nepalese district of Kavrepalanchowk, in the Himalayas.

2.2 In September 2010, a neighbour in the author’s village called a community meeting in the village to discuss an alleged theft of his daughter’s gold earring, which had gone missing. After three consecutive meetings, the earring was not found, and the neighbour travelled to Kathmandu to consult an astrologer, according to indigenous custom. The latter concluded that the earring had been “stolen by some children in the neighbourhood” and encouraged the neighbour to file a complaint to the police. On 14 November 2010, the neighbour filed a criminal complaint at the local police station. Although there was no specific reference to the identity of the alleged perpetrator(s) in the complaint, “some children in the neighbourhood” were indicated as the potential culprits, on the basis of the astrologer’s allegations.

2.3 On 15 November 2010, two local police officers went to the village and spoke with four or five children, including the author. The officers inquired about the missing earring, to which the children answered that they did not know anything. Later that same day, the two officers went to the author’s house and ordered his parents to bring the author and his sister to the local police station the following day as part of the investigation.

2.4 On 16 November 2010, the author, his parents and his sister went to the police station. Upon arrival, the same two police officers asked the parents to stay outside and brought the author’s sister inside the police station for questioning. She was interrogated for 10-15 minutes about the alleged theft of the gold earring, to which she answered that she did not know anything. Thereafter, she was allowed to leave the police station. Subsequently, the author was brought inside the police station for interrogation. He was taken to a small and empty room without windows, where he was questioned and tortured for one hour by the two officers. He was first asked whether he had stolen the earring and, when the author responded that he had not stolen anything, he was slapped in the face three times. He was then asked to crouch down and was beaten with a plastic pipe on his back and other parts of his body as he was asked to confess to having stolen the earring. He was then forced to lie down on the floor and was beaten on the palms of his feet with plastic pipes over 25 times, causing him extreme pain. He received electroshocks on his ears as he was threatened with death if he refused to confess the theft, which made him temporarily lose consciousness. Out of fear for his life, the author finally agreed to confess. The police officers then stopped the torture and prepared a confession letter, forcing the author to sign. He was then further threatened with death if he told anyone about the torture.

2.5 The police officers left the interrogation room with the author, informed his father that the author had confessed to stealing the earring, and asked the father to sign a reconciliation deed agreeing to pay 19,000 NR (approximately 180 USD) to their neighbour, which he did. While on the bus, the author’s parents discovered the marks on the author’s body and learned that he had been tortured.

2.6 On 17 November 2010, the author’s father contacted local political leaders and human rights defenders, who took pictures of the author’s injuries and reported the incident in the newspapers. The author also received medical and psychological support from the non-governmental organisation Centre for Victims of Torture (CVICT).

2.7 On 19 November 2010, the author’s father took the author to the hospital for a physical exam. The forensic report noted several injuries on the author’s body that were deemed “completely consistent with his account of events”, including “evidence of falanga as one of the most common methods of torture in detention”[[4]](#footnote-5).

2.8 On 6 January 2011, the author’s father filed a complaint with the Kavrepalanchowk District Court, seeking the prosecution and imprisonment of the two police officers and compensation for the harm suffered. By decision of 27 February 2011, the District Court found the two defendants criminally responsible for acts of torture in violation of article 7 of the Children’s Act[[5]](#footnote-6) (prohibition of torture and ill treatment) and sentenced them to pay a fine of 2,000NR each (approximately 19 USD).

2.9 On 29 November 2012, the author’s mother appealed the District Court decision, arguing that the penalty imposed was not proportionate to the gravity of the crime committed and that a sentence of deprivation of liberty had been requested. By decision of 19 April 2015, the Appellate Court of Patan condemned the defendants to payment of a fine of NR 5,000 (approximately 48 USD each) plus NR 50,000 each (approximately 480 USD) as compensation to the author.

2.10 On 22 January 2016, the author’s father filed an appeal with the Supreme Court of Nepal, alleging that the penalty imposed on the perpetrators was not in accordance with the gravity of the crime committed and did not satisfy the author’s right to reparation, and requested the imposition of a sentence of at least one year imprisonment for the perpetrators, and adequate compensation to the victim. On 5 February 2016, the Supreme Court rejected the appeal, considering that there was no legal basis for a review of the appeals sentence.[[6]](#footnote-7)

2.11 The author notes that the torture inflicted upon him has had long-lasting consequences for his physical and mental health, including pain in his back and the soles of his feet for weeks, numbness and itching through his entire body, severe pain behind his right ear due to the electroshocks received, and nightmares at night. He had to stay at home for three months after the incident and missed school for that period. After he returned, his grades and performance were negatively affected, as he had trouble concentrating. In January 2016, he was diagnosed with post-traumatic stress disorder.[[7]](#footnote-8)

2.12 The author notes that the present case must be read in the context of the systematic practice of torture in police custody in Nepal,[[8]](#footnote-9) in particular in cases involving children.[[9]](#footnote-10) This situation is compounded by seriously flawed domestic legislation on torture: torture is not codified as an autonomous offence under the Nepalese criminal legislation, and the definition of torture contained in the Torture Compensation Act (1996) does not comply with the definition contained in article 1 of the Convention against torture and other forms of cruel, inhuman or degrading treatment or punishment.[[10]](#footnote-11) Additionally, the Torture Compensation Act does not envisage criminal sanctions against perpetrators but only disciplinary actions, and it is subject to a 35-day statute of limitations. Despite the Committee’s call on Nepal to amend its legislation on torture, this has not been implemented to date.

2.13 The author also notes that the specific legislation on torture against children is flawed. In this regard, the Children’s Act (1992), which sets the age of adulthood at 16 years old and the minimum age for criminal responsibility at 10 years old, does not contain a specific definition of torture, and establishes sanctions that are not commensurate with the gravity of the crime (namely, fines of up to 5,000 NR -about 48 USD- and/or imprisonment of up to one year). The author notes that the number of convictions for torture against children is extremely low and that they have never entailed deprivation of liberty. This allows children to be unduly exposed to arbitrary arrests, interrogations and to an overall system of criminalisation that fails to take into account their age and special vulnerability.[[11]](#footnote-12) The author adds that this situation is aggravated by the discriminatory targeting of child detainees from certain ethnic groups, including indigenous peoples, and lower castes.[[12]](#footnote-13)

 The complaint

3.1 The author claims to be victim of a violation of article 7, read in conjunction with article 24(1) of the Covenant, because of the torture and other forms of ill-treatment to which he was subjected by Nepalese police officers in November 2010, in order to extract a confession about his alleged involvement in the theft of a missing earring. This violation was aggravated by the fact that the author was a child at the time of the events, and was therefore entitled to receive special measures of protection required by his status, which the State party failed to adopt.

3.2 The author further claims a violation of article 7, read in conjunction with articles 2(3) and 24(1) of the Covenant, due to the State authorities’ failure to effectively investigate, prosecute and sanction those responsible with appropriate penalties, taking into account the extreme gravity of the crime. The State party also failed to provide the author with adequate compensation and integral reparation for the harm suffered. These violations are aggravated by the State party’s failure to afford the author the special measures of protection to which he was entitled as a child.

3.3 The author finally alleges a violation of article 7, read in conjunction with articles 2(2) and 24(1) of the Covenant, due to the Nepalese authorities’ failure to adopt adequate legislative measures to prevent instances of torture against children, to punish those responsible in a manner that is commensurate to the gravity of this heinous crime, and to provide fair compensation to the victims and adequate measures of reparation that encompass restitution, rehabilitation, satisfaction and guarantees of non-repetition.

3.4 The author calls on the Committee to request the State party to conduct an effective investigation and to prosecute and sanction those responsible with penalties commensurate to the gravity of the crime at stake; to provide him with adequate and fair compensation; to ensure that he can have access to adequate psychological rehabilitation and medical treatment and that his travel costs to reach the capital for receiving the treatment are covered; to provide him with a scholarship to access higher education; to issue a public apology from the police; and to amend current legislation and provide training to public officials and other persons involved in the treatment of children deprived of their liberty.

 State party’s observations on admissibility and merits

4.1 In its submission of 13 October 2016, the State party contends that the claim is inadmissible for lack of exhaustion of domestic remedies because the author has failed to request the execution of the judgement of the Court of Appeal, consisting in the payment of the compensation amount of 100,000 NR. It notes that the perpetrators have already deposited this amount with the relevant judicial authority and that the State party will compensate the author once he approaches the relevant authorities to obtain such compensation.

4.2 The State party argues that the author was called for interrogation with his father because he was suspected of having stolen a golden earring and on the basis of section 14 of the State Cases Act (1992), which provides for the possibility of arresting a person where there is reasonable ground to suspect about their involvement in a crime. The State party adds that the author was interrogated for an hour at the police station, and that he confessed before the police and his father to having stolen the gold earring and thrown it into the river, as a result of which his father had agreed to pay 19,000 RP to his neighbour, which was never paid.

4.3 The State party contends that there is no need to refer the present case to international settlement mechanisms as the competent national courts, including the Supreme Court, have already settled the case. These courts ruled that the author was to be compensated on the basis of the Children’s Act of 1992. The State party adds that the two police officers have also been subjected to police investigations. The resulting police investigation report concluded that the officers had “beaten the child using excessive force” and recommended “departmental action” against these officers under rule 85 of the Police Rules (1992).[[13]](#footnote-14)

4.4 The State party notes that there are sufficient legal provisions in its domestic legislation to address torture cases, including article 22 of the Constitution, which prohibits torture and ill treatment and establishes victims’ right to compensation, and article 39 of the Constitution, which protects children from torture. In order to implement the constitutional provisions and internalize the UN Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, a separate draft law was submitted by the Nepalese Government and is being discussed in Parliament. Additionally, section 9 of the Nepal Treaty Act (1990) establishes that all domestic laws need to be interpreted in line with international treaties ratified by Nepal.

4.5 Finally, the State party indicates that Nepalese Police personnel are frequently trained on human rights issues, and that the State party is implementing its Fourth Human Rights Action Plan, which seeks, inter alia, to address human rights violations in the context of juvenile justice.

 Author’s comments on the State party’s observations

 5.1 In his submission of 9 January 2017, the author alleges that domestic remedies have been exhausted given that, as acknowledged by the State party, the author’s case has been decided by the highest instance court in the country. The author states that he received the compensation awarded from the Kavre District Court on 26 December 2016. Nevertheless, domestic remedies proved to be ineffective as the perpetrators have not been adequately sanctioned and the pecuniary compensation awarded to the author is insufficient to constitute adequate reparation for the harm suffered. Although it is a positive development, this compensation does not absolve the State party from fulfilling its international obligation to provide the author with an effective remedy and integral reparation for the harm suffered. The author notes that domestic remedies had been exhausted even before he approached the court to obtain the compensation awarded. As to the delay for obtaining the compensation awarded, the author explains that he had to request to be absent from work to travel and appear before the District Court, and that the court raised technical grounds to repeatedly delay the payment. Moreover, the author notes that his and his family’s priority is to see the perpetrators adequately punished for their crimes.

5.2 The author insists that pecuniary compensation alone can never be considered adequate reparation to a victim of torture, and that reparation must include restitution, rehabilitation, satisfaction and guarantees of non-repetition. The right to an effective remedy thus also entails, inter alia, responsibility for the State to conduct a thorough and effective investigation into the allegations and to prosecute and adequately sanction those responsible with penalties commensurate with the seriousness of the crimes committed. In his case, perpetrators were condemned only to payment of a symbolic pecuniary fine (5,000 NR). Despite the fact that the applicable law (the Children’s Act) allowed for the imposition of penalties of up to 1-year imprisonment, domestic courts did not impose a prison sentence. Furthermore, while welcoming the compensation that was paid by the perpetrators, the author contends that the amount of the compensation is not commensurate with the gravity of the crimes at stake and is insufficient to prevent similar violations in the future. Compensation for gross human rights violations must encompass physical and mental harm, lost opportunities in terms of employment, education and social benefits, moral damages and the costs required for expert assistance, medicine and medical services. In the present case, the final amount awarded as compensation, consisting in 50,000 NR to be paid be each perpetrator, did not encompass all the mentioned elements.

5.3 As to the police “departmental action” against the perpetrators, the author notes that the State party has not indicated whether any measures were ordered, the nature or severity of such measures, or the body charged with their implementation. In any event, the Committee has already considered that purely disciplinary and administrative remedies cannot be deemed to constitute adequate and effective reparation within the meaning of article 2(3) of the Covenant, for particularly serious violations of human rights.[[14]](#footnote-15)

5.4 The author alleges that the constitutional recognition of the prohibition against torture is insufficient in the absence of criminal legislation that allows for the penal prosecution of such acts and the appropriate punishment of perpetrators. Although a draft law to criminalise torture is under consideration in the Nepalese Parliament, the draft has been pending since 2014 and has limited prospects for advancing. Even if passed and enacted into law, several provisions of the draft bill would still be contrary to international law, including the insufficient penalties envisaged for perpetrators (a maximum of 5 years imprisonment and 50,000 NR fines).

5.5 The author notes that while the State party partially challenges the facts presented by the author, it acknowledges that the two police officers in question tortured the author while in detention on 10 November 2010. The author argues that the State party should refrain from referring to whether the author was responsible for the theft of the earring, as this fact is irrelevant to the present communication, which involves the torture inflicted on the author and the lack of effective remedies. The author adds that he was forced to sign a confession after being severely tortured and out of fear for his life. The author recalls that a declaration made under these circumstances cannot be used as evidence of his guilt, as recognised by article 15 of the Convention against Torture, among other provisions. Therefore, the reconciliation deed signed by his father must be declared void and the author’s family must be discharged from its obligation to pay 19,000 NR to their neighbour. The author asks the Committee to request the State party to prevent the use of evidence obtained through torture in any proceedings against the victims, including in reconciliation proceedings, as a measure of non-repetition.

 Issues and proceedings before the Committee

 Consideration of admissibility

6.1 Before considering any claims contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6.2 The Committee has ascertained, as required under article 5(2) (a) of the Optional Protocol, that the same matter is not being examined under any other international procedure of investigation or settlement.

6.3 The Committee takes note of the State party’s claim that domestic remedies have not been exhausted because the author previously failed to obtain the compensation awarded on appeal. The Committee notes that the author eventually did claim and obtain the said compensation on 26 December 2016, and that, in any event, this claim is not an effective remedy to be exhausted for the purposes of the present communication before the Committee. In this regard, the Committee notes that the author brought his claims before national courts, including through the highest judicial instance court. Therefore, the Committee considers that there is no obstacle to the admissibility of the communication pursuant to article 5(2)(b) of the Optional Protocol.

6.4 Accordingly, the Committee declares the communication admissible insofar as it appears to raise issues under article 7, read in conjunction with articles 2(2)[[15]](#footnote-16), 2(3) and 24(1) of the Covenant, and proceeds to its examination on the merits.

 Consideration of the merits

7.1 The Human Rights Committee has considered the present communication in light of all the information made available to it by the parties, as required under article 5(1) of the Optional Protocol.

7.2 The Committee notes the author’s uncontested allegations that, on 16 November 2010, he was interrogated at a police station by two police officers and tortured for an hour with the purpose of extracting a confession about his involvement in a theft. This included slapping on the face, repeated beatings with plastic pipes on his back and feet, electroshocks on his ears and death threats. The Committee considers that the acts of torture described, inflicted by police officers on the author, who was 11 years old at the time, with the aim of coercing a confession of a crime, amounted to a violation of the author’s rights under article 7, in conjunction with article 24(1) of the Covenant.

7.3 The author invokes a violation of article 2(3), in conjunction with articles 7 and 24 (1) of the Covenant. The Committee reiterates the importance it attaches to States parties establishing appropriate judicial and administrative mechanisms for addressing alleged violations of rights under domestic law.[[16]](#footnote-17) The Committee further notes the author’s allegations regarding the State party’s failure to effectively investigate, prosecute and sanction those responsible for the violations with adequate penalties. To that effect, the Committee notes that the perpetrators were criminally prosecuted and convicted of torture under article 7 of the Nepalese Children’s Act. The resulting sanction imposed was a fine of 2,000 NR for each perpetrator, which was raised to 5,000NR on appeal plus 50,000 NR as compensation to the author. No penalty of deprivation of liberty was imposed. The State party also noted that the perpetrators were subjected to police investigations, with a resulting recommendation that “departmental action” be taken under Rule 85 of the Police Rules. However, the Committee notes that the State party has not provided any information regarding any administrative or disciplinary action effectively taken against the perpetrators or the nature or scope of that action. It further recalls that purely disciplinary and administrative remedies cannot be deemed to constitute adequate and effective reparation within the meaning of article 2(3) of the Covenant, in the event of particularly serious violations of human rights.[[17]](#footnote-18)

7.4 The Committee further notes the author’s unrefuted argument that the reconciliation deed was signed as a result of his confession under torture. The Committee recalls that under article 7 of the Covenant, domestic law must prohibit the use of statements or confessions obtained through torture or other prohibited treatment in judicial proceedings,[[18]](#footnote-19) either civil or criminal.

7.5 The Committee additionally notes the information submitted by the author regarding the continued absence of adequate national legislation to prevent and combat torture, including by defining and criminalising torture with sanctions and remedies commensurate with the gravity of this offence.[[19]](#footnote-20) In particular, it notes the author’s allegations that the Children’s Act does not contain a specific definition of torture and provides only for fines of up to 5,000 NR and/or imprisonment of up to one year, that the number of convictions for torture against children is extremely low and that they have never entailed deprivation of liberty. Against the background of the national legislation in place, and in light of the circumstances of the present case, including the author’s age at the time of the events, the Committee considers that the sanction imposed on the perpetrators, consisting in the payment of a 5,000 NR fine and 50,000 NR compensation to the author, is insufficient to constitute adequate reparation commensurate with the seriousness of the violations of his rights. Accordingly, the Committee concludes that the facts before it reveal a violation of article 7, read in conjunction with articles 2(3) and 24(1) of the Covenant.

7.6 Having found a violation of article 7, in conjunction with articles 2(3) and 24(1) of the Covenant, the Committee decides not to separately examine the author’s claims of a violation of article 7 in conjunction with article 2(2) of the Covenant.

8. The Human Rights Committee, acting under article 5(4), of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that facts before it reveal a violation of article 7, read in conjunction with articles 2(3) and 24(1), of the Covenant.

9. In accordance with article 2(3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy. This requires it to make full reparation to individuals whose Covenant rights have been violated. Accordingly, the State party is obligated, inter alia, (a) to provide the author with adequate compensation proportionate to the gravity of the violations sustained, access to any necessary medical treatment and psychological rehabilitation, and appropriate measures of satisfaction for such violations; (b) to review its investigation and ensure that those responsible are sanctioned with penalties commensurate to the gravity of the crime, consistent with the Covenant; and (c) ensure that the reconciliation agreement has no evidentiary value in legal proceedings. The State party is also under an obligation to take steps to prevent the occurrence of similar violations in the future. In this connection, the Committee reiterates that the State party should take measures to eradicate torture and ill-treatment, including by, inter alia, revising its legislation, consistent with its obligations under article 2(2), to define and criminalize torture with sanctions and remedies commensurate with the gravity of the crime in accordance with international standards, including with respect to children. The State party should further ensure in law that no evidence obtained through torture is used in any proceedings, either civil or criminal, as a basis for establishing legal responsibility; and that law enforcement personnel receive training on the prevention and investigation of torture and ill-treatment (see CCPR/C/NPL/CO/2, para. 10).

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy where a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee’s Views. The State party is also requested to publish the Committee’s Views, to have them translated in to the official language of the State party and widely distributed.

1. \* Adopted by the Committee at its 122nd session (12 March-6 April 2018). [↑](#footnote-ref-2)
2. \*\* The following members of the Committee participated in the examination of the present communication: Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Olivier de Frouville, Christof Heyns, Ivana Jelić, Bamariam Koita, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval. [↑](#footnote-ref-3)
3. The author notes that the Tamangs are the indigenous inhabitants of the Himalayan areas of Nepal. In the Hindu caste system, they are considered to pertain to low castes and they have historically been subjected to discrimination and marginalization, as confirmed by the Report on the mission to Nepal of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, of 20 July 2009. [↑](#footnote-ref-4)
4. The report of the Teaching Hospital of the Tribhuvan University noted that the author was limping on his left leg and showed difficulties when sitting and standing up, his left cheek was swollen; and showed multiple abrasions on the upper back resulting from at least six impacts, as well as bruises on his back consistent with deep contusion. [↑](#footnote-ref-5)
5. Article 7 of the Children’s Act of 1992 establishes that “No Child shall be subjected to torture or cruel treatment. Provided that, the act of scolding and minor beating to Child by father, mother, member of the family, guardian or teacher for the interests of the Child himself/herself shall not be deemed to be violation of this Section.” Article 53c) of the Act provides that “Whoever commits any offence in contravention to Section 7 or 15, he shall be liable to a punishment with a fine up to five thousand rupees or with imprisonment for a term that may extend to one year or with both. In case of torture and cruel treatment, he may be made liable to pay a reasonable amount of compensation to the Child.”. [↑](#footnote-ref-6)
6. The Supreme Court found no ground for review prescribed by section 12(1) of the Justice Administration Act of 1992, which provides for “serious legal error”, “if the principle or precedent established by the Supreme Court has not been followed or has been applied with false interpretation”, or lack of proper representation of the child. [↑](#footnote-ref-7)
7. The psychological report by the Department of Psychiatry and Mental Health of the T.U. Teaching Hospital determined that the author required adequate “psychological support, including psycho-education, cognitive behaviour therapy and family intervention.”. [↑](#footnote-ref-8)
8. The author cites the Committee’s Concluding Observations on Nepal’s second periodic report under the Covenant, of 26 March 2014, para. 10, where it expressed concern about “official confirmation of the widespread use of torture and ill-treatment in places of police custody (…), the failure of the State party to adopt legislation defining and criminalizing torture, and at the lack of concrete and comprehensive information on investigations, prosecutions, convictions, sanctions imposed on those responsible, and the impunity of law enforcement officials involved in such human rights violations.” The author also cites the Concluding Observations of the Committee Against Torture on Nepal’s second periodic report, of 22 November 2005, para. 13; the Report on the mission to Nepal of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, of 9 January 2006, para. 17 to 26; and the report of the United Nations High Commissioner for Human rights on the human rights situation and the activities of her office, including technical cooperation in Nepal, of 3 March 2009, para. 43. [↑](#footnote-ref-9)
9. According to the Follow-up Report on the Mission to Nepal of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, of 4 March 2011, para. 188, the reported incidents of torture or ill-treatment of children in detention between October 2008 and June 2009 amounted to 25.5% of detainees. [See also the Concluding Observations of the Committee on the Rights of the Child on Nepal’s combined third to fifth periodic reports, of 3 June 2016, para. 28.] [↑](#footnote-ref-10)
10. See the Committee’s Concluding Observations on Nepal’s second periodic report under the Covenant, of 28 March 2014, para.17. [↑](#footnote-ref-11)
11. The author notes that this is contrary to the Committee on the Rights of the Child’s General Comment No. 10: Children Rights in Juvenile Justice, para. 32. [↑](#footnote-ref-12)
12. The author cites the Follow-up report of the Special Rapporteur on Torture, op. cit., para. 170. [↑](#footnote-ref-13)
13. This Rule establishes that “If any Police employee commits recklessness in his or her work, he or she may be admonished. If he or she commits recklessness in the work even up to Two times, a prejudicial opinion shall be written in the report regarding his or her behaviour/character. [↑](#footnote-ref-14)
14. The author cites Communication No. 563/1993, Bautista de Arellana v. Colombia (Views adopted on 27 October 1995), para. 8.2. [↑](#footnote-ref-15)
15. See Communication No. 2016/2010, Sudalenko v. Belarus (Views adopted on 6 Nov. 2015), para. 7.5, and Communication No. 2019/2010, Poplavny v. Belarus (Views adopted on 6 Nov. 2015), para. 7.4. [↑](#footnote-ref-16)
16. General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant (2004), para. 15. [↑](#footnote-ref-17)
17. Communication No. 563/1993, Bautista de Arellana v Colombia (Views adopted on 27 October 1995), para. 8.2; and Communication No. 612/1995, Chaparro et al v Colombia (Views adopted on 29 July 1997), para. 8.2. [↑](#footnote-ref-18)
18. General Comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), para. 12; see also article 14(3)(g). [↑](#footnote-ref-19)
19. Concluding Observations on Nepal’s second periodic report, op. cit., para. 10. See also Communication No. 2077/2011, A.S. v. Nepal (Views adopted on 6 Nov. 2015), para. 10; Communication No. 1862/2009, Maharjan v. Nepal (Views adopted on 19 July 2012), para. 9. [↑](#footnote-ref-20)