



**UNITED NATIONS
OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS IN NEPAL**



Press Release – 21 December 2006

Report on the torture and death of Maina Sunuwar

Good afternoon,

OHCHR-Nepal has invited you here today for the release of its report into the torture and death of 15-year-old Maina Sunuwar, who died in the custody of the (Royal) Nepalese Army (NA) in February 2004 at the Birendra Peace Operations Training Centre in Panchkhal Kavrepalanchowk District.

The report documents the attempts to seek justice and the lack of progress in this case as well as a lack of transparency on the part of the NA. The case illustrates the many obstacles that victims of human rights violations or their relatives still face when seeking redress. It also raises serious concerns about the apparent lack of political will on the part of the Government to hold accountable members of the security forces suspected of involvement in human rights violations. OHCHR-Nepal believes that such prosecutions would be mutually beneficial for both victims and for the security force institutions, and help to restore confidence in the rule of law in Nepal which is so essential for a successful peace process.

The NA claims it has investigated the death of Maina Sunuwar through a court of inquiry and a subsequent court martial proceedings, sentencing three officers to short terms of imprisonment for negligence in relation to the disposal of the body. In the view of OHCHR-Nepal justice has not been done.

Despite numerous requests, the NA has failed to provide OHCHR-Nepal with copies of documents associated with the Court of Inquiry Board and Court Martial. However, through other sources, OHCHR-Nepal has obtained a document which appears to be the report of the Court of Inquiry Board. Excerpts of this report have appeared in the press. It recounts the horrifying details of Maina Sunuwar's torture and death and suggests that the NA's refusal to provide such documentation directly to OHCHR-Nepal was not the result of confidentiality issues as claimed, but was part of an attempt to cover up the gravity of the abuses.

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The copy of the report obtained by OHCHR-Nepal summarises the investigations by the Court of Inquiry Board, including statements by NA personnel acknowledging their participation in the torture of Maina Sunuwar. According to the report, NA officers took Maina Sunuwar from her home in Kavrepalanchowk District to the Birendra Peace Operations Training Centre in Panchkhal on 17 February 2004. At the Training Centre, she was subject to torture in the presence of seven NA officers and soldiers, including two captains who ordered that Maina Sunuwar's head be submerged in a large pot of water for one minute six or seven times under the orders of then Lt. Col. Babi Khatri. According to the report the soldiers then administered electric shocks to her wet hands and feet four or five times; the torture continued for one and a half hours, after which she was detained in a building on the premises of the Training Centre, where she was left blindfolded and handcuffed; she later began vomiting and foaming at the mouth, and died without having received medical treatment.

The Court of Inquiry Board report also concluded that the officers and soldiers involved in Maina Sunuwar's torture attempted to cover up the death. The body was shot in the back and buried inside the Peace Operations Training Centre. The colonel in charge of the Training Centre at the time then fabricated a report stating that Maina Sunuwar had been shot while trying to escape NA custody. The Court of Inquiry Board rejected the report outright stating that it "cannot agree in any way whatsoever with the account sent by the Birendra Peace Operations Training Centre... it is clear that the then Acting Chief of the Training Centre Colonel Babi Khatri has submitted a false report of the incident with imagined facts in an exaggerated manner."

After the Court of Inquiry, the NA instituted Court Martial proceedings, which concluded in September 2005. After the NA publicly announced that the Court Martial had found three officers guilty of negligence, OHCHR-Nepal wrote to the then Chief of Army Staff expressing disappointment and dismay that the Court Martial failed to assign responsibility and properly punish those responsible for Maina Sunuwar's death. OHCHR-Nepal maintains that the results of the Court Martial were wholly inadequate and rather than serving as a deterrent to future criminal acts by the security forces would likely encourage such abuses.

The NA has obstructed both OHCHR-Nepal and the Nepal Police investigations in this case. In accordance with the agreement with the Government of Nepal setting out OHCHR-Nepal's mandate, OHCHR-Nepal has made repeated requests for documents related to the NA's Court of Inquiry and Court Martial. In response to these many requests, the NA has provided OHCHR with only summary information, and has refused to supply OHCHR with a list of charges or the full text of the Court Martial decision. The NA has also refused in writing to provide the Nepal Police with documents and access to the suspects in the case, as the NA claims that it has already dealt with this case through the Court of Inquiry and Court Martial. OHCHR-Nepal does not believe that the NA investigations constitute an independent, transparent and complete inquiry, and continues to call for an independent investigation and prosecution of this case in a civilian court. The NA claim that the case is closed is not acceptable. The process and

outcome of internal NA procedures cannot be fully tested while the NA refuses to make available to the Nepal Police and OHCHR-Nepal all documents related to its investigations and hearings. This is just one of a number of serious human rights violations where the NA has refused to provide OHCHR-Nepal with documents related to internal military proceedings.

OHCHR maintains that it is essential that the criminal investigation by civilian authorities into the death of Maina Sunuwar, including a proper exhumation, be completed - both to provide accountability for Maina Sunuwar's death and to deter future human rights violations. The outcome of the NA Court Martial serves to underline that military tribunals cannot replace the jurisdiction of civilian courts for the prosecution of serious crimes and human rights abuses. OHCHR has repeatedly brought to the attention of the NA that international standards require that serious human rights violations be tried in civilian courts, not by military tribunals.

There is still an opportunity for the Government to demonstrate to the Nepali people and the international community that it is serious about ending impunity by holding human rights violators accountable for their actions. The Chief of Army Staff has given his assurance to OHCHR-Nepal that he is committed to co-operating with the Nepal Police in this matter. It is essential that he fulfil this commitment and that the authorities ensure that justice finally take its course in the Maina Sunuwar case, and that other cases of serious human rights abuses will not be similarly blocked from the civilian courts.