



COLONEL KUMAR LAMA'S ACQUITTAL: PROSECUTING TORTURE SUSPECTS SHOULD REMAIN A PRIORITY OF THE UK

6 September 2016 – Today's acquittal of Nepalese Colonel Kumar Lama of charges of torturing a Nepalese civilian in 2005 after a trial at the Central Criminal Court in London will be disappointing for the victim who gave evidence about what he endured and for the countless other Nepalese victims of torture who have yet to see any justice.

The acquittal follows the decision of the Court to accept the Crown Prosecution Service decision not to proceed to a re-trial following a jury failing to reach a verdict on 1 August 2016.

During the trial, two men testified about the Colonel Lama's alleged participation in their torture in 2005 at an army barracks under his command, during Nepal's internal armed conflict between the Nepalese government and Maoist insurgents (1996-2006).

On 1 August 2016 Colonel Lama was acquitted of charges of torturing one of the men, but the jury could not reach a decision on the second charge, which was the focus of today's decision.

"The case was difficult, given the challenge of allegations of torture arising thousands of miles away and some ten years ago, as well as problems of interpretation during the proceedings when the language of the alleged victims was not English," said Carla Ferstman, Director of REDRESS. **"The Metropolitan Police and the Crown Prosecution Service put a lot of work into bringing the case to trial, and despite the verdicts, we believe it was right and proper, and important that they did so. This resolve to end safe havens for torture is vital, and it must continue."**

"The key message that remains is that torture suspects can face prosecution in the UK even where the alleged crimes occurred abroad," added Ferstman. **"Prosecuting torture, irrespective of where the torture was committed is in the public interest. It sends a strong signal that the crime of torture is never acceptable and aligns with the UK Government's obligations under the Torture Convention. The Metropolitan Police and Crown Prosecution Service must remain vigilant to ensure that the UK is not a safe haven for torturers or perpetrators of other serious international crimes."**

Colonel Lama was arrested in East Sussex on 3 January 2013 while he was visiting relatives, and subsequently charged with two counts under Section 134(1) of the Criminal Justice Act 1988, which gives British courts jurisdiction to prosecute suspected torturers, regardless of their nationality or where the crime took place, if the suspect is found in the UK. One of the complainants is a client of both Hickman & Rose and Advocacy Forum, and they played an instrumental role in having this matter considered by the Metropolitan Police and prosecutors.

This “universal jurisdiction” principle was the same that allowed the arrest in London and attempted extradition to Spain of former Chilean dictator Augusto Pinochet in 1998. Colonel Lama’s case was only the second torture trial in the UK since the Criminal Justice Act 1988 entered into force. In the first case, in 2005, Afghan warlord Faryadi Sarwar Zardad was found guilty by the Central Criminal Court of conspiring to torture and take hostages in Afghanistan in the early 1990s. He was jailed for twenty years.

REDRESS and its partner in Nepal, Advocacy Forum, have consistently called on Nepal to meet its international obligations and investigate cases of torture and disappearances following the end of the conflict in Nepal, but impunity remains deeply entrenched for serious human rights violations committed by both sides during the conflict.

Successive Nepalese governments have failed to prosecute those suspected of serious human rights abuses. Instead, torturers have been promoted, criminal cases against officials with political affiliations have been dropped and there have been proposals to grant amnesties for the most serious crimes, despite international laws outlawing such practices.

Symptomatic of the impunity prevailing in the country, in the almost 10 years since the end of the conflict, Nepal has not prosecuted anyone for torture despite the huge numbers of victims.¹ A main hurdle is Nepali law, which does not recognise torture, enforced disappearance, war crimes, and crimes against humanity as crimes under domestic law.

REDRESS and Advocacy Forum-Nepal have lodged numerous claims before Nepali courts and with the UN Human Rights Committee, which have emphasised Nepal’s obligation to hold perpetrators to account and provide justice for victims. It is crucial that Nepal tackles these issues head on, for the sake of its citizens and to solidify peace and harmony in the country.

Nepal has not yet provided meaningful reparation to victims of the internal armed conflict and has instead relied on the provision of small monetary payments to victims of some serious human rights violations, including enforced disappearance and extrajudicial execution, as “interim relief”. Victims of torture and rape have so far been excluded from any such payments.

REDRESS has been observing the trial proceedings from the start, and will soon release a report on the proceedings, so that lessons can be learnt for future cases. For more information on the state of impunity in Nepal, read our reports: [Submission to the United Nations Universal Periodic Review on Nepal](#) (2015); [Nepal: Paying Lip Service to Justice](#) (2014) or visit the website: www.realrightsnow.org.

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About REDRESS: We are a human rights organisation based in London which works internationally to combat torture by seeking justice and reparation for torture survivors and their families.

¹ The internal armed conflict claimed around 17,265 lives, and resulted in 4,305 disabled, 78,675 dispossessed and displaced, 1,302 disappeared, thousands of civilians tortured and hundreds of woman and girls victims of rape, as detailed in the Advocacy Forum-Nepal report *Transitional Justice at the Crossroads* (January 2014), 3.