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NEPAL STUDY ON OPPORTUNITIES FOR REPARATIONS FOR VICTIMS AND SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE

*We will never forget the scars
and pains of conflict*



NEPAL



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Elena Naughton and Dr. Susan Risal

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Holeri, Rolpa where the Maoists started their first attack in Rolpa.
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EXECUTIVE SUMMARY

"I died every single day." With those words, Avilasha (pseudonym), a victim of conflict-related sexual violence (CRSV), evokes the horror of the 23 months she spent in army custody during Nepal's decade-long war, known by the Maoists as the People's Revolutionary War. During her prolonged detention, Avilasha was repeatedly raped and kept under continual surveillance, her "hands and legs tied" to prevent escape. She was constantly threatened with death, denied baths and clean clothes, often for months at a time, suffered from malnutrition, and prodded like an animal with a stick. By the time of her eventual transfer to police custody, she looked more like "a ghost" than a person.

Avilasha's story is but one of many similar stories told here by the 31 women victims of CRSV who were interviewed for this Study which was conducted in Nepal by the International Center for Transitional Justice (ICTJ) and Nagarik Aawaz (NA), with input from the Conflict Victim Women National Network (CVWN), as part of the Global Reparations Study, the Global Survivors Fund (GSF) multi-country Study on Opportunities for Reparations for Survivors of CRSV. The Study participants come from each of Nepal's seven provinces and represent diverse ethnic and economic backgrounds, ages, castes, and educational levels, and include marginalised populations residing in remote areas of Nepal. Victims of both sides of the conflict were interviewed.

Their stories are stories of sexual assault, brutality, mental and physical torture, and often ostracization by their family and communities; some were thrown out of their homes to an uncertain future with young children. They are also the stories of entrenched impunity. None of the victims interviewed for this Study reported receiving any form of justice for the crimes they suffered, even though some can identify and name the perpetrator and have reported the crime to the authorities. Today, some of the accused hold positions of power in Nepal's government or security forces.

Although 15 years have passed since the war officially ended, this report shows how that past continues to occupy Avilasha's present and that of Nepal's other CRSV victims, who are estimated to number between

300-2,000. This Study explores what happened to women victims of sexual and gender-based violence (SGBV) in Nepal during the war, what they need and prioritise in the form of reparations and the many challenges they face now and are likely to continue facing far into the future. Many of the harmful social norms that contributed to create an environment where gender-based violence (GBV) was normalised during the war continue today. These include the ideas that women are and should be subordinate to men, that a family's honour is contingent on a woman's sexual purity, and that men's authority includes physically disciplining women, children, and gender non-conforming people.

In places this report makes for difficult reading due to the nature of the crimes, the severity of the victims' injuries, and the cruelty inflicted upon them because of a lack of understanding of CRSV by family members, friends, their communities, and the authorities. However, knowledge of these realities is essential. The situation for survivors of CRSV in Nepal remains dire and requires urgent action. Although the crimes took place years ago, the victims struggle every day with the horrific consequences. For some, it is a physical injury or a debilitating condition that limits their ability to work. Many still relive the violation in the form of daily flashbacks and terrors. For the many who were children at the time of the attack and had to drop out of school afterward – one victim interviewed during the Study was only nine years old – most are now confined to low paying and manual jobs, often requiring hard physical labour. All are vulnerable to food scarcity and reduced life expectancy.

Yet despite these hardships, most have trouble getting help because they do not feel safe telling their stories, even for the purpose of receiving counselling or medical treatment, out of the fear of being blamed or worse yet thrown out of their home without a means of support. As a result, many suffer alone.

To help address these and other victims' needs and to inform future policymaking decisions, the report looks at the failures of past relief and assistance measures and the challenges victims are currently facing when seeking to engage Nepal's Truth and Reconciliation Commission (TRC), which is mandated to investigate

their claims and eventually offer reparations recommendations. The report also examines the applicable legal framework for the purpose of assessing potential avenues and obstacles to reparations. Included in this analysis is a review of the pertinent provisions of the Constitution, the applicable statutes of limitations, the Enforced Disappearances, Enquiry, Truth and Reconciliation Commission Act (the TRC Act), 2071 (2014), and the text of the peace agreement, known as the Comprehensive Peace Agreement (CPA), that was signed by the political leaders in 2006. That Agreement for instance promised that *"impunity will not be tolerated"* and that *"relief"* would be provided to *"the victims of conflict and torture and the family of disappeared."*

That framework analysis shows that although political elites in Nepal speak often of finalising the peace process and pay lip service to conflict victims' needs, little real progress has been made for Nepal's many victims of human rights abuses, which include not only CRSV victims who are the focus of this report, but also victims of extrajudicial killings, torture, and enforced disappearance, among others.

Today, despite significant advocacy on the part of victims and victims' groups in Nepal, their demands are still being ignored. Crimes of CRSV and torture remain unacknowledged, and the resulting harms unredressed. Although some victims of other conflict-related crimes have received some limited interim relief, survivors of CRSV and torture have not, even though the consequences of that violence continue unabated today. In December 2021, a handful of victims, not including CRSV victims, were awarded some compensation and, as of the time of writing, were awaiting decisions on other measures of reparations. These summary decisions were issued without meaningful explanation after years of inaction by the TRC. Unfortunately, as the report discusses, they are best interpreted as an attempt to foreclose by fiat any form of accountability for war-era crimes and to force victims to take inadequate, inappropriate, and ineffective reparations. As such, this report comes at a crucial moment for transitional justice in Nepal. Immediate steps are needed to ensure that CRSV and other conflict-affected victims receive meaningful reparations.

As this Study explains, the task of designing a reparations policy and then implementing it will not be easy. Inevitably, there are challenges ahead. To overcome them, victims, victims' groups, government

officials, civil society, and international actors will need to come together to find pragmatic solutions to some very thorny practical problems that have slowed progress until now. To ensure that victims' voices and ideas are reflected in any future reparations policy and programme of implementation, the interviews conducted during this Study and the final report take a detailed look at victims' perceptions and views of reparations, as well as their views about the opportunities, potential risks, and challenges to a future reparation programme. During the interviews, victims identified many potential challenges, including:

- Building trust among victims in the government's ability to administer a future reparations programme in a way that does not jeopardise victims' status or reputation in the community,
- Defining robust confidentiality guarantees and protocols for protecting victims' identity,
- Resolving gaps in the existing database of complaints of CRSV maintained by the TRC to ensure that all eligible CRSV survivors can participate and are provided with benefits,
- Establishing appropriate evidentiary standards for determining eligibility for administrative reparations programmes for CRSV victims,
- Addressing victims' trauma and building trust between and among victims, victims' groups, civil society, and government officials to ensure victims' access to and meaningful participation in the reparations programme, and
- Promoting community understanding of CRSV in coordination with civil society and victims' groups to mitigate the potential for stigmatising CRSV victims during the implementation of reparations and for reducing stigma in general.

The report explores these and other challenges and proposes comprehensive recommendations for what can and should be done, now and in the future by Nepal's government, victims' groups, the international community, and civil society.

Given the relatively small number of CRSV victims in Nepal, estimated at between 300-2,000 survivors, the delivery of adequate and effective reparation should be achievable. On an urgent basis, the report

recommends an urgent package of reparations that includes individual and collective measures that would be provided on an expedited basis to start to provide victims with a sustainable and long-term livelihood and enhance their well-being, rather than simply addressing their needs on a short-term basis.

These would include not only material benefits, but also moral and symbolic reparations that would be designed to address the moral damage victims suffered, which include helping them to be understood by and accepted in their communities. As the Study found, for many survivors, there is a strong and abiding sense that if they are ever to establish themselves again *"in our society with respect,"* CRSV must be formally recognised for what it was – a crime – and victims must be acknowledged, even if not personally, as conflict victims entitled to formal reparations. Apologies and awareness raising campaigns around CRSV are proposed as a first step in making that happen.

At the same time, given the dire financial situation of most CRSV victims, economic reparations should be among those prioritised for immediate rollout. The report recommends prioritising reparations that address individual victims' needs and are immediately

feasible, including free healthcare and educational support (for survivors and/or their children or grandchildren); lump-sum and monthly support payments, tax waivers, discounted services; and income generating opportunities are crucial elements of any reparations programme.

To get there, the report proposes a series of steps for how Nepal's government in coordination with victims, victims' groups, civil society organisations, and international stakeholders might implement reparations, consistent with victims' need for confidentiality. These include *creating a conducive environment for CRSV victims to come forward; engaging victims' groups and civil society organisations who have a long track record of working with CRSV victims and a deep understanding of human rights norms and victims' needs and priorities; and updating existing databases to accurately reflect the population of CRSV victims in Nepal.*

All that is needed now is a commitment by Nepal's government to meet its responsibility to the victims of CRSV and other conflict-era crimes who have been waiting so long for redress and who remain among the most vulnerable members of Nepali society. Delay should no longer be countenanced.



ACRONYMS

CAT	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	MOHA	Ministry of Home Affairs
CCPR	United Nations Human Rights Committee	MOPR	Ministry of Peace and Reconstruction
CDO	Chief District Officer	MOWCSC	Ministry of Women, Children and Senior Citizens
CIEDP	Commission on Investigation of Enforced Disappearance of Persons	NA	Nagarik Aawaz
CPA	Comprehensive Peace Agreement	NAP	National Action Plan
CPN-M	Community Party of Nepal – Maoist	NHRC	National Human Rights Commission
CRSV	Conflict-related sexual violence	NRC	Norwegian Refugee Council
CSO	Civil Society Organisation	NWC	National Women Commission
CVWN	Conflict Victim Women National Network	NWCSC	Nepal Women Community Service Center
FIR	First Information Report	PLA	People's Liberation Army
FPTP	First Past-the-Post	SGBV	Sexual and gender-based violence
GBV	Gender-based violence	TJRA	Transitional Justice Reference Archive
GSF	Global Survivors Fund	TRC	Truth and Reconciliation Commission
HRW	Human Rights Watch	TSK	The Story Kitchen
ICJ	International Commission of Jurists	TWUC	Tharu Women Upliftment Center
ICTJ	International Center for Transitional Justice	OHCHR	United Nations Office of the High Commissioner for Human Rights
IDEA	International Institute for Democracy and Electoral Assistance	UNDP	United Nations Development Programme
IDI	In-Depth Interview	UNFPA	United Nations Population Fund
IDMC	Internal Displacement Monitoring Centre	UNGA	United Nations General Assembly
IOM	International Organization for Migration-Nepal	UNICEF	United Nations Children's Fund
INSEC	Informal Sector Service Centre	UNMIN	United Nations Mission in Nepal
IRP	Interim Relief Program	UNPFN	United Nations Peace Fund for Nepal
		UNSG	United Nations Secretary General
		WHO	World Health Organization



I. BACKGROUND AND METHODOLOGY

1. About the project, project partners, authors, and acknowledgements

1.1. About the project

Today in Nepal, gender-based violence, including sexual violence, remains a painful, largely unacknowledged legacy of the decade-long armed conflict (1996-2006) between the security forces, the Communist Party of Nepal – Maoist, and its military wing the People’s Liberation Army (PLA). During the war, few individual incidents of conflict-related sexual violence were reported to the police out of fear of retaliation and the stigma associated with the crimes. Since then, despite extensive work by international and domestic actors to document the crimes and advance accountability, no one has been brought to justice and impunity prevails.

Exacerbating that injustice, the governing leadership of Nepal continues to ignore survivors of CRSV, now almost 15 years since the signing of the 2006 peace agreement, despite knowing about the severe and debilitating physical, social, cultural, and mental injuries they sustained during the war. No change has been made to the law or implementing regulations, which excluded CRSV victims from the 2008 interim relief programme instituted by the government that provided limited benefits to other conflict victims. Although approximately 300 victims filed complaints with the TRC, which at the time of this writing is still not close to completing its mandate, many could not. Many were turned away for lacking “evidence” of crimes committed by the very authorities who failed to administer and uphold the law and worse yet violated it: the police and army. In the meantime, many victims continue to be ostracized by their families and communities and are left to fend for themselves and, in many instances, their children, by doing a variety of low-paying jobs. Denied redress, few can afford essential medical treatment, including for medical conditions tied to the CRSV. For many, food scarcity is a fact of life. Almost all have lost hope.

As part of a Global Reparations Study, the International Center for Transitional Justice (ICTJ), Nagarik Aawaz (NA) and Conflict Victim Women’s National Network (CVWN), in collaboration with the Global Survivors Fund (GSF), have conducted a Study to identify the reparations’ needs of survivors of CRSV in Nepal, as well as the opportunities for delivering reparations to survivors through judicial and administrative processes. This Study presents and analyses survivors’ perceptions and expectations for reparations, and offers practical, concrete and context specific recommendations to policy makers and other relevant actors at national and global levels to inform the design and delivery of survivor-centred reparations in Nepal.

This Nepal Study also seeks to establish whether survivors of CRSV have already received any form of assistance, and/or reparation through government programmes or from civil society initiatives, and if so, what lessons can be learned from those experiences, to inform the design and delivery of comprehensive reparations in the future, including the potential delivery of interim reparative measures by GSF. As an objective in itself, the Nepal Study process further aimed to increase the understanding and awareness of survivors’ rights to reparations and to create further momentum for the delivery of meaningful survivor-centred reparations to CRSV survivors in Nepal.

The Nepal Study is part of a global study on reparations (the “Global Reparations Study”) launched by GSF in 2020, which focuses on the status of and opportunities for reparations for survivors of CRSV in over 20 countries. The Global Reparations Study is a multi-actor effort led by GSF in collaboration with over 40 local and international partners, including survivors’ networks and groups. It seeks to make recommendations for further action based on survivors’ needs and aspirations and to identify potential support available among key actors and concrete action to enhance access to reparations for CRSV survivors around the world.

1.2. About the project partners



GSF was launched in October 2019 by Dr Denis Mukwege and Ms Nadia Murad, Nobel Peace Prize laureates 2018. Its mission is to enhance access to reparations for survivors of conflict-related sexual violence around the globe, thus seeking to fill a gap long identified by survivors. GSF acts to provide interim reparative measures in situations where states or other parties are unable or unwilling to meet their responsibilities. GSF advocates also for duty bearers, as well as the international community, to develop reparations programmes, and provides expertise and technical support to guide states and civil society in the design of reparations programmes. GSF's survivor-centric approach is the cornerstone of its work. For more information, visit www.globalsurvivorsfund.org.



ICTJ works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims' dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit www.ictj.org.



Nagarik Aawaz is a social organisation registered in Nepal under the NGO Act. NA was established in Nepal in 2001 at the height of the conflict with the aim of providing safe spaces and a safety net of support to conflict affected women and youth. NA organises story circles where participants can air their grief and trauma and has empowered conflict-affected women and youth to become peace facilitators through trainings on conflict transformation and

peacebuilding and through various artistic initiatives. To expand its reach and ensure context-specific approaches, NA works with local organisations across Nepal as part of a joint peace network (Sahakarya Shantiko) to conduct peace and support activities. For more information, visit <https://nagarikaawaz.org.np/>.



CVWN is an alliance of conflict victim women and was created in 2020 by a diverse category of conflict-affected women. It was founded to raise the voices and issues of those not previously heard in Nepal's transitional justice and peacebuilding processes. CVWN works to ensure a gender sensitive and women-centric approach in the fight for justice in Nepal. For more information, visit: www.facebook.com/cvwnn.

1.3. About the authors

Elena Naughton is a senior expert at ICTJ, focusing on reparations, truth and memory, gender, and criminal justice. She provides advice and technical assistance to victims' organisations and civil society groups working on transitional justice, and has led trainings on reparations, victim participation, criminal accountability, and engaging local governments, including in Nepal, Lebanon, Uganda, and on Syria. She has conducted extensive research on such diverse topics as hybrid tribunals, gender and memorialisation, and civil documentation. She earned a J.D. and LL.M. at the New York University School of Law.

Dr. Susan Risal is a peace practitioner based in Kathmandu, Nepal. She is a Chief Executive Officer of Nagarik Aawaz (NA), a peace-building organisation in Nepal which works with conflict-affected youth and women. In that role, she led the Study team at NA, Lalitpur. She was awarded a PhD in Applied Conflict Transformation Studies as part of a collaborative programme between the Center for Peace Studies and Pannasatra University, Cambodia. Her PhD Research topic is *Defining Justice and Dignity through Gendered Lens: A case study analysis of gender-based violence during conflict era in Nepal*.

1.4. Acknowledgments

ICTJ, Nagarik Aawaz, CVWN and GSF would like to thank the courageous victims of CRSV, torture, and other violations of human rights in Nepal for trusting us with the truth of what happened during the war and for sharing some of the deep pain and grief experienced every day since then. Your stories and ideas about what should be done and how to provide redress for the many harms you and your families have suffered should be required reading for everyone who is entrusted with the responsibility to set or implement policy in Nepal. To those who say the war is over, the peace is won, and it is now time to move on, keep in mind that by doing so you are wilfully ignoring the truth of what happened and are breaking the promises made to the victims of the conflict in the Comprehensive Peace Agreement to “ensure that impunity will not be tolerated” and to ensure victims’ “right” to “obtain relief.” It is past time to meet those promises.

This report represents the efforts of many individuals who came together amid the global COVID-19 pandemic in 2021 to carry forward the vital work of ensuring that victims of conflict-related sexual violence are not forgotten by the government or the people of Nepal and that they receive the reparations they are entitled to as victims of gross violations of international human rights law and serious violations of international humanitarian law. The authors would like to acknowledge the indispensable contributions made to this Study by Sikha Bhattarai, Nagarik Aawaz Senior Program Officer, who together with Susan Risal, conducted, translated, and transcribed the victim interviews and analysed the results. Special thanks are due to counsellors Antina Ranjitand and Laxmi Dhakal of NA who provided essential psychosocial support sessions at the conclusion of each interview and helped to ensure that victims were treated with dignity and kindness throughout; and intern Aakankshya Aryal who assisted with data entry and the quantitative and thematic analysis of the findings. This report would not have been possible without their efforts, insights and untiring dedication in the face of many logistical challenges.

ICTJ staff Sibley Hawkins, Virginie Ladisch, and Kelen Meregali offered inputs on the report and assisted with other tasks, both big and small, to help coordinate the international components of this ambitious multi-country project. ICTJ and NA also express their deepest gratitude to the Nepal Women Community Service Center (NWCSC), Dang and the Tharu Women Upliftment Center (TWUC), Bardiya – both existing NA partners – and the leadership and membership of the Conflict Victim Women National Network (CVWN), including Srijana Shrestha (Chairperson), Gita Rasaili (Vice Chair), Maina Karki (Vice Chair), and Sushila Chaudhary (General Secretary), who provided essential substantive and logistical support and collaborated on many occasions to share ideas and valuable input. Thank you also to Galuh Wandita for providing her expert review.

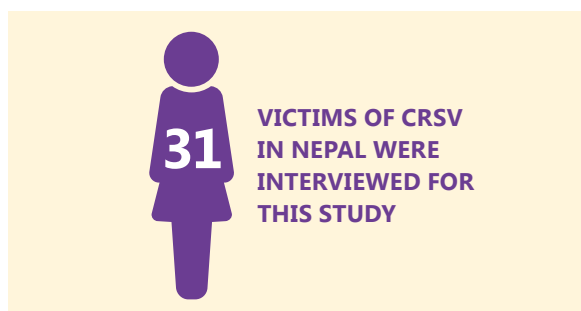
2. Methodology

Because of the extremely sensitive and complex nature of CRSV in Nepal and the rising spread of COVID-19 at the time of this Study, ICTJ and Nagarik Aawaz decided against holding in-person interviews or focus-group discussions. Instead, NA drew upon its longstanding relationships with victims of CRSV and existing testimonies and, with the help of the Conflict Victim Women National Network (CVWN), a 21-member victim committee,¹ identified a representative sample of survivors to be interviewed individually by videocall (25.8%) or by phone (74.2%).²

A detailed In-Depth Interview (IDI) package was prepared by ICTJ, in close collaboration with NA and CVWN. It consisted of an informed consent form and a detailed questionnaire to guide the interviewer. In advance of the interviews, NA held orientation sessions with the research team to ensure uniformity in approach. The IDIs sought to engage respondents directly in conversation to generate nuanced, non-judgmental, and authentic accounts of respondents’ outer and inner worlds. The approach proved a robust research method despite COVID-19 quarantine orders and allowed for a holistic and in-depth investigation of the sensitive issue of conflict-related sexual violence in Nepal.

1 CVWN was organised in February 2020 with the aim “to bring a women-centric approach to transitional justice, amplify our agenda and fight for justice with collective voice.” During the pendency of this Study, CVWN registered legally with the government of Nepal.

2 The use of existing connections and relationships worked well. However, a few respondents who were initially identified were replaced because they could not be reached or were suffering from COVID-19.



Using that methodology, two teams from NA conducted 31 interviews during the months of May and June 2021,³ which represents approximately 10% of the 308 CRSV survivors who are reported to have filed complaints with Nepal's TRC. Consistent with a Do No Harm Approach, at the start of each interview, the researchers first inquired about respondents' safety and wellbeing and explained that those being interviewed could withdraw at any time during the interview. Survivors were assured that their identity and any identifying information would not be disclosed to anyone except the core research team. Code names consisting of a letter and number were assigned to participants to ensure their anonymity. Thus, all the names of survivors in this report are pseudonyms (see Participant Code, Pseudonyms, Locations, and Date of Interview in Annex II). Verbal consent to record the conversations was obtained in advance.

Two trained NA psychosocial counsellors were also included in the project team and were briefed in advance on their role and objectives. At the conclusion of each interview, a self-help session was offered, which included progressive muscle relaxation, diaphragmatic breathing, and relaxation exercises such as body scanning and guided imagery. Many survivors found these sessions very helpful.

The interview also included an empowerment component centred on the concept of reparations, a term with which many survivors were unfamiliar. During the interviews, a brief explanation of reparations was provided to ensure that survivors have a basic

understanding of their rights and can take those rights forward on their own or with the support of other victims or victims' groups in the future.

The qualitative and quantitative information collected during the Study was analysed thematically by NA using SPSS and NVivo software and again manually. Several steps were undertaken as part of this thematic analysis. First, the verbal data was transcribed. Second, because the interviews were conducted in Nepali, translations to English were required. Translations were geared towards capturing the essence of the interview, as well as providing word-to-word translations. Particular attention was paid to conceptual equivalence to the original language. Third, the data was then read and re-read, and initial thematic ideas were noted. This step was followed by the generation of initial codes and the organisation of data into meaningful groups. Fourth, the data was coded by key themes. Direct quotes from Study participants are included where helpful to enhance understanding. Identifying information has been deleted.

STUDY LIMITATIONS

At the time of the Study, Nepal was suffering a spike in COVID-19 cases. Thus, it was not possible for the research team to travel to the provinces to meet in-person with victims. As a result, the research team could not assess participants' facial expressions and body language.

Almost all the victims specifically mentioned that their lives were being negatively impacted by the ongoing COVID-19 pandemic and the resulting lockdown which made wage work nearly impossible and exacerbated their already bad economic circumstances. One victim reported experiencing an increase in physical and verbal spousal abuse during the lockdown, during which her husband mentioned the CRSV she suffered as a nine-year old child.⁴ Another who has still not recovered from the devastation of the 2015 earthquake and is residing in a "temporary shelter made up of tin sheets,"⁵ has seen her situation worsened by COVID-19 and, like many others, is barely surviving. As a result, for many victims,

3 Originally, 30 interviews were to be conducted. The 31st interview was added when one of the victims, who contracted COVID-19 and seemed too ill to participate, recovered from the virus. She contacted NA and was subsequently interviewed. NA covered the costs associated with the additional interview.

4 Nagarik Aawaz (NA), Interview with Rita (N17) (Province 5, Nepal, 13 June 2021). The incidence of violence against women and girls has increased during the COVID-19 pandemic, see for example Minakshi Dahal and others, 'Mitigating violence against women and young girls during COVID-19 induced lockdown in Nepal: a wake-up call' (2020) 16(84) Globalization and Health.

5 NA, Interview with Devaki (M4) (Province 3, Nepal, 13 June 2021).

the lockdown and the imminent risk to their health were bearing heavily on their minds during the interviews, with a few expressing high levels of despair, fear of death, and a lack of hope as a result. For many, the interviews offered a welcome opportunity to reconnect with their support network during a dark time.

Given the impossibility of in-person meetings, a decision was made to limit interviews to individuals who were already known to and had a relationship of trust with either or both NA and the CVWN to limit the risk of re-traumatisation and breaches of confidentiality. As a result, all interviews are of individuals who identify as straight, cisgender women. Comprehensive research is needed into the distinct lived experiences of male victims and sexual minorities, the human rights violations they suffered during the conflict,⁶ and their current needs, reparative priorities, and ongoing interactions with Nepal's power structures.⁷

Despite these limitations, the 31 interviews provide a full picture of the needs, expectations, and social lives of female victims of CRSV in Nepal, revealing both

the harsh realities of their lives and how social and patriarchal norms around sexuality and sexual violence continue to prevent society from fully understanding how sexual violence truly impacted its victims during the war and until today. This Study explores how these norms and victims' dependence on the tight web of family and in-law relationships hamper their ability to establish themselves economically, culturally, and socially. Based on the findings, it goes on to offer steps, both urgent and long-term, for how to respond to victims' needs, consistent with these constraints.⁸

The recommendations offered here are critically necessary now. Over 15 years since the war ended, little has changed for victims of CRSV in Nepal. They have been and remain among the most forgotten victims of Nepal's war who many prefer to ignore, or worse, blame. This Study aims to change that by giving voice to their stories and by strengthening coordination and cohesiveness among the organisations in Nepal who worked side-by-side to carry out this Study and the other organisations that have assisted CRSV victims when no one else would.

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- 6 Information about the nature and scale of human rights violations suffered by sexual minorities in Nepal during the conflict is limited. Human Rights Watch (HRW) issued a series of reports close in time to the end of the conflict: HRW, 'Nepal: Maoists Should End Anti-Gay Violence. Kidnapping Contradicts Promise 'Not to Punish Homosexuals'' (16 April 2007) www.hrw.org/news/2007/04/16/nepal-maoists-should-end-anti-gay-violence# accessed 21 January 2022; HRW, 'Nepal: 'Sexual Cleansing' Drive Continues. New Arrests of Transgender People, HIV Workers' (18 March 2006) www.hrw.org/news/2006/03/18/nepal-sexual-cleansing-drive-continues accessed 21 January 2022; HRW, 'Nepal: Police Attack Transgender People. Pattern of Police Abuse Highlights Broader Threat to Civil Society' (19 April 2005) www.hrw.org/news/2005/04/19/nepal-police-attack-transgender-people accessed 21 January 2022. A few studies have also been conducted on GBSV against sexual minorities: UNDP and Williams Institute, 'Surveying Nepal's Sexual and Gender Minorities: an Inclusive Approach' (2014); Sonal Singh and others, 'Human rights violations among sexual and gender minorities in Kathmandu, Nepal: a qualitative investigation' (2012) 12(7) BMC International Health and Human Rights <https://bmcinthealthumrights.biomedcentral.com/articles/10.1186/1472-698X-12-7> accessed 21 January 2022. However, these studies do not provide a full analysis of CRSV in Nepal.
- 7 Pabitra Neupane, 'Despite some reforms, LGBTIQ+ people in Nepal are still vulnerable' Onlinekhabar (30 January 2021) <https://english.onlinekhabar.com/despite-some-reforms-lgbtq-people-in-nepal-are-still-vulnerable.html> accessed 21 January 2022. ('LGBTIQ people cover 4.196 per cent of the country's population, according to Nepal LGBTI Survey 2013. ... Most of them are often subjected to police harassment, extortion, arrests, unreported and arbitrary detention. They have been detained in hospitals and forced to receive treatment against their will. They have faced violence in the forms of sex corrective treatment, forceful marriage to the opposite-sex people, rape, sexual violence, trafficking, forced prostitution, sexual harassment, suicide, killings, and domestic violence.').
- 8 ICTJ, 'To Walk Freely with a Wide Heart': A Study of the Needs and Aspirations for Reparative Justice of Victims of Conflict-Related Abuses in Nepal' (2014). Our findings about victims, their needs, and perceptions of reparations are consistent with previous studies of the same or similar populations in Nepal, including ICTJ's comprehensive 2014 report.



II. INTRODUCTION

“Life was going as it was.” With those words, Shyama*⁹ summed up the abruptness of the horror that forever changed her life during the war. She went from running a small shop with her husband in midwestern Nepal not far from an army camp to being threatened and physically harassed by the army, abducted by Maoist cadres, and then sexually abused. Amid it all, her husband was killed. Rather than being supported by her family and community as the victim of a series of horrific crimes, she was berated and accused of wrongdoing herself.

Hers is but one of many similar stories told to us by the 31 women interviewed for this Study. Theirs are stories of sexual assault, brutality, mental and physical torture, and often abandonment by family, some of whom were thrown out of their homes to an uncertain future with young children. They are also the stories of entrenched impunity. **None of the survivors interviewed for this Study reported receiving any form of justice for the crimes they suffered, even though some can identify and name the perpetrator and have reported the crime to the authorities.**

Despite the immense hardship, a handful have managed to build a life. Shyama now uses her skills to help other conflict-affected women. Similarly, Prapti* who has no formal education is now part of a network that aims to help other conflict survivors, while sustaining herself by running a small farm. She was gang raped at a young age by members of the armed forces because they suspected her of being a “spy”. In reality, she had merely been tending to her buffalo at the edge of the forest on a rainy day.

But these stories are the exception not the rule. And although they offer a reason for hope, they mask the harsh realities facing CRSV victims in Nepal, whether they have built a life for themselves. Officially unrecognised as conflict victims yet simultaneously shunned by society because of the nature of the crimes they suffered, most struggle to meet daily needs like food, shelter, and the costs of schooling

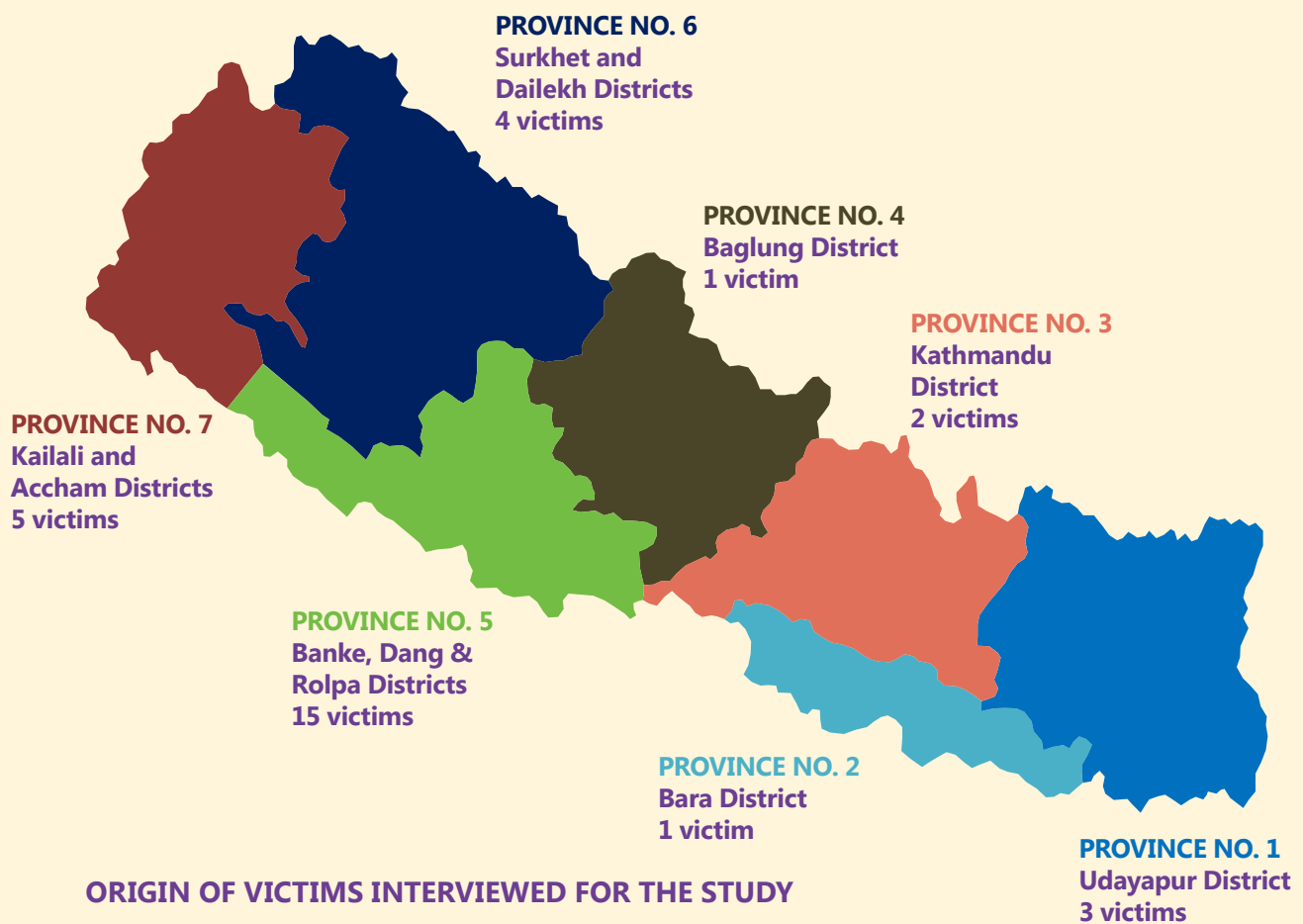
their children, over 15 years after the war ended. For those who have not revealed the crimes to their families or communities, their status remains contingent on others not finding out about “the incident”. Most feel fearful and isolated, common emotions expressed during the interviews.

In most instances, the word “victim”, rather than survivor, is used in this report because it is the term used most often by victims’ groups in Nepal, and by the women interviewed for this Study. The word victim affirms their legal status, long unrecognised by the government, and their right to a remedy and reparation for the violations suffered.

Many are also victims of other human rights violations like forced disappearance, arbitrary detention, forced displacement, and/or child recruitment and use. A few have received some interim relief because of that dual victimisation under a government administered programme for family members of those killed or disappeared during the war. For instance, Ganga* received compensation for the killing of both her husband and son, but she and her daughter – who were gang raped – have received nothing for that crime.

This Study explores what happened to SGBV victims in Nepal during the war, what they need and want now, and the many challenges they continue to face. This paper begins with a brief overview of the background of the conflict (section III) and the status of women and girls in Nepal (section IV), followed by a discussion of the scale and scope of conflict-related sexual violence (section V), drawing on the rich library of conflict reports prepared by victims’ groups, civil society, and international organisations in the years after the war ended. Sections VI and VII provide a brief profile respectively of CRSV victims in Nepal, including those interviewed for this Study, and the perpetrators of the crimes. In sections VIII-IX, a detailed assessment of the continuing impact of the crimes on CRSV survivors is provided together

9 All names used in this report have been changed to maintain anonymity. The first time a name is used in the text, it appears with an asterisk. In addition, a list of Participant Code, Pseudonyms, and Date of Interview is provided in Annex II. Quotes have been edited to remove identifying information.



with a discussion of the ongoing failures of past relief and assistance measures to address those harms. An illustrative listing of the programmes offered by civil society and humanitarian organisations to address that gap is included. Section X discusses victims’ current perceptions, needs, priorities, and risks based on testimonies gathered in May and June 2021.

The report concludes with an analysis of the legal framework, victims’ perceptions, and views of reparations, as well as opportunities for and potential risks and challenges to a future reparation programme

in sections XI-XIII. Finally, sections XIV-XV make recommendations and propose concrete steps for getting there and identifies some responsible entities who might help make that happen.

The Study’s assessments of ongoing impact, current needs, and victims’ reparative priorities were validated during follow up meetings with CVWN and through a comparative review of earlier studies of victim populations, including a 2014 report issued by ICTJ. A separate validation session was held with members of CVWN to review the proposed reparations in October 2021.

Although COVID-19 lockdown protocols prevented direct engagement with participants and limited somewhat the geographic reach of the interviews, the 31 participants represent a diverse sample of women victims of CRSV during the decade-long war and include victims from each of Nepal’s seven provinces and from ten of Nepal’s 77 districts.¹⁰ Almost half of the participants (48.39%) came from three districts (Banke, Dang and Rolpa) in Province 5 (Lumbini Province), where many of the first attacks by the Maoists occurred in 1996 and where many CRSV incidents are known to have occurred. An additional 16% reside in the far-western region of the country in Province 7 (Sudurpashchim Province) and almost 13% from Province 6 (Kernali Province) to the north. Nepal’s hill and lowland (Terai) regions are represented.

Victims represent vulnerable and marginalised populations residing in remote areas of Nepal, and those from urban centres like Kathmandu. Different ethnic backgrounds are represented including caste (Brahmin, Chhetri, Chaudhary, Dalit) and non-caste Indigenous (Janjatis) peoples.¹¹ Three Dalits (9.68%), the lowest of Nepal’s caste hierarchy, were interviewed¹² and 14 Indigenous (45.16%), including seven Tharu, six Magar, and one Lama.¹³

Victims of both security and Maoist forces were interviewed. A range of CRSV and other violations are included. The respondents also represent diverse economic backgrounds, ages, and educational levels. For complete information about the sociodemographic profiles of the interview participants, see Section VI and Annex I below.

ETHNIC ORIGIN OF VICTIMS INTERVIEWED FOR THE STUDY



10 Of the seven native Tharu speakers interviewed, only one victim required interpretation. All others were able to converse in Nepali.

11 Krishna B. Bhattachan, 'The Indigenous World 2021: Nepal' (IWGIA, 18 March 2021) www.iwgia.org/en/nepal/4236-iw-2021-nepal.html accessed 21 January 2022. The 2011 census listed "125 caste and ethnic groups, including 63 Indigenous Peoples; 59 castes, including 15 Dalit castes; and three religious groups, including Muslim groups." Janjatis are broadly defined as people or communities who have their own mother tongue and traditional customs, cultural identity, social structure, and written or oral history.

12 Two were from the Hill region of Nepal and one from the Terai.

13 Among the Tharu, most are of the higher Chaudhary caste (5 of the 7).



III. BACKGROUND

On 21 November 2006, a Comprehensive Peace Agreement (CPA) was signed between Nepal's government and the Communist Party of Nepal – Maoist CPN-M – bringing an end to an over decade-long internal conflict that began in 1996.¹⁴ That conflict, known by the Maoists as the “People’s Revolutionary War”, sought not only to end the monarchy’s hold on power, but also championed a broad agenda of social, economic, and political changes designed to correct structural imbalances in Nepal’s stratified society, including those rooted in caste, class, ethnicity, minority rights, and gender.

By the end of the war, conflict-related killings totalled at least 13,000 and were reported in all but two of Nepal’s administrative districts. Atrocities also included enforced disappearances and abductions that left approximately 1,300 persons missing or forcibly disappeared.¹⁵ Others suffered torture, arbitrary arrest, and sexual violence. Between 100,000 to 200,000 people were displaced, although some place the number higher.¹⁶ Some 3,500-4,500 children are believed to have been recruited and used by the Maoists, although exact figures are likewise not available.¹⁷

The populations most heavily affected by these crimes include indigenous peoples like the Tharu who have been oppressed and exploited for generations and continue to “face intersecting and multiple forms of discrimination”.¹⁸ About 21% of those killed are believed

to have been indigenous.¹⁹ During the conflict, being Tharu was often sufficient justification to be suspected as a Maoist in the Mid and Far Western regions. Other targeted populations included members of non-governmental organisations, schoolteachers and other individuals assumed to be philosophically aligned with the Maoists, and civilians caught in the middle.²⁰

The perpetrators are known to include Maoist insurgents and members of the police, army, and other security forces.

Although the conflict precipitated a national reckoning with fundamental principles of governance and Nepal’s ages-old societal structures, the promise of the People’s Movement and the quest for a more equal society that it represented have since fallen prey to political forces and jockeying for power that continues today. Nepal has moved forward with some of the transitional commitments made in the peace agreement that ended the war in 2006. It promulgated an Interim Constitution in 2007 and then adopted a new Constitution in 2015. Yet, many of the promises to multiparty democratic governance, civil liberties, human rights, full press freedom, and rule of law remain unrealised or under threat today. Incidents of extrajudicial killings and torture by police continue in a climate of near total impunity.²¹ In 2017, sporadic violence arose during local elections, particularly in the Terai region of the country where

14 Comprehensive Peace Agreement (CPA) signed between the Nepal Government and the Communist Party of Nepal (Maoist) (22 November 2006) <https://peacemaker.un.org/nepal-comprehensiveagreement2006> accessed 27 January 2022.

15 UN OHCHR, ‘Nepal Conflict Report. An Analysis of Conflict-Related Violations of International Human Rights Law and International Humanitarian Law between February 1996 and 21 November 2006’ (October 2012) 36. A government task force connected with the Interim Relief Program recorded higher totals. It “documented the death of 18,030 persons, 1,613 disappeared, 80,222 IDPs, 9,820 disabled, 3,893 abducted or forcibly kidnapped, 2,094 illegally detained, 689 Orphan Children and, 1,735 injured requiring medical assistance.” Govinda Sharma and others, ‘From Relief to Redress: Reparations in Post-Conflict Nepal’ (Reparations, Responsibility and Victimhood in Transitional Societies, October 2019) 25 citing MoPR, ‘Ten Years of Peace Process in Nepal (2006 – 2016)’ https://reparations.qub.ac.uk/assets/uploads/QUB-Nepal_Report_ENG_DP.pdf.

16 The Community Study and Welfare Centre reported totals in the range of 350,000-400,000.

17 HRW, ‘Children in the Ranks: The Maoists’ Use of Child Soldiers in Nepal’ (1 February 2007) 2 www.hrw.org/report/2007/02/01/children-ranks/maoists-use-child-soldiers-nepal accessed 21 January 2022.

18 UN Human Rights Council, ‘Report of the Special Rapporteur Dubravka Šimonović on violence against women, its causes and consequences’ Forty-first session 24 June-12 July 2019 (19 June 2019) A/HRC/41/42/Add.2, paras 8, 65.

19 Informal Sector Service Center (INSEC), ‘Nepal Human Rights Yearbook’ (9 April 2004) 135.

20 UN OHCHR, ‘Nepal Conflict Report’ (n15) 80, 87.

21 Nepal National Human Rights Commission, ‘A Precise Report on the Recommendations and State of Implementation in the 20 Years of NHRCN (May 2000 – June 2020)’ (September 2020) 33. For instance, over a period of 20 years, the Nepal National Human Rights Commission issued decisions with recommendations to the government, of which less than 50% have been implemented. In those cases, 286 persons were named as human rights violators. Yet only 30 (10.4%) have faced action, while no action has been taken against the remaining 256 persons.

many conflict-affected victims live; and the country continues to struggle with growing urban crime and violence, including gender-based violence,²² which is discussed below.

At the time of writing, Nepal's government was preparing for elections after an extended period of political crisis that began close in time to the start of the COVID-19 pandemic in early 2020. Over the course of 2020 and 2021, Nepal's Parliament was dissolved twice, first in December 2020 and again in May 2021; and Nepal's Supreme Court stepped in several times to attempt to resolve constitutional issues raised by the contending political parties. On 12 July 2021, the Supreme Court installed Sher Bahadur Deuba as prime minister, resolving the leadership battle at least for a time.

As a result, for much of 2020 and 2021, there has been little meaningful progress by the two transitional justice mechanisms – the Truth and Reconciliation Commission and the Commission of Investigation on Enforced Disappeared Persons (CIEDP) – mandated to address conflict-related issues of justice, acknowledgement, reparations, and reform. Relatedly, long-awaited draft amendments to the law that created those commissions – the Enforced Disappearances, Enquiry, Truth and Reconciliation Commission Act (the TRC Act), 2071 (2014) – have likewise been stalled despite having been ordered by the Supreme Court in 2015, including those relating to amnesties for crimes such as torture, rape and other sexual violence, and enforced disappearance.²³ One of the victims described the recent chaos and its impact on victims:

"Our party and government are not accountable to us. Now they are fighting with each other and forgetting the goal of the Maoist movement. How can I expect they will address our needs?"²⁴

On 15 July 2021, the government acted to maintain the status quo by extending the tenure of both the TRC and CIEDP and their commissioners for one year.²⁵ This is the fourth time the commissions' tenures have been extended, since their establishment over six and a half years ago. In the meantime, progress on investigating and moving forward on victims' complaints has been slow which is a source of great frustration among victims. As Shakti* said,

"Nothing has happened. The TRC members are just sitting, getting big salaries, and doing nothing. 'Kasto achhma ho yo' (what a surprise is this?)."

To date, the disappearance commission is said to have completed preliminary investigations of all 3,197 complaints submitted and concluded that it had jurisdiction over 2,506 of those filed.²⁶ It is said to be still carrying out investigations across 65 of Nepal's districts.²⁷ The CIEDP has also distributed certificates of disappearance to family members of some families of missing persons across the country.

The TRC, on the other hand, is reported to have carried out primary investigations of around 5,000 complaints of the 63,718 complaints collected. It also adopted guidelines on reparations.²⁸ At the end of 2021, it concluded investigations in 29 cases and

22 Asia Foundation, 'The State of Conflict and Violence in Asia: Nepal' (2017) <https://asiafoundation.org/wp-content/uploads/2017/10/Nepal-StateofConflictandViolence.pdf> accessed 21 January 2022.

23 Suman Adhikari et. al vs. the Office of Prime Minister and Council of Ministers (Ruling 069-WS-0057) Nepal Supreme Court (26 February 2015). On 26 April 2020, the Supreme Court reaffirmed its 2015 ruling and rejected the government's petition to reverse.

24 NA, Interview with Mamata (I33) (Province 1, Nepal, 27 June 2021).

25 Binod Ghimire, 'Transitional justice bodies get new term but conflict victims have little hope' *The Kathmandu Post* (16 July 2021) <https://kathmandupost.com/national/2021/07/16/transitional-justice-bodies-get-new-term-but-conflict-victims-have-little-hope> accessed 21 January 2022.

26 National Human Rights Commission of Nepal, 'Annual Report FY 2019-2020' (February 2021) 22.

27 UN OHCHR, 'Response of the Government of Nepal on Promoting and protecting the human rights of women and girls in conflicts and post-conflicts situations' 4 <https://www.ohchr.org/Documents/Issues/Women/WRGS/conflict-post-conflict/states/Nepal.docx> accessed 30 January 2022.

28 Ibid.

issued reparations recommendations. Based on those recommendations, the Cabinet “decided to provide Rs2.32 million in compensation on 29 complaints with a maximum of Rs500,000” (approximately \$15,482 and \$4,055, respectively). Additional forms of reparation, including possibly interest-free loans, skill development training, and educational scholarships, were still to be decided upon.²⁹

Troublingly, those reparations recommendation decisions took seven years and were issued on an ad hoc basis and without explanation. They were not accompanied by full written decisions, nor a timeline for when and if other reparations recommendations would be forthcoming on the other victims’ complaints, and whether other components of the TRC’s mandate are to be completed, including preparation of a comprehensive, final report, accountability for perpetrators, the truth about the root causes of the armed conflict, and practical reforms required for non-recurrence, efforts at reconciliation, or other matters which the commission was mandated to address. Although this initial release of decisions represents some progress after years of inaction, there has been no transparency around the recommendations and process that led to the ordered reparations amounts and types, other than to say that “*compensation [was] based on the Enforced Disappearances Enquiry and Truth and Reconciliation Commission regulation and the gravity of cases.*”

In addition, reports indicate that the 29 cases “have been closed and prosecution will not be necessary,” which is a cause of great frustration among victims.

Claims by victims of CRSV were not among the decided cases and there was no clarity about where those claims stand at the time of writing. A few torture victims are among the 29 awarded compensation, although they are not receiving compensation for the torture suffered. In addition, by issuing a small batch of decisions on a seemingly ad hoc basis, the TRC appears to be abdicating other essential aspects of its mandate (e.g., finding out and recording the truth, bringing about reconciliation, making recommendations for action against the perpetrators).

As such, over 15 years since the conflict’s end, there has still been no accountability for serious human rights violations. Victims continue to suffer from the severe physical and mental injuries they sustained during the war. Although some victims, including families of those killed and disappeared have received limited interim relief, and the recent release of decisions included a few torture victims, many other victims have received no form of redress. Meanwhile impunity for conflict-related sexual violence continues to contribute to the prevailing climate of impunity for perpetrators of sexual violence and other crimes in Nepal and the endemic nature of violence against women, girls, and sexual minorities who continue to face physical and psychological torture, rape, trafficking, and domestic violence today.

It is past time for the leadership of Nepal to renew their commitment to advancing the aims of transitional justice by acknowledging the human rights violations committed during the conflict and by providing redress to victims, their families, and communities, including the CRSV victims who are the focus of this Study.

29 Binod Ghimire, ‘Truth Commission wraps up 29 war-era cases of atrocities, victims unhappy’ *The Kathmandu Post* (25 December 2021) <https://kathmandupost.com/national/2021/12/25/truth-commission-wraps-up-29-war-era-cases-of-atrocities-victims-unhappy>, accessed 21 January 2022.



Woman walking across Dodhara Chandari Suspension Bridge, 2017.
© Elena Naughton



IV. THE STATUS OF WOMEN AND GIRLS IN NEPAL

Today, Nepal remains a highly stratified and patriarchal society. Although on paper, Nepal recognises women's rights to live free from violence, to go to school, to participate in decision-making processes, and to earn equal pay for work of equal value, in practice many of those rights are not being realised. Few women hold positions in senior and middle management, although they make up almost 60% of agricultural workers.³⁰ Discrimination in employment persists, despite laws prohibiting it.³¹ As Rita* who resides in a hill district in Lumbini Province explained,

"There is no work available for women here. Only men get the work like building houses or other labour work."

The total literacy rate remains low with only 67.9% of those aged 15 and older able to read, well below the global rate of 86.3%. There also remains a discrepancy in the mean years of schooling by sex: female (years) 4.3 versus male (years) 5.8.³² Among the women interviewed for this Study, many of whom come from marginalised communities, more than one-third have had no schooling.

In this environment, women and girls often have few choices. Human trafficking remains a problem with women and girls coerced or tempted by false promises for instance of decent jobs with a substantial salary in Kathmandu or abroad.³³ In some places, the system of bonded labour (or kamlari) persists, by which young girls, in particular indigenous peoples like the Tharu, were traditionally sent into domestic slavery in their landlord's homes, deprived of their freedom and denied an education. Although officially outlawed in 2013,³⁴ many young women in Nepal, including some interviewed for this Study, are still living with the consequences of that system today. As Sirish* explained,

"I am from an [Indigenous] family so it was compulsory for us to be a Kamlari (bonded labourer). I worked in other people's homes from a very young age. I couldn't attend school... The landlords always kept us as bonded labour and made us work in their home and paid us very little remuneration. They didn't want us to do any better and move ahead. We were always treated as slaves."

30 UNDP, 'Human Development Report 2020' (2020) <https://hdr.undp.org/data-center/specific-country-data/#/countries/NPL> accessed 28 January 2022. ("Share of employment in nonagriculture, female (% of total employment in nonagriculture) 40.3" versus "Female share of employment in senior and middle management (%) 13.9")

31 Nepal Labour Act 2074 (2017) s 6; World Bank Group, 'Nepal: Women, Business and the Law 2020' (2020) <https://wbl.worldbank.org/content/dam/documents/wbl/2020/sep/Nepal.pdf> accessed 21 January 2021.

32 UNDP, 'Human Development Report 2020' (n30).

33 Nepal passed into law the Human Trafficking and Transportation (Control) Act, 2064 in 2007 and acceded to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children on June 16, 2020. However, trafficking within Nepal as well as across international borders continues.

34 The system which developed because of the dispossession of indigenous people from their land, was abolished most recently in June 2013 after several previous attempts to stop the practice, including during the war in 2002. In 2013, peaceful demonstrations by Kamlari activists to ensure accountability for the killing of a 12-year-old Kamlari girl and against the system of bonded labour were violently dispersed by police causing some severe injuries. See UN OHCHR, Special Communication, Joint Letter, JUA NPL 3/2013 (13 June 2013).

Other traditional harmful practices continue in parts of the country, including chhaupadi (banishing women to secluded huts during their menstrual cycles and postpartum periods), deuki (offering of a young girl to a temple), and boksi (knowledge of witchcraft), despite prohibitions against them.³⁵ At the same time, despite criminalisation of the practice,³⁶ the data suggests that gender-biased sex selection continues in favour of sons during pregnancy.³⁷

Child marriage remains a common occurrence, despite changes to the law and Nepal's co-sponsorship in 2013 of the historic UN's Human Rights Council Resolution on Child, Early and Forced Marriage.³⁸ Although the legal age for marriage is twenty and child marriage was declared unlawful in 1962,³⁹ "close to 40% of girls under the age of 18 are married".⁴⁰ This is particularly true in the Terai Region of the country, where many of the victims interviewed for this Study reside.⁴¹

Although polygamy, too, is prohibited in Nepal, it is still practiced and presents social and legal challenges for women in these relationships. At least three victims in this Study are in polygamous relationships. Chandani*'s husband took a second wife after learning of the "incident"⁴² she suffered during the war.

"Both husband and wife tortured me. I spent 10 years that way."

Chandani eventually obtained a divorce settlement which included a small parcel of land that was registered not in her name but in her son's. Still landless, she was forced to build a house with the assistance of her father on "barren land that was not yet registered in anyone's name by the government." She ultimately remarried but receives little support from her first husband, even for the costs of educating their daughter.

During the war, although the Maoists espoused equality and women's empowerment and some women assumed command positions in the PLA, Maoist cadres also engaged in practices that limited women's choices, with ongoing ramifications. For instance, the Maoists pushed for inter-caste marriages and performed collective wedding ceremonies (janabadi).⁴³ Mamata* married her husband during the state of emergency in a mass ceremony. Fortunately, "he supports" her. However, not everyone is so lucky. Sharada*, who is from the Brahmin caste, married a Dalit, who are at the bottom of the Nepali caste hierarchy, after getting involved in the Maoist Party. She is "still not allowed to enter [her] maternal home." Although her parents understand, they fear backlash from their community which is "still traditional".

35 National Penal (Code) Act 2074 (2017); Act Number 36 (2017) s 168 (Prohibition of degrading or inhuman treatment); Menuka Dhungana, 'Anti-Chhaupadi campaign in Achham losing steam' *The Kathmandu Post* (29 December 2021) <https://kathmandupost.com/sudurpaschim-province/2021/12/29/anti-chhaupadi-campaign-in-achham-losing-steam> accessed 21 January 2022; Dipendra Bahadur K.C., 'Deuki Pratha in Nepal: Problems and Changing Beliefs' (2020) 35(2) *Tribhuvan University Journal* 89.

36 An Act to Amend Some Nepal Acts for Maintaining Gender Equality, 2063 (2006) chs 10, 28(C)-(D).

37 For instance, in the five years before the 2011 census, 22,540 girls were estimated to be missing at birth, with a ratio of 110 boys born for every 100 girls. Melanie Dawn Channon, and others, 'Prevalence and correlates of sex-selective abortions and missing girls in Nepal: Evidence from the 2011 Population Census and 2016 Demographic and Health Survey' (2021) 11 *BMJ Open*.

38 UN Human Rights Council, Res 24/23 'Strengthening efforts to prevent and eliminate child, early and forced marriage: challenges, achievements, best practices and implementation gaps' (9 October 2013) UN Doc A/HRC/RES/24/23.

39 National Code (Muluki Ain) 2020 (1963) ch 17(2) 398 ("While contracting a marriage, no one shall arrange to marry nor cause to be married where the male and the female have not completed the age of Eighteen years with the consent of the guardian and that of twenty years in case of absence of the consent of the guardian.")

40 Marty Logan and Shraddha Shree Maharjan, 'Nepal child marriages spike during pandemic: Faced with the economic fallout of the pandemic, under-age marriages have increased' *Nepali Times* (20 December 2020) www.nepalitimes.com/latest/nepal-child-marriages-spike-during-pandemic/ accessed 21 January 2022.

41 Center for Reproductive Rights, 'Ending Impunity for Child Marriage in Nepal: A Review of Normative and Implementation Gaps' (2016) 8. On 21 November 2021, the provincial government of Lumbini Province launched a strategy to end child marriage together with the Ministry of Law, Women, Children, and Senior Citizens. The 10-year strategy which was developed with support from UNFPA aims to educate, raise awareness, and empower children and their parents on the importance of ending child marriage through skill-based training and community-level awareness campaigns. UNFPA, 'Lumbini Province: Strategy on Ending Child Marriage' (2021) <https://nepal.unfpa.org/en/publications/lumbini-province-strategy-ending-child-marriage> accessed 28 January 2022.

42 Because many survivors use the word "incident" to refer to the sexual violence they suffered during the war, we use that term throughout the report.

43 Nepal prohibits some practices of caste-based segregation. However, a killing of five men in 2020 by opponents of an inter-caste relationship has raised concerns that such segregation persists in practice, as validated by the experiences of several survivors interviewed for this study. UN OHCHR, 'Nepal: Bachelet condemns Dalit killings, calls for independent investigation' (29 May 2020) www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25913 accessed 28 January 2022.

In addition, although the Maoists promised to ensure equality in inheritance rights over property,⁴⁴ women are regularly discriminated against in land ownership and in obtaining documentation, again despite improvements in the law. Prapti described the challenges she has faced:

“My land is held in the name of my mother-in-law. Earlier she wouldn’t allow me to have my poultry farm there. But I filed a case against her. I won the case one and a half years ago. But still, the land has not been transferred to my name.”

Other obstacles present themselves when women seek to transact essential business including the securing of loans. Women without “guardians” face particular difficulties.⁴⁵

Among the victims interviewed for this report who were formerly associated with the Maoists, there is strong sense of resentment against the Maoist leadership for not keeping their promises to address gender-based discrimination and inequality in Nepali society. This perspective is discussed further in Section XIII-6 (Conflict Harms).

1. Nepal’s efforts at reform

Since the war ended, Nepal adopted an interim Constitution in 2007 and a new Constitution in 2015 and has made legislative reforms to protect women, children, and sexual minorities. These include:

RIGHT TO EQUALITY (ARTICLE 18)

Guarantees all citizens equality before law and equal protection of law. This provision also prohibits discrimination “on grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds.” Discrimination “on the ground of gender with regard to remuneration and social security for the same work” is also prohibited.

RIGHT AGAINST EXPLOITATION (ARTICLE 29)

Under this provision, no person shall be “subjected to trafficking,” “held in slavery or servitude,” “forced to work against his or her will,” or “exploited in any manner on the grounds of religion, custom, tradition, usage, practice or on any other grounds.”

RIGHTS OF WOMEN (ARTICLE 38)

Ensures, among other things, equal lineage without gender-based discrimination, “the right to safe motherhood and reproductive health,” the “right to participate in all bodies of the State on the basis of the principle of proportional inclusion,” “the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination,” and the “equal right to property and family affairs.” It also prohibits “physical, mental, sexual, psychological or other forms of violence or exploitation” against women on the grounds of “religion, social, cultural tradition, practice or on any other grounds.”

RIGHTS OF THE CHILD (ARTICLE 39)

Among other things, this provision prohibits child marriage, recruitment or use in the army, police or any armed group, and employment in any factory, mine, or other similar hazardous work.

44 For instance, included among the 40-Point submitted by Baburam Bhattarai in February 1996 before the war began was the following: “Patriarchal exploitation and discrimination against women should be stopped. Daughters should be allowed access to paternal property.”

45 NA, Interview with Prapti (Y27) (Province 7, Nepal, 30 May 2021). Prapti reported: “I took out a loan from a cooperative. Banks don’t trust us as we don’t have guardians. I pay 16% percent interest for this loan. This is how I am surviving.”

REPRESENTATION IN GOVERNMENT (ARTICLES 84, 86, 215, 216, 220, 222, 223)

Women are to comprise at least one third of the total number of members elected from each political party in the House of Representatives; at least 21 members (three from each province) of the total 56 members of the National Assembly; and almost 40% women at the local village, municipal, and district levels.

CRIME VICTIM PROTECTION ACT, 2075, (2018)

Provides crime victims with the right to privacy in the course of an *"investigation, enquiry, prosecution and court proceedings"* involving for instance rape, incest, human trafficking, and sexual harassment; right to information about investigations, prosecutions, and judicial proceedings; right to appoint a legal practitioner and attend and participate in proceedings; compensation from the offender for among other things the *"negative effect caused from [rape] to the social, cultural or family prestige or relationship of the victim"* and the *"expenses incurred in abortion or giving birth to and nurturing the baby [resulting from rape]."*⁴⁶

DOMESTIC VIOLENCE (CRIME AND PUNISHMENT) ACT, 2066 (2009)

Provides for the filing of a written or oral complaint by anyone who has knowledge that an act of domestic violence has been committed, or is being committed, or is likely to be committed. In addition, victims can request that the court conduct proceedings in camera and establish protective measures.⁴⁷

HUMAN TRAFFICKING AND TRANSPORTATION (CONTROL) ACT, 2064 (2007)

Prohibits human trafficking and transportation for the purpose of trafficking and provides for severe punishment to those responsible and compensation for the victim.⁴⁸

SAFE MOTHERHOOD AND REPRODUCTIVE HEALTH RIGHTS ACT, 2075 (2018)

Provides every woman and teenager the *"right to obtain education, information, counselling and service relating to sexual and reproductive health"*, including obstetric services and safe abortions at public health facilities, with certain restrictions.⁴⁹

PRIVACY ACT, 2075 (2018)

Protects *inter alia* the right to maintain the privacy of *"biological or biometric identity, gender identity, sexuality, sexual relation, conception or abortion, virginity, potency, impotency or physical illness related to his or her personal life."*⁵⁰

SEXUAL HARASSMENT (PREVENTION) ACT 2071 (2014)

Prohibits sexual harassment in the workplace and ensures the right of every person to work in a safe, fair, and dignified environment.⁵¹

46 The Crime Victim Protection Act, Act 22 of the year 2075 (2018).

47 Domestic Violence (Crime and Punishment) Act, Act 1 of the year 2066, (2009).

48 Human Trafficking and Transportation (Control) Act, Act 5 of the Year 2064 (2007).

49 The Right to Safe Motherhood and Reproductive Health Act, Act 9 of the year 2075 (2018).

50 The Privacy Act 2075 (2018), Act 14 of the year 2075 (2018).

51 The Sexual Harassment Workplace (Prevention) Act, Act 7 of the Year 2071 (2015) and subsequent amendments.

As a result of these and other changes, Nepal's government has made inroads toward advancing women's rights, including in ensuring women's participation in government positions. The current President of Nepal is Bidya Devi Bhandari, the first woman to hold that office. Women hold 33.5% of the seats in parliament, the highest rate in South Asia, and 41% at the local level.⁵²

Although these percentages suggest that progress has been made toward a more inclusive and representative government, they do not tell the entire story. Political parties are not actually allowing women to contest elections in the First Past-the-Post (FPTP) system but are instead meeting electoral quotas by using the proportional representation (or "closed list") system under party control. For instance, in the 2017 election cycle, women were elected using the FPTP system in only 3.64% contests for the House of Representatives and only 5.15% in the Provincial Assemblies.⁵³ That difference in approach may affect how female officials ultimately perceive their role and level of accomplishment:

"Those who are elected through FPTP see themselves as having made lots of efforts and investments in terms of skills, money and knowledge. Whereas the members elected through PR-list system were nominated by the political parties which might create discretion in their psychology being inferior to those who came from the FPTP system."⁵⁴

Women have also expanded their presence in the ranks of the army, with a total of 6,228 women currently serving in the general ranks and another 688 women serving in a separate body under the leadership of a female officer.⁵⁵

Despite these advances, Nepal still has a long way to go in ensuring women's and girls' rights and security. Additional analysis of the fundamental rights accorded to women, conflict victims, and other vulnerable populations under the 2015 Constitution and other reforms passed into law, including to the criminal code, since the war and their pertinence for CRSV victims are discussed in greater detail below in Section XI (Avenues for Reparations).

2. Ongoing gender-based violence and discrimination

Despite the steps taken by Nepal's government since the war ended to ensure gender equality and women's empowerment, for most of the CRSV victims interviewed for this Study, little has changed for them, despite the passage of time. Instead, there is a consistent through line from their experiences during the war to their lives today: violence, discrimination on the basis of gender, caste, and class, a lack of opportunities, poverty, and indifference from political leaders who have had failed to provide accountability for the crimes they suffered, to recognise the violations, and provide redress for the harms and consequences incurred.

52 UNDP, "Human Development Report 2020" (n30).

53 Civil Society's Shadow Report for Pre-Session of 6th Periodic Report on the Committee on the Elimination of Discrimination against Women (CEDAW) Convention (October 2018) art. 7 (Participation in Political and Public Life) https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NPL/INT_CEDAW_NGO_NPL_30016_E.pdf accessed 27 January 2022.

54 Cecilia Bylesj , Rumbidzai A Kandawasvika-Nhundu and Stina Larserud, 'Electoral System and Quotas in Nepal' (International Institute for Democracy and Electoral Assistance (IDEA), 25 May 2010) 22 citing Dr. Krishna Hachhethu, Center for Nepal and Asian Studies, Tribhuvan University.

55 UN OHCHR. 'Response of the Government of Nepal on Promoting and protecting the human rights' (n27) 2.

Sexual and other forms of violence remain “a disturbingly common occurrence”, especially among marginalised groups. As the Special Rapporteur on violence against women, its causes and consequences reported in 2019 after her visit: “Patriarchal social norms, as well as the persistence of discriminatory harmful practices, [and] the normalisation of violence and the social stigma... continue to pervade society at all levels, disproportionately affecting women and girls, in particular those from marginalised groups, who face intersecting and multiple forms of discrimination.”⁵⁶ About a quarter of women above 15 years of age have experienced violence at the hands of an intimate partner⁵⁷ and 12% have experienced sexual violence at least once in their lives.⁵⁸ Only 3% of the women seek help from health care providers following the incident.⁵⁹

In 2017, Nepal’s Ministry of Health reported that twenty-six per cent of women between the ages of 15 and 49 who are or have been married have experienced physical, sexual, or emotional violence at the hands of their husbands, with seven per cent reporting spousal sexual violence. Twenty-two per cent of women aged 15-49 had experienced physical violence (committed by a husband or anyone else), while seven per cent of women aged 15-49 had experienced sexual violence by an intimate partner or another person,⁶⁰ a number that is considered an underestimation.⁶¹

According to The Record Nepal, the number of reported rapes increased by 256% from 317 in 2007 to 1,131 in 2017.⁶² That upward trend appears to be continuing. Police records from fiscal year 2019-2020 show 2,144 cases of rape and 687 cases of attempted rape, an increase from 1,480 cases of rape and

727 cases of attempted rape the previous year.⁶³ In response, there have been protests and demands for harsher punishment for convicted offenders by women lawmakers.⁶⁴

Rural women and girls and those from marginalised communities were at particularly high risk of sexual and gender-based violence during the conflict and continue to be so. More than half, 54.8% (17 of 31) of the victims interviewed for this Study are either indigenous or Dalit, among the most marginalised communities in Nepal. Most also come from the Terai, the plains region near the border of India (also known as Madhes in Nepali), an area of the country that was the scene of violence not only during the war but also more recently during the lead up to the adoption of the 2015 Constitution. There, women of high caste were also vulnerable to attack in Nepal’s rigidly patriarchal society, where men have almost complete impunity to abuse, subjugate, and discriminate against women and minorities.

Those from marginalised communities were less likely “to report and take legal action due to the power politics, social norms and traditional taboos.”⁶⁵ This is in large part due to the fact that Nepal remains a patriarchal society that treats women’s and LGBTQI+ sexuality as a matter of “honour” for the family and community. Although the parties to the peace agreement acknowledged that violence had occurred against women and children during the war, including “sexual exploitation and abuse”, little has been done since then to address the harms inflicted or to reckon with societal attitudes that blame survivors rather than recognise their status as victims of human rights violations. The interim relief programme that provided compensation and other benefits to families of those killed and disappeared, discussed in more detail in

56 UN Human Rights Council, ‘Report of the Special Rapporteur on violence against women, its causes and consequences: Visit to Nepal’ (n18) para 8.

57 UNDP, “Human Development Report 2020” (n30).

58 Government of Nepal, Ministry of Health, ‘Health Response to Gender-Based Violence: Competency-Based Training Package for Blended Learning and On-the-Job Training’, i (May 2016).

59 Ibid.

60 Government of Nepal, Ministry of Health, ‘Demographic and Health Survey 2016’ (November 2017) 337-340.

61 Supriya Manandhar, ‘Why does rape have a low conviction rate in Nepal?’ *The Record* (28 March 2018) www.recordnepal.com/half-a-million-women-in-nepal-have-experienced-sexual-violence-accessed-28-January-2022.

62 Ibid.

63 Bansari Kamdar, ‘Rape Cases Surge in Nepal, Activists Question Death Penalty’ *The Diplomat* (18 November 2020) <https://thediplomat.com/2020/11/rape-cases-surge-in-nepal-activists-question-death-penalty/> accessed 21 January 2022.

64 Binod Ghimire, ‘Women lawmakers lobby for harsher penalties for rape’ *The Kathmandu Post* (5 October 2020) <https://kathmandupost.com/national/2020/10/05/women-lawmakers-lobby-for-harsher-penalties-for-rape> accessed 24 January 2022.

65 Civil Society’s Shadow Report (n53) art. 14 (Rural Women).

section IX below, represented a lost opportunity for such a reckoning when it excluded CRSV and torture victims. And the many existing structural inequalities and practices that subjugate women and sexual minorities in Nepal, many that predated the war, are still very much a part of life in Nepal.

Although Nepal became the first country in the world to include a “third gender” category on its national census in 2011,⁶⁶ the LGBTQI+ community’s experiences of physical abuse at the hands of law enforcement are common,⁶⁷ as is discrimination, stigma, and negative stereotypes within their families and communities, limiting their rights to inter alia family, health, education, employment, food, and other social benefits.⁶⁸ In addition, human rights defenders working to advance the rights of sexual minorities have faced arrests, threats, and intimidation against both the organisation and its staff and police searches of their offices.⁶⁹ Some have also reported undue delays during the registration process required of all social welfare organisations in Nepal and were forced to temporarily close down operations as a result.⁷⁰

The disabled are likewise at additional risk. The young daughter of Bhawani*, who is disabled and bedridden, was recently raped and became pregnant. She ultimately terminated the pregnancy through an abortion.

The ongoing nature of gender-based violence in Nepal is not lost on the victims interviewed. In fact, for some, that violence is very personal. At least five of the 31 women who were interviewed for this Study

are experiencing ongoing physical violence in their homes at the hands of their spouses. For others, it weighs heavily on their minds like Sunmaya*:

“When I hear about rape cases today then I remember my incident. I wish that nobody must go through such torture. But I hear news of such cases even today. Small children are raped. I don’t know what the government is doing. The government should punish such rapists.”

In response to these types of incidents, beginning in November 2017, Nepal’s National Women Commission (NWC) began operating a national 24-hour toll-free helpline to provide support to the victims of gender-based violence. In the period November 2017 through September 2021, the hotline had registered 5,515 cases, 98% reported by women. The violence included emotional violence (40%), economic violence (30%), physical violence (24%), and sexual violence (6%).⁷¹

This paper lays out a path forward, beginning with individual and collective reparations for victims of CRSV, which would be an important first step in establishing that gender-based violence in Nepal cannot and will not be tolerated and that those who suffered such violations during the war are deserving of the rights and dignity due all citizens regardless of “origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds.”⁷²

66 UNDP and Williams Institute (n6) xv. The term “third gender” is an umbrella term used to refer to sexual and gender minorities in Nepal. Other terms are also used to express sexual orientation and gender identity, including meti, gay, lesbian, bisexual, heterosexual, MSM, Kothi, Maugiyaya, Natuwa, Hijara, Dhuranji, Nechani, and Intersex.

67 Ibid xx. In a 2013 survey of 1,178 respondents, 23 percent reported such abuse.

68 Blue Diamond Society, ‘Discrimination and violence against lesbian and bisexual, women and transgender persons in Nepal’, Shadow report submitted to the CEDAW for consideration at the 71st Pre-sessional Working Group (January 2018).

69 In 2012, a joint letter was issued in the case of a victim of domestic violence known as X by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on violence against women, its causes and consequences. That case involved intimidation of and threats made against X following her self-identification as a lesbian and against women human rights defenders and members of the Women’s Rehabilitation Centre Nepal (WOREC Nepal) and Mitini Nepal. See UN OHCHR, Special Communication, Joint Letter, JUA NPL 4/2012 (14 September 2012).

70 UN OHCHR Special Communication, Joint Letter, JUA NPL 2/2013 (28 March 2013).

71 National Women Commission, ‘Helpline-1145 – Factsheet 21 November 2017 – 30 September 2021’ (Integrated Platform for Gender Based Violence Prevention and Response, 19 October 2021) <https://nwc.gov.np/wp-content/uploads/2021/10/NWC-factsheet-September-2021.pdf> accessed 24 January 2022.

72 Constitution of Nepal, Date of Publication in Nepal Gazette, 20 September 2015 (2072.6.3) art 18 <http://extwprlegs1.fao.org/docs/pdf/nep155698.pdf> accessed 28 January 2022.

To fulfil Nepal's obligations to CRSV victims, women and girls, and other marginalised communities, further steps should also be taken to implement the laws already put in place and the commitments made there. These include the finalisation of the Second National Action Plan on UN Security Council Resolutions 1325 and 1820 and implementation of the commitments made there, and in Nepal's other action plans for ensuring gender equality, the empowerment of women, girls, and sexual minorities, and preventing violence against them, whether in private or public life.

In 2011, Nepal adopted its first National Action Plan (2011 NAP) on UN Security Council Resolutions 1325 and 1820, following a series of consultations with over 3000 women, including victims of CRSV, women's organisations, representatives of the security sector and government authorities across Nepal. The 2011 NAP was structured around five pillars (participation;

protection and prevention; promotion; relief and recovery; and resource management and monitoring and evaluation)⁷³ and acknowledged that women and girls had *"been most affected by the armed conflict and the transition after that."*⁷⁴ Top priorities of the 2011 NAP were increased participation of women in decision-making, the protection of women and girls from sexual and gender-based violence and ending impunity. However, the NAP phased out in 2016 without any meaningful change in the lives of the victims of CRSV.

The Government committed to the adoption of its second NAP and has posted a preliminary draft in Nepali on the website of the Ministry of Home Affairs of Nepal.⁷⁵ However further progress appears stalled as of the time of writing. The government of Nepal has issued other national action plans over a period of years pertinent to violence against women, equality, and non-discrimination, including:

NATIONAL PLAN OF ACTION FOR "YEAR AGAINST GENDER-BASED VIOLENCE, 2010"⁷⁶

Was prepared by a seven-member inter-ministerial committee after consultations with various ministerial gender focal points, members of the Constituent Assembly's Women's Caucus, women activists, and civil society, among others. The original one-year plan was designed to 1) improve access to justice for survivors of gender-based violence (GBV), 2) strengthen community-based and outreach services for the protection of survivors of GBV, 3) strengthen the health sector's response to GBV, 4) raise awareness of people at different levels and promote "zero tolerance", and 5) provide economic support to women and girls at risk of GBV. One of the specific programme activities was to develop and implement the National Plan of Action for UN Security Council Resolutions 1325 and 1820⁷⁷ based in part on learning from the implementation of this one-year plan.

73 Government of Nepal, 'National Action Plan on Implementation of the United Nations Security Council Resolutions 1325-1820, (2011/12 – 2015/16)' (1 February 2011) ix

74 Ibid iv.

75 Government of Nepal, Ministry of Home Affairs, 'Second National Action Plan (NAP-II) preliminary draft' [https://moha.gov.np/upload/e66443e81e8cc9c4fa5c099a1fb1bb87/files/FINAL_FINAL_GOKARNA_COMPILED_16_Jan_2020_CLEAN_psr_\(Repaired\).pdf](https://moha.gov.np/upload/e66443e81e8cc9c4fa5c099a1fb1bb87/files/FINAL_FINAL_GOKARNA_COMPILED_16_Jan_2020_CLEAN_psr_(Repaired).pdf) accessed 6 May 2022.

76 Government of Nepal, Office of the Prime Minister and Council of Ministers, 'National Plan of Action for "Year Against Gender-Based Violence, 2010"' (25 November 2009).

77 Ibid 4.

NATIONAL PLAN OF ACTION AGAINST TRAFFICKING IN CHILDREN AND WOMEN FOR SEXUAL AND LABOUR EXPLOITATION (1998, 2001, 2008)

Identified “*eight strategic areas of intervention to combat trafficking*.”⁷⁸ The then Ministry of Women, Children and Welfare was tasked with implementing it. In 2007, Nepal promulgated the Human Trafficking (Control) Act, 2064 (see discussion above);⁷⁹ and in 2020, the UN’s Protocol to Prevent, Suppress and Punish Trafficking in Persons came into force in Nepal.

NATIONAL PLAN OF ACTION FOR CHILDREN (2004/05 – 2014-15)

Was issued in March 2004 while the conflict was still ongoing. Six regional consultations were organised with participation by the private sector, trade unions, professional associations, and municipalities, and representation of affected children (street children, children with disabilities, and child groups working against child labour, sexual exploitation, and children in conflict). The NAP aimed to “*promote the rights of every child and eliminate all forms of exploitation, abuse and discrimination against children*.”⁸⁰ Key policies identified for implementation included the reduction of “*wide spread gender and caste discrimination in practice*” and rehabilitation for “*children affected by conflict and living in difficult circumstances*”⁸¹, in part through the provision of compensation and psychosocial counselling.⁸² A final evaluation prepared in 2016 found that the monitoring and evaluation plan that was an output of the plan was never developed.⁸³

BEIJING PLATFORM FOR ACTION NATIONAL PLAN OF ACTION (2000)

Submitted by Nepal identified five priorities including equality and non-discrimination and access to justice, enhancing equitable access to quality education, meaningful participation, and representation in public life, eliminating violence against women and girls, and increasing access to health care and reproductive health services.⁸⁴

Among these other plans, the National Plan for Action for Children specifically addresses conflict-related harms. All, however, share many common policy objectives and goals with the 2011 NPA and hopefully the soon to be issued Second NAP on UN

Security Council Resolutions 1325 and 1820; each if implemented has the potential to help advance the rights of CRSV survivors, women and girls, and members of the LGBTQI+ community.

78 UN Women, ‘Global Database on Violence against Women’ <https://evaw-global-database.unwomen.org/en/about> accessed 24 January 2022. Nepal had previously issued a National Action Plan against Trafficking in Child and Women for Sexual and Labour Exploitation first in 1998 and again in 2002.

79 Human Trafficking (Control) Act, Act Number 5 of the Year 2064 (2007).

80 Government of Nepal, Ministry of Women, Children and Social Welfare, ‘National Plan of Action for Children (2004/05 – 2014-15)’ (March 2004) 14.

81 Ibid 16.

82 Ibid 78-80.

83 UNICEF, ‘Final Evaluation of the National Plan of Action for Children 2004-15’ (April 2016) <https://un.info.np/Net/NeoDocs/View/7539> accessed 28 January 2022.

84 Government of Nepal, ‘Review Report, Submission for the Twenty-fifth Anniversary of the Fourth World Conference on Women and Adoption of Beijing Declaration and Platform for Action (1995)’ (28 June 2019) 6.



V. SCALE, SCOPE, AND NATURE OF CONFLICT-RELATED SEXUAL VIOLENCE IN NEPAL

Estimates of the number of victims of conflict-related sexual violence during the ten-year period from 1996-2006 have always been an underestimation.⁸⁵ There are many reasons for this. Many victims have chosen not to reveal the violation, even to family members, out of fear of being ostracized. Some fear retaliation from those who perpetrated the crime.⁸⁶ And to avoid being known as a CRSV victim, some victims have decided to only report other violations like torture or abduction.⁸⁷ Sadly, it is believed that many sexual violence victims did not live to report the crime but were killed immediately afterwards by their abusers.⁸⁸

Trauma also plays a significant part in underreporting. As Purna Maya (pseudonym), a victim who filed a complaint with the United Nations Human Rights

Committee explained, she had been unable to file a report until years later.

“Owing to her lack of legal representation and the serious mental trauma and physical illness that she had endured as a result of torture.”⁸⁹

The same is true of many of the victims interviewed for this Study.

A host of other “personal barriers” have also limited victims’ options, including “feelings of shame and guilt, mistrust of the judicial system and the police, fear of retaliation and concerns for privacy or stigma,” as well as “additional cultural barriers that are compounded by illiteracy and poverty, all of which make it extremely difficult to report rape.”⁹⁰ As Rashila* explained,

“I haven’t told anyone that I was raped. My parents only knew that I was abducted. I was very young when I faced that violence. I didn’t want my parents to know about this. I didn’t want to cause them tension. So nobody in my community knows this. My husband only knows that I was abducted. I tried to tell him many times, but I didn’t have the courage... I have a fear if I share my incident my husband will throw me out of his house.”

85 Even the oft-cited ten-year period may omit atrocities that should be included. “Operation Romeo” launched by the government in November 1995, just before the People’s War was officially declared on 13 February 1996, is known to have resulted in arbitrary arrests, detentions, and possible violations while in custody. Amnesty International, ‘Human rights violations in the context of a Maoist “people’s war”’ (10 March 1997) www.amnesty.org/en/documents/asa31/001/1997/en/ accessed 24 January 2022. The same is true after the signing of the Comprehensive Peace Accord.

86 UN Human Rights Committee (CCPR), ‘Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013’ (23 June 2017) UN Doc CCPR/C/119/D/2245/2013, para 2.12 https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/NPL/CCPR_C_119_D_2245_2013_26000_E.pdf accessed 28 January 2022.

87 NA, Interview with Tara (A8) (Province 5, Nepal, 28 May 2021) (“My community only knew that I was kidnapped. When I go to community programmes, I only say I am a torture victim. Sometimes I feel bad when they ask me what kind of torture you faced. I can’t explain it to them.”)

88 CCPR, ‘Communication No. 2018/2010, Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights (112th session)’ para 2.7 in Views adopted by the Human Rights Committee at its 112nd session (7-31 October 2014)’ (8 January 2015) UN Doc CCPR/C/112/D/2018/2010, 3 [CCPR/C/112/D/2018/2010 - E - CCPR/C/112/D/2018/2010 -Desktop \(undocs.org\)](https://undocs.org/CCPR/C/112/D/2018/2010-Desktop) accessed 28 January 2022. (“Later that night, uniformed army men also visited the house of Ms. R.R., a close friend of Subhadra’s who lived only a few houses away in the same village. They took her from her home, interrogated her and then allegedly raped her before shooting her.”)

89 CCPR, ‘Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013’ (n86) para 2.9.

90 Ibid para 3.6.

Many did not file an official complaint because they were unaware of the law or did not know how or where to go, especially as the police were often complicit in the crimes.⁹¹ Government hospitals also lacked the “requisite facilities” to perform physical exams after a rape.⁹² Even those who eventually moved forward, usually years later and with the encouragement of civil society organisations like Advocacy Forum, have faced legal, procedural, and bureaucratic challenges when seeking to make an official complaint known as a First Information Report (FIR). Among other obstacles are the outright refusal by the police to register the report,⁹³ as well as various “onerous legal and administrative thresholds” imposed under law or procedure.⁹⁴ These included insensitive and abusive practices by the police in the taking of complaints, which Nepal’s Supreme Court described as follows:

“An FIR exposed ‘victims in police station and court ... require the victims to be present before the court and police for recording testimonies and examining of health and genitals.’”⁹⁵

During the war, local officials were also known to ridicule women when they attempted to make a complaint without the assistance of counsel, as happened to Prapti:

“I went to file my case in district court. I met [the Deputy Superintendent of Police, DSP] there whose father was a judge. They threw my complaint out without filing it and said this kind of incident happens in the time of conflict. After that, I went to the District Administrative Office to meet the Chief District Officer (CDO). I saw there, the same DSP and CDO who had laughed at me... Now with the support of Trial International, I have filed the case in the High Court.”

91 Internal Displacement Monitoring Centre (IDMC) and Norwegian Refugee Council (NRC), ‘Failed Implementation of IDP Policy Leaves Many Unassisted’ (28 January 2010) www.internal-displacement.org/sites/default/files/publications/documents/Nepal-Overview-Jan10.pdf accessed 24 January 2022. This likely includes many women who were internally displaced during the war and faced sexual violence after relocating to urban centres like Kathmandu.

92 WOREC and Isis-WICCE, ‘Unveiling Justice: Rape Survivors Speak Out, A Research Report on Access to Justice for Rape Survivors in Nepal 2007-2010’ (20 March 2012) 17.

93 CCPR, ‘Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013’ (n86) 4.

94 UNSG, ‘Conflict-Related Sexual Violence: Report of the United Nations Secretary-General’ (3 June 2020) UN Doc S/2020/487, 6 <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/07/report/conflict-related-sexual-violence-report-of-the-united-nations-secretary-general/2019-SG-Report.pdf> accessed 24 January 2022.

95 Order of mandamus of the Supreme Court of 11 July 2008 to the Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs, Council of Ministers Secretariat, House of Representative, National Council, Writ No. 3393, referenced and quoted in CCPR, ‘Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013’ (n86) para 3.6, n12.

A similar pattern and practice of official obstruction and harassment continues today with the police continuing to be “reluctant” to file FIRs “in many rape cases” or, if they do, compelling victims into an “out of court settlement, especially in those cases where such crimes are committed by people in power or committed by those under their protection.”⁹⁶ Such community-level mediation processes often end in an “exchange of money or material or of the perpetrator marrying the survivor.”⁹⁷

Conflict-era CRSV victims have also been barred by the 35-day statute of limitations for reporting the crime of rape which was in effect during the conflict.⁹⁸ The status of existing laws relating to rape and other sexual violence is discussed in more detail below in section XI.

Despite these many challenges, significant efforts have nonetheless been undertaken inter alia by victims’ groups and civil society, the United Nations, and Nepal’s National Human Rights Commission (NHRC) to document the number of CRSV victims in Nepal. For instance, in 2012, the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued its comprehensive Nepal Conflict Report and accompanying Transitional Justice Reference Archive (TJRA) to ensure “justice for serious violations committed during the conflict.”⁹⁹ In that report, OHCHR recorded over 100 cases of sexual violence during the period 1996-2006 with the vast majority committed by the Armed National Police, the Nepal Police, and the Royal National Army. There were however no reports of male victims of sexual violence; and of those made by women victims, only 12 were catalogued as having been perpetrated by Maoist personnel.¹⁰⁰

Close in time, a joint project of the United Nations Population Fund (UNFPA) and the United Nations Children’s Fund (UNICEF) documented 821 cases of

SGBV “covering both conflict and post conflict periods and 70 cases were identified as potentially eligible for consideration in a transitional justice process.” However, although victims received legal counselling at that time, some victims decided not to lodge a formal complaint out of “fear of re-victimisation, family discord, and poverty.”¹⁰¹

A year later, in 2013, Advocacy Forum-Nepal issued a briefing paper titled “Challenges to Redress Victims of SGBV in Nepal” which found 128 cases of sexual violence in its various working districts. Most of the cases (73%) were found to have been perpetrated by state actors, with more than half (56%) involving multiple perpetrators.¹⁰²

Since that time, more victims have been willing to make a complaint. As reported by the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, “out of the 63,000 complaints registered [with the TRC], 308 relate to conflict-related sexual violence committed during the conflict era by both government security forces and Maoist rebels.”¹⁰³ However, out of the 31 victims interviewed as part of this Study, only 16 told us they have filed a complaint with the TRC, which means the number of complaints is likely lower than the reality.

One of the victims interviewed during this Study who holds a government office in Province 1 made a similar point. She estimates that the number of CRSV victims likely totals between 1,500 to 2,000:

“The women who faced torture and sexual violence, if we count, I guess, there are very limited numbers. I feel maybe 1,500 to 2,000.”

96 Laxmi Pokharel and Boram Jang, ‘Break the cycle of impunity for rape in Nepal’ (International Commission of Jurists (ICJ), 30 March 2021) www.icj.org/break-the-cycle-of-impunity-for-rape-in-nepal/ accessed 24 January 2022.

97 WOREC and Isis-WICCE (n92) xix.

98 National Code (Muluki Ain) 2020 (1963), chap 14, para 11.

99 UN OHCHR (n15). That report did not provide the results of a full “investigation,” but instead offered “a preliminary exercise to identify credible allegations with a reasonable basis for suspicion that a serious breach of international law has occurred.”

100 Ibid 158, n 518.

101 UNDP (Multi-Partner Trust Fund Office), ‘Evaluation Report, Ensuring recognition of sexual violence as a tool of conflict in the Nepal peace building process through documentation and provision of comprehensive services to women and girl victims/survivors’ (UNFPA/UNICEF, 26 November 2012) UN Doc PBF/NPL/B-4 xi. That project had provided reproductive health and related services to 36,471 girls and women and psychosocial and legal counselling to 3,551 and 1,000 respectively.

102 Advocacy Forum, ‘Challenges to Redress Victims of SGBV in Nepal’ (March 2013) <http://advocacyforum.org/downloads/pdf/press-statement/2013/promoting-access-to-justice-english.pdf> accessed 24 January 2022.

103 UNSG, ‘Conflict-Related Sexual Violence: Report of the United Nations Secretary-General’ (n94) para 65.

And as she properly concluded, *“For the state, this is not a big number.”*¹⁰⁴

Indicating that the government could reasonably provide remedy if it were to marshal the political will to do so.

Today, sexual violence in Nepal continues to be a regular occurrence yet remains largely unpunished and underreported. In 2020 alone, the Informal Sector Service Centre (INSEC) documented 648 incidents of rape, 152 attempted rapes, and 62 incidents of sexual abuse.¹⁰⁵ *“According to the Nepal Police, 2,144 cases of rape and 687 cases of attempted rape were reported during fiscal year 2019-20, although since a significant number of survivors do not report such incidents to the police, the actual count could be much higher.”*¹⁰⁶ As during the war, underreporting can be explained in part by stigma

and the taboo nature of sexual violence, as well as a lack of trust in the justice system and lack of access to medical, legal, and psychological services. The police are often known to refuse to record complaints when a victim decides to make one or mishandle the evidence. Even if a complaint is lodged, prosecutions are rarely successful. There are many reasons for this: investigators, prosecutors, and judges, for instance, often dismiss a case for lack of evidence. Families are sometimes pressured by the police to drop the charges because of the status of the perpetrator or by casting aspersions against the victim. Until that changes, efforts to get more accurate counts are unlikely to improve. A fuller discussion of the police’s handling of GBV (gender-based violence) complaints is provided in section XI below.



A peace candle burns in midst of sharing session of Women Peace Facilitators at Libang, Rolpa.

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104 NA, Interview with Gauri (A11) (Province 1, Nepal, 20 June 2021).

105 INSEC, ‘Nepal: Human Rights Year Book 2021: Accountability Towards Commitment’, Annex 2.1 (19 February 2021) http://inseconline.org/en/wp-content/uploads/2021/YB2021/Contents_YB2021.pdf accessed 24 January 2022.

106 Editorial, ‘Smash rape culture: Impunity is one of the reasons why sexual violence continues to thrive’ *The Kathmandu Post* (10 February 2021) <https://kathmandupost.com/editorial/2021/02/10/smash-rape-culture> accessed 24 January 2022.



VI. PROFILE OF STUDY'S CONFLICT-RELATED SEXUAL VIOLENCE VICTIMS

The victims interviewed for this Study come from every province of the country and include victims of both government and Maoist forces. They range in age from 28 to 68 years old and represent different levels of educational achievement, from the unschooled through high school graduates.¹⁰⁷ In terms of religion, consistent with the overall demographics in Nepal, there is significant uniformity with most identifying as Hindu (84%). Because so many of the victims suffered violations when still children, the largest number of respondents are now between the ages of 35-39, although there are nine over the age of 45.

All have been married at some point in their life, although many are now widows, divorced, or abandoned and separated from their husbands. All but three have had children, with most having between two to four children; one woman has six. It remains unclear if any of the children were born of rape. Only one woman reported becoming pregnant after being raped, but she decided to undergo an abortion.

Almost half (45.1%) of the interviewees are indigenous. Both high (Brahmin, Chhetri, Chaudhary) and low-caste (Dalit) are represented, with most coming from lower-class families and from marginalised communities.¹⁰⁸ Among them, 12 women are from Brahmin families living on the poverty line, 14 are from Indigenous communities (Tharu, Rai, Pun, Lama, Thapa, Gharti Magar) and three are Dalit, individuals who are discriminated against based on the notion of untouchability in the caste hierarchy.¹⁰⁹

The women hold various jobs and perform a range of income-generating activities. Today, most work in subsistence agriculture, animal rearing (e.g., goats and chickens), vegetable farming, and/or perform manual labour to survive. Out of 31 respondents, 11 are surviving by doing agriculture, poultry farming, and animal rearing, 10 are doing wage labour (including household work in other's homes), four are running a small business (three as tailors, one selling incense), one is the vice mayor of a local government, two of their husbands are working in the government as support staff, and two of their husbands are drivers. At the time of writing, COVID-19 restrictions had severely limited victims' ability to make money, especially among those doing daily wage labour, housecleaning, and driving.

More details and analysis of victims' backgrounds and how CRSV has affected them, their needs, and perceptions of reparations are provided below. A quantitative overview of basic demographic information is provided in Annex I.

1. Reported forms of conflict-related sexual violence and other violations

Our interview sample includes victims of rape, gang rape, forced marriage, forced nudity, sexual torture, torture, arbitrary arrest, abduction, imprisonment, forced disappearance, persecution, forced recruitment and use in hostilities, and pillage/destruction of property.¹¹⁰

107 UNDP, 'Human Development Report 2020' (n30). A little more than 32% have completed at least some secondary education which is consistent with the national average of 29.3% for females in Nepal.

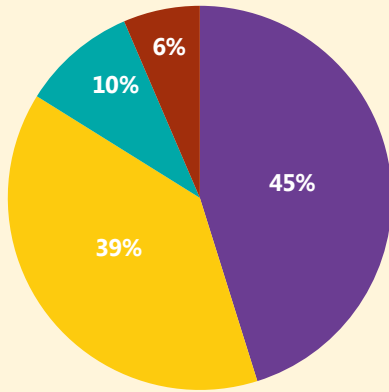
108 Government of Nepal, Ministry of Foreign Affairs website, 'Nepal Profile' <https://mofa.gov.np> accessed 24 January 2022. ("There are 126 caste/ethnic groups reported in the census 2011. Chhetri is the largest caste/ethnic groups having 16.6% (4,398,053) of the total population followed by Brahman-Hill (12.2%; 3,226,903), Magar (7.1%; 1,887,733), Tharu (6.6%; 1,737,470), Tamang (5.8%; 1,539,830), Newar (5%; 1,321,933), Kami (4.8%; 1,258,554), Musalman (4.4%; 1,164,255), Yadav (4%; 1,054,458) and Rai (2.3%; 620,004).")

109 Caste-based discrimination is still a reality in Nepal despite some attempts at reform. Three survivors for instance are not accepted and allowed to enter their maternal house because they have married someone of a different caste during their time in the Maoist movement, one married a Dalit and two married Chhetri. NA, Interview with Sharada (I1) (Province 1, Nepal, 20 June 2021). Sharada shared: "Although my parents support me, our villagers torture them if visit as I am married to a Dalit. Our community still believes in untouchability; and they still humiliate the Dalit community. I was married to the Dalit man in our party in 2062 B. S (2006 A.D)."

110 One victim decided not to share the specifics of the torture she suffered while in police custody, so her specific type(s) of sexual violation(s) are not included in the table.

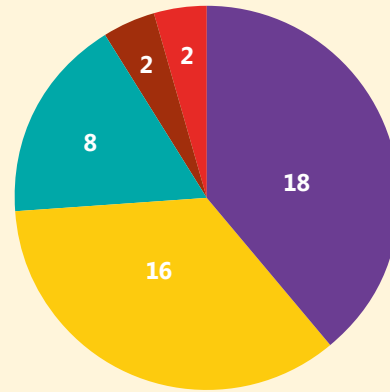
VI. PROFILE OF STUDY'S CONFLICT-RELATED SEXUAL VIOLENCE VICTIMS

ETNICITY/CASTE OF THE VICTIMS INTERVIEWED FOR THE STUDY



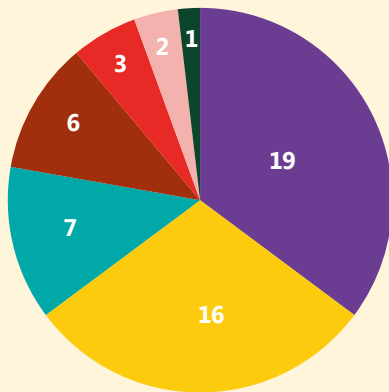
- Indigenous
- Brahmin
- Dalit
- Chhetri

TYPE OF CRSV SUFFERED BY THE VICTIMS INTERVIEWED FOR THE STUDY



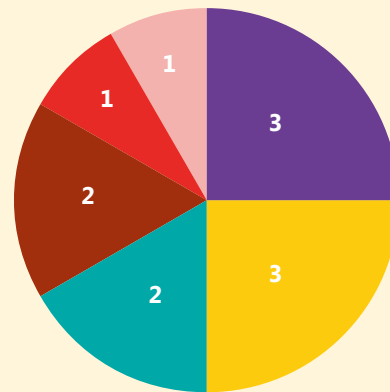
- Gang Rape
- Sexual Torture
- Rape
- Forced Marriage
- Forced Nudity

TYPE OF VIOLATIONS SUFFERED BY THE VICTIMS INTERVIEWED FOR THE STUDY



- Torture
- Imprisonment
- Arbitrary Arrest
- Abduction
- Pillage, looting, destruction of property
- Child recruitment and use in Hostilities
- Persecution

TYPE OF VIOLATIONS SUFFERED BY THE RELATIVES OF THE VICTIMS INTERVIEWED FOR THE STUDY



- Killing
- Enforced Disappearance
- Torture
- Abduction
- Rape
- War Wounds

In terms of sexual violence offenses, the vast majority of victims were gang raped, raped, and/or sexually tortured. Among them, eight were raped, 18 were gang raped, and 16 faced sexual torture, two were forced to marry, and two experienced forced nudity.¹¹¹

Many were also compelled to listen to vulgar words defaming women's sexuality, which shamed and humiliated them. Most troublingly, a significant number faced recurring sexual violence. Avilasha, for instance, was held by the army for almost two years and raped almost daily. Rashila was abducted and raped multiple times by Maoists, "who used to laugh at [her] after inflicting torture." She had two school-aged friends who faced similar torture. One survivor who became pregnant because of rape opted to end the pregnancy. To avoid stigma, she pressured a relative to marry her –

she was already widowed – and then aborted the child soon after,¹¹² claiming it was his.¹¹³

Almost all the victims experienced more than one type of violation. Out of 31 respondents, 14 experienced a violation in addition to sexual violence, including other forms of violence and torture. A few were forcibly displaced, because their houses were looted and burned.¹¹⁴ Others were forced to flee during the war, some out of "fear of being killed, tortured, abducted and/or arrested by the parties in conflict."¹¹⁵

Among the women we interviewed, a few, like Sneha* and Hema*, appear to have been recruited and used by the Maoists. At the time, one was 12 years old and studying in grade 3; the other was 16 and in class 8. Hema recounted:

"A group of Maoists came to my class and forcibly recruited five students, including me. They kept us with them for 32, 33 days... They promised to send us back home in two or three days. But they wanted to recruit us into their movement. When I protested, they warned me that my parents and I would be killed if I did not obey. They forcibly recruited me and gave us grenades to carry."

111 At least three were kept in circumstances indicative of sexual slavery by being held for extended time in detention and raped daily. However, the victims did not identify the crime of sexual slavery and it is unclear whether the circumstances would warrant such an allegation. So, the crime is not included here.

112 National Code (Muluki Ain) 2020 (1963) chap 10 para 28B; The Right to Safe Motherhood and Reproductive Health Act, 2075 (2018); Jurist, 'Nepal dispatches: government of Nepal moves to decriminalize abortion in response to rights campaign' Jurist (30 August 2021) www.jurist.org/news/2021/08/nepal-dispatches-government-of-nepal-moves-to-decriminalize-abortion-in-response-to-rights-campaign/ accessed 25 January 2022; Wan-Ju Wu and others, 'Abortion Care in Nepal, 15 Years after Legalization: Gaps in Access, Equity, and Quality' (2017) 19(1) Health and Human Rights. (First trimester abortion was legalized in Nepal in 2002 by an amendment to Nepal's National Code (Muluki Ain). The Safe Motherhood and Reproductive Health Rights Act of 2018 recognized the right to safe abortion but denied ending a pregnancy after 28 weeks of gestation unless it was necessary to save the woman's life. Recently, as part of the Universal Periodic Review process the Government of Nepal agreed to further decriminalize abortion and protect the sexual and reproductive health rights of women and girls. Prior to passage of these laws and initiatives, "[u]p to one-fifth of incarcerated women were convicted for abortion-related crimes."

113 NA, Interview with Meena (I11) (Udaypur in Province 1, Nepal, 20 June 2021).

114 NA, Interview with Bhawani (I19) (Rolpa in Province 5, Nepal, 5 June 2021) ("The Maoists took all my land and property and gave me only seven thousand rupees. It was a big loss for me. I don't have anything now. That's why I live with my brother. He asks me for rent but where will I get money for rent?").

115 Kavita Shukla, 'Forgotten people: The Internally Displaced People of Nepal' (Refugees International, 23 March 2004) <https://reliefweb.int/report/nepal/forgotten-people-internally-displaced-people-nepal> accessed 24 January 2022.

Several are also victims of murder, disappearance, and torture because of violations committed against family members. The relatives of some were killed (husband, son, mother, and in-laws) or disappeared or abducted (a brother and sister-in-law).

2. Factors that led to the targeting of women for conflict-related sexual violence

In Nepal, SGBV is rooted in intersecting forms of discrimination perpetrated against children, women, indigenous people, LGBTQI+, and others based on class and caste-based distinctions. In ordinary times, some of the major causes of crime and violence against women and sexual minorities in Nepal include poverty and unemployment, lack of effective law enforcement, lack of female education, harmful traditional practices, prejudice against lesbians and transgender women/*metis*, and long-standing patriarchal structures that undervalue women and girls.

During the war, all these factors would have played a role, as would additional conflict-specific factors. For instance, women, including many living near the poverty line and in marginalised communities, were targeted for sexual violence by those wielding power, often based on accusations of being aligned with the opposing side. Many victims were attacked by security forces after being accused of associating with the Maoist cause. As Advocacy Forum found in its report 'Challenges to Redress Victims of SGBV in Nepal' (March 2013), *"the majority of women and girls who reported incidents of sexual violence lived in areas perceived to be CPN-M strongholds or close to*

army barracks."¹¹⁶ That was the case for Shyama, for example, whose family lived near an army camp and was harassed by both sides.

All it took was a suspicion of association with the Maoists even if they were not. Sharada was thought to be a Maoist because she attended school and lived together with other women in a hostel:

"Armies said that I looked innocent but in fact, was an extreme Maoist. Because I used to stay in a hostel, they arrested me suspecting that I was involved in the Maoist movement."

Jyoti*'s sister was *"part of the underground Maoist movement"* and thus the army visited her family house *"to get information about [her] sister."* At that time, she was under 15 years old and a student.

"[T]he Armies came to our house. All my family members were in the house on that day. They beat everyone including my mother and sisters. Due to my bigger physique, they took me with them to [name omitted] barrack... and tortured me just because my... sister was underground... It was the first time that I went through the sexual violence. Then I was taken to the Armed Police Force... and I again suffered sexual violence."

Prema* explained the dilemma that families faced living in the crosshairs of both government and Maoist forces:

116 Advocacy Forum, 'Challenges to Redress Victims of SGBV in Nepal' (March 2013) citing ICTJ, 'Across the Lines: The Impact of Nepal's Conflict on Women' (December 2010).

“The incident happened in my home. My husband was not home at that time. He was out working in the night. I was sleeping with my [children].... They were an army group. They were wearing army dress and carrying guns like army soldiers. On two or three occasions before, the Maoists had come and eaten in our home. They made me cook food. If we didn’t give food to the Maoists, they would kill us. If we gave food to them, then the army would torture us. What to do? It was a difficult time. My husband had not joined the Maoists.”

Some victims or their families were Maoist sympathisers but did not take up arms; others were active participants in combat. Shakti* was arrested for being a member of the Maoist movement even though she was not “a part of Maoist activities in the field.”¹¹⁷ Others, like Hema, were forcibly recruited by the Maoists, arrested by the army, and then raped.

After being released from custody, some victims were harassed by the authorities, sometimes including the same people who’d attacked them. A number were forced to report regularly to the police station which caused great mental distress and made it very hard to regain any sense of security. Neeta*, who had been arrested because she lived in an area considered a Maoist stronghold, described it as follows,

“At that time our whole community, even the mud and stone, were considered Maoist.”

As a result, her brother was disappeared, and she was arrested multiple times, detained, and raped repeatedly. Once released, she was forced to “show up in the army camp every week, even after she had moved some distance away.” The same restrictions were placed on Sneha, who was similarly accused of being Maoist, arrested, raped, and then forced to visit the police station for follow up:

“After 90 days they released me. I don’t know why they released me and who helped me to get released. They asked me to sign a paper agreeing that I would check in every day at the police station, which I did for 5-6 months.”

3. Main settings, locations, or circumstances in which conflict-related sexual violence occurred

Consistent with the findings of previous studies, most of the violations documented in this Study occurred while in custody, whether by the security or Maoist forces (51.6%). Other survivors were abused in their homes (25.8%) or outside in public or in a secluded but open setting (22.6%), usually at gun point.



117 NA, Interview with Shakti (A2) (Province 2, Nepal, 11 June 2021) (“I don’t know how my community and army knew that I was a member of a Maoist organisation. The army came into our house, dragged me out, and arrested me in front of my whole family. Then they took me with them to a barrack... I was blindfolded and my hands were tied. They kept me with them for... months. They used to beat me a lot, torture me and I also faced sexual violence. There were many people there. As I was blindfolded, I couldn’t know how many people committed violence against me.”).

When the security forces were involved, the victim was often arrested, transported to an army barracks or camp, and then raped there. Similar abuses were inflicted by the police on those being held in jails or other custodial settings. Meena*, for instance, was held by the police for months, her eyes "covered with a cloth band and handcuffed." She was "kept in a very dark room like a cow shed" and raped every day.

Particular cruelty by government forces was meted out to women combatants. Avilasha was kept in army custody for almost two years after her capture, during which she was repeatedly raped; kept under constant surveillance, even when using the toilet; forbidden to bath for long stretches; underfed; verbally abused; and prodded like an animal with a stick.

The Maoists were similarly brutal. Radha* was abducted from the roadway and kept for over two weeks in a cowshed and gang raped. Eventually, she was dumped near her parents' home while unconscious. A similar pattern was followed in the case of Rashila, who was abducted by the Maoists while walking to the market hours from home.

Both sides weaponised the threat of rape and the crime itself. Victims were first held at gunpoint during interrogations and then raped, often repeatedly. Many of the victims were held for long periods in army camps, essentially as sexual slaves and raped daily, a pattern suggestive of systematicity and the sanctioning of sexual violence among the warring parties that is deeply rooted in a mindset of patriarchy, as described by Hema:

"[The army] took me with them. My eyes were blindfolded; and my hands were tied. They took me into the army camp. Every day they used to threaten me, saying they will rape me... They used to say vulgar words to me. They also used to say that I am a bad person and suspected that Maoists had already raped me. So they will also rape me and then will let me go from the camp... Then the army also raped me keeping me blindfolded. I was raped first by the man who brought dinner to me. Then it became a pattern."

In the opinion of one of the survivors, the abuse was "a strategic move of the security personnel."¹¹⁸ The idea was to generate fear in communities that were believed to support the insurgency,

"When they did not find [the men], they inflicted sexual violence on a group of women and girl children. It was their strategic move to spread the terror among the family and the community."¹¹⁹

Although as of now, investigations have not yet been conducted, it is fair to conclude, based on available facts and how normalised the practice was, that the command structure of both combatting forces must have been aware or at least acquiesced. As Sharada reports, senior leadership almost assuredly knew:

"There were many senior officers present while I was being tortured. They are also responsible for this and need to be punished. I used to hear while I was in the barracks that people from Kathmandu also came there. The C.D.O of that period, and other people came in the barrack... there must be a record and they need to be punished."

118 NA, Interview with Mamata (n24).

119 Susan Risal, 'Defining Justice and Dignity Through Gendered Peace Building: A Case Study of Gender-Based Violence During Armed Conflict in Nepal' (2020) 2(1) Social Inquiry: Journal of Social Science Research 66 (quoting male study participant).



Women walking across a field in Kanchanpur Province, 2017. (None of them participated in this Study).
© Elena Naughton



VII. THE PROFILE OF THE PERPETRATORS

1. Sexual violence as a weapon of war wielded by both sides

All branches of the military and police are alleged to have committed acts of sexual violence during the conflict, including the Royal National Army (RNA), the Nepal Police, and the Armed Police Force (APF), a state paramilitary force tasked with counterinsurgency operations established in the middle of the conflict in January 2001. The opposing force during the conflict, the Communist Party of Nepal (Maoist), is also believed responsible for many incidents of sexual violence.¹²⁰

Early in the conflict, the police took the lead in combatting the Maoist army and thus they are presumed responsible, along with the Maoists, for many of the violations during the early years of the war. Over time however tactics and force command shifted. After the government's declaration of the first "Emergency" in November 2001,¹²¹ the army was ordered to deploy, and the army, police, and

armed police shared a joint command system.¹²² Under the unified command of the army, security forces "reportedly committed numerous extrajudicial killings of civilians suspected of having connections or sympathies with the Maoists. At the same time, the Maoists abducted and killed civilians suspected of having ties with the Government."¹²³

Many survivors know the affiliation of their attackers and sometimes their rank; at least two of those interviewed know the identity of some of their perpetrators.¹²⁴ Ganga, for instance, knows the names of two of the men who raped her and her daughter and has accused them publicly. "But nobody helps." Most troublingly, Smriti* was forced to marry one of the men who raped her, an officer in the Army.

Many others however were blindfolded during the incident or lost consciousness.¹²⁵ Despite that, some think they could still recognise their attacker's voice. As Jyoti* reported,

"They had blindfolded my eyes with a piece of cloth and tied my hands as well. However, still I can recognise the person who first sexually tortured me through his voice. That person was [an officer] of the Nepal Army."

120 Madhav Joshi and Subodh Raj Pyakurel, 'Individual-Level Data on the Victims of Nepal's Civil War, 1996-2006: A New Dataset' (2015) 41(3) *Empirical and Theoretical Research in International Relations* 10. Local groups with uncertain affiliation are also believed to have committed human rights and humanitarian law violations, estimated at approximately 3% of the total.

121 The right to be free from torture and other forms of ill-treatment are non-derogable rights and thus the crimes inflicted on the victims held in custody by security forces cannot be justified because of the existence of an emergency, as confirmed by Nepal's 2015 Constitution. Constitution of the Kingdom of Nepal (n72) art 273(10); Constitution of the Kingdom of Nepal, Act No. 2047, issued 1990, art 115 (Emergency Power).

122 UN OHCHR (n15) 17-56. Two periods of emergency were declared by the government during the war. The first was in place for nine months beginning in November 2001; the second for three months beginning in February 2005.

123 CCPR, 'Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013' (n86) 2.2.

124 NA, Interview with Prapti (n45); NA, Interview with Smriti (M3) (Province 3, Nepal, 9 June 2021) who was forced to marry her rapist: ("The rapist [a Major in the Nepal Army] threatened me that if I would not marry him, I would be accused of being a Maoist and killed. So, I got married to him with my family's consent. Actually, my husband lied to me that he was unmarried. After marriage when I went to his house, I was shocked to know that he was a married man with two children and the next day I was shifted to a rented room in Shankhamul, Baneswor. During that time, I used to get abused sexually and physically every day.")

125 NA, Interview with Dilmaya (Y7) (Province 5, Nepal, 27 May 2021) spoke of losing consciousness.

As survivors' testimonies show, sexual violence was used as weapon of armed conflict. Out of 31 respondents, over 77% suffered sexual violence at the hands of government forces, almost 13% by Maoist cadres, 6% by both the warring parties, and one by an unknown person, possibly an opportunistic rape:

Because the government was primarily responsible for most of the violations, it was difficult if not impossible for survivors to report a crime, even to the police, given the unified command structure.¹²⁶ And, even though the identities of those who led the RNA and other security forces during the war are well-known, no progress has been made in bringing them to justice.¹²⁷

2. Ongoing impunity for conflict-related violations

There has been little accountability in Nepal for any crimes committed during the conflict, including those involving sexual violence. Instead, since the end of the conflict, a culture of impunity has flourished. Those accused of serious crimes have been allowed to assume leadership positions in the government, despite Supreme Court orders in some cases directing the police to register a case and open an investigation into allegations.¹²⁸ And long-standing

recommendations of Nepal's NHRC and of a series of ad hoc commissions convened to investigate human rights violations remain largely unimplemented.¹²⁹

The roots of this impunity can be traced back in part to the original political settlement reached in the CPA in which the political parties agreed *inter alia* "to withdraw accusations, claims, complaints and cases under consideration levelled against various individuals due to political reasons."¹³⁰ That provision has been interpreted to permit the withdrawal of over 1055 criminal cases over a period of years,¹³¹ involving allegations of serious crimes, including CRSV, based on an "overbroad and vague definition of what constitutes a 'politically-motivated' allegation."¹³²

Legal immunities from criminal accountability of public officials, military, and security forces remain in place, and political interference in criminal cases by district attorneys, Nepal's Attorney General, or Cabinet members has created *de facto* immunity.¹³³

Although a few cases have advanced before Nepal's domestic courts and within the military justice system,¹³⁴ almost none have ended in convictions and meaningful criminal sentences, a fact documented by a series of reports issued by Advocacy Forum and Human Rights Watch. The most recent report, published in 2020, documented the status of 62 cases

126 CCPR, 'Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013' (23 June 2017) UN Doc CCPR/C/119/D/2245/2013, para 2.11 ("During the conflict, the Army and the police were under a unified command structure, so reporting a crime committed by the Army to the police was difficult for victims.")

127 UN OHCHR (n15) 55-56 ("RNA Commanders-in-Chief during the conflict period were Dharmapal Barsingh Thapa (15 May 1995- 16 May 1999), Prajwalla Shamsher Rana (16 May 1999 – 9 September 2002), Pyar Jung Thapa (9 September 2002 – 9 September 2006), and Rukmangad Katuwal (9 September 2006 – 9 September 2009). The Supreme Commanders-in-Chief during the conflict period were King Birendra Shah, until his death on 1 June 2001, and King Gyanendra Shah.") Police complaints have been filed against some, but no investigations or criminal proceedings have been instituted. Thakur Singh Tharu, 'Two ex-Army chiefs accused of war crimes' *Kathmandu Post* (12 May 2016) <https://kathmandupost.com/national/2016/05/12/two-ex-army-chiefs-accused-of-war-crimes> accessed 25 January 2022.

128 Mohan Guragain, 'What is the controversy over Agni Sapkota as Speaker all about?' *The Kathmandu Post* (30 January 2020) <https://kathmandupost.com/politics/2020/01/30/what-is-the-controversy-over-agni-sapkota-as-speaker-all-about> accessed 25 January 2022. In January 2020, for instance, Agni Prasad Sapkota became Speaker of the House of Representatives, despite facing a potential abduction and murder charge and a March 2008 Supreme Court ordering the authorities to register a case filed by the victim's wife.

129 National Human Rights Commission (n21); ICJ, 'Commissions of Inquiry in Nepal: Denying Remedies, Entrenching Impunity' (June 2012) www.icj.org/wp-content/uploads/2012/06/Nepal-Commissions-of-Inquiry-thematic-report-2012.pdf accessed 28 January 2022.

130 CPA (n14) art 5.2.7. The CPA brought the Maoist party into the coalition government.

131 Republica, 'Nine Point Agreement between the CPN-UML and UCPN (Maoist)' (myrepublica, May 2016) pt 7. That misinterpretation was carried forward and reiterated by political elites in the 2016 Nine Point Agreement between the CPN-UML and UCPN (Maoist) in which the political parties agreed, in contradiction of the Supreme Court's ruling holding amnesties for gross violations impermissible, to "immediately initiate the process to withdraw or give clemency on insurgency-era cases and other politically-motivated cases filed on various occasions."

132 ICJ, 'Authority without accountability: The struggle for justice in Nepal' (2013) 19.

133 *Ibid* 16.

134 Nepal Army Act, 2063 (28 September 2006), s 105. Nepal enacted the Army Act, 2063 (2006) which set out departmental actions for corruption, theft, torture, and disappearance, including the freezing of salaries and promotions. However, these departmental proceedings are not criminal prosecutions and rarely result in meaningful sanctions. In addition, during the war, the Maoists operated "people's courts." However, these courts did not investigate cases involving serious crimes. ICJ, 'Nepal: Justice in Transition' (February 2008).

and found “*continuing obfuscation and failure by state authorities to initiate meaningful investigations and prosecutions relating to past grave violations.*”¹³⁵ In almost every instance, there had been no progress toward achieving criminal accountability for years, although occasionally some compensation has been provided. Often, officials appear to be hiding behind a promise that the cases will be taken up either by the TRC or CIEDP, but that has not occurred. In fact, of the 29 conflict-era cases that were recently awarded compensation, none appear to have been referred for prosecution.¹³⁶

Among the 62 cases documented in the report, there is only one relating to a charge of CRSV. That case related to the rape and subsequent killing of Reena Rasaili. Only the murder charge, however, remains active, because of the 35-day statute of limitation applicable in rape cases. That case, like the others, has not ended in a criminal conviction. There, the accused was charged *in absentia* but was then acquitted for lack of evidence, despite an earlier court martial finding that Reena Rasaili had died because of the “*excessive use of force.*”¹³⁷

Similarly, no charges have been brought in the case of Fulmati Nyaya (pseudonym), an indigenous woman who was subjected to rape, torture, and forced labour at the age of 14. Despite protracted litigation, including before Nepal’s Supreme Court starting in 2014, the police continues to refuse to register victims’ FIR and initiate a criminal investigation, invoking the 35-day statute of limitations. Nyaya brought a complaint to the Human Rights Committee which found that the domestic remedies in Nepal’s “*criminal justice*

system were both ineffective and unavailable,” as was the Truth and Reconciliation Commission and called on Nepal to investigate the case and to provide measures of reparation, including free psychological rehabilitation and medical treatment, compensation, and appropriate forms of satisfaction like an apology.¹³⁸ That order, including the measures of reparation to which she is entitled, remains unimplemented.

Although not sexual violence cases, there are two well-known cases illustrative of the challenges facing those seeking justice in Nepal. One relates to the brutal torture and killing in 2004 of Maina Sunuwar at the age of 15 which has not led to any meaningful punishment for the accused. In April 2017, three retired army officers were convicted *in absentia* for the murder but remain at large pending a decision on the appropriate sentence. A fourth defendant Major Nirajan Basnet was acquitted. An earlier court martial proceeding had ended in a conviction of the same three officers for “*not following the standard procedures and orders*” but that sentence has also not been enforced pending a writ of certiorari in the Supreme Court that seeks to annul the convictions.¹³⁹

Cases brought outside Nepal based on universal jurisdiction have likewise not been successful. Nepalese Colonel Kumar Lama in the United Kingdom (UK) was acquitted after trial in a case brought pursuant to the principle of universal jurisdiction based on allegations of torturing two detainees at an army barracks under his command in 2005.¹⁴⁰ That verdict has been attributed in part to a lack of access by prosecutors in the UK to primary evidence in Nepal and meaningful cooperation by Nepalese authorities.¹⁴¹

135 HRW and Advocacy Forum, ‘No Law, No Justice, No State for Victims: The Culture of Impunity in Post-Conflict Nepal’ (2020) 40-41 www.hrw.org/report/2020/11/20/no-law-no-justice-no-state-victims/culture-impunity-post-conflict-nepal# accessed 25 January 2022.

136 Ghimire (n29).

137 HRW and Advocacy Forum (n135) 40.

138 International Covenant on Civil and Political Rights Human Rights Committee, ‘Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2556/2015’ (11 June 2019) UN Doc CCPR/C/125/D/2556/2015, para 6.4.

139 HRW and Advocacy Forum (n135) 37-38.

140 In 2007, the accused had been ordered to pay compensation to one of the victims in the amount of Rs75,000 under Nepal’s Torture Compensation Act, 2053 and was to be barred from promotion for one year under the Army Act, 2063 by the District Court of Kapilvastu. That decision was not criminal in nature.

141 Sneha Shrestha, ‘The Curious Case of Colonel Kumar Lama: Its origins and impact in Nepal and the United Kingdom, and its contribution to the discourse on Universal Jurisdiction’ TLI Think Paper 2/2018 (2018) SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3105720 accessed 25 January 2022.

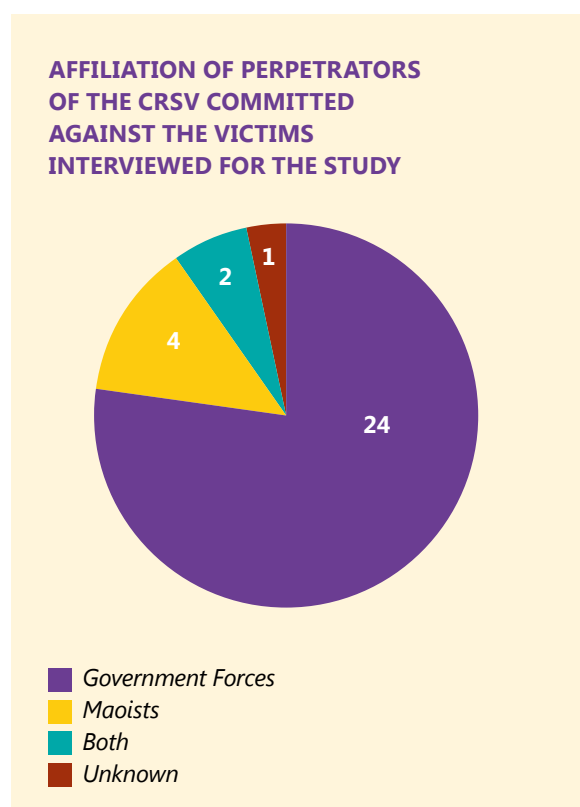
In addition, national-level commissions of inquiry have been convened for the purpose of undertaking limited investigations relating to massacres during the war.¹⁴² One of those commissions, the Belbari Massacre Parliamentary Probe Committee investigated the rape and murder of Sapana Gurung and the subsequent killing of six unarmed demonstrators who were protesting her death. That committee issued a report in January 2008 recommending an investigation of the three officers responsible for the abduction, rape, and killing of Sapana Gurung and those responsible for the deaths of the demonstrators. The report also recommended that compensation be provided for victims' families.¹⁴³ Sapana Gurung's mother was paid 1,000,000 Nepali rupees (\$8,400) as interim relief.¹⁴⁴

Victims' experiences with Nepal's justice system as shared for this Study are consistent with these cases. Although a few know the identity of the perpetrator and made a complaint with the police or with the TRC, to date, no meaningful action has been taken by the authorities. As Ganga reported,

"I have registered my case in the Truth and Reconciliation Commission. I want justice for what we went through. I have openly shared the name of the policemen who were involved but nobody does anything. They should be punished."

Although promises have been made for years to reform the security sector in Nepal, little has been accomplished in that regard either. For instance, INSEC, a Nepali human rights organisation that has

been working across Nepal since 1988, organised trainings on human rights and international humanitarian law for security personnel, including the Armed Police Force, the Nepal Army, and the Nepal Police, during the war.¹⁴⁵ More recently, trainings have been conducted with the Nepal Army on gender equality and on UN Security Council Resolutions 1325 and 1820. So far 3,335 have completed the training,¹⁴⁶ a low number given that total forces exceed 100,000. In addition, as of now, there is no vetting system to exclude persons accused of serious human rights violations from holding public office. In fact, there is a practice of promoting such individuals instead.



142 ICJ, 'Commissions of Inquiry in Nepal' (n129) 39. In 2009, after the peace agreement was signed, a Commission to investigate the gang rape of a female constable in September 2009 was convened. However, its report was never made public, and its recommendations remain unimplemented (ICJ, 'Commissions of Inquiry in Nepal' (n129) 43).

143 Ibid Annex 1.

144 HRW and Advocacy Forum (n135) 80-81.

145 INSEC, 'Annual Report: 2007' (22 January 2008) 31.

146 UN OHCHR (n27) 5.



VIII. CONFLICT HARMS

No aspect of victims' lives remains untouched by the CRSV they suffered, with significant commonalities in the consequences cited across sociodemographic backgrounds. For all, the physical and psychological impact was immediate and brutal. Other effects to their education, social standing, and economic potential sometimes took a little longer to be fully felt, but the ultimate outcome was almost always devastating. Avilasha sums it up best:

“My life would have definitely been different if that incident did not happen to me. I would be able to do what I had dreamt of. Now even if I want to do something, I can't because of my body.”

For victims of CRSV in Nepal, there was and is no real ability to move on. When asked about the impact of the incident, it was found that all were seriously impacted at the time and are still suffering today from a combination of debilitating physical and psychological conditions and financial and social difficulties, all worsened by the lack of available treatment options in many parts of Nepal and the structural inequalities that women face in Nepal's patriarchal and caste-based society.

One consistent contributing factor was the lack of any immediate medical or psychological response to the CRSV. Dilmaya*, for instance, was refused treatment at a nearby medical facility and only received care for her physical injuries in India because of the quick intervention of her parents. She, however, was the exception. Only a few survivors mentioned receiving professional medical treatment at the time.

While that is in part attributable to the shuttering of medical facilities during the war, survivors' stories reveal that more often treatment was not sought out of fear that people would learn of the sexual nature of the crime. Either way, survivors paid a physical and psychological price.

Many also suffered cascading impacts. Following the CRSV, survivors almost always suffered a series of other physical, social, and economic disruptions in their lives, including loss of education, estrangement from family, forced displacement, and subsequent abuse by husbands. Devaki's experience is illustrative of this pattern. She was first forcibly recruited by the Maoists, then captured by the Army and imprisoned for nine months in horrific conditions, where she was brutally raped and tortured. After her release, she was forced to relocate from her rural village to a city to avoid harassment by Maoists and the Army. She never finished her schooling and is now married to a man *“who was unfamiliar with [her] past.”* She has children but is still suffering from the severe physical and mental conditions she sustained and struggles every day just to survive.

Survivors' difficulties have also been worsened by subsequent events and circumstances. Most were young when the attack happened. Their health is now more *“fragile”* and doing *“heavy work”* is very hard or impossible. And the additional hardships caused by events like the 2015 earthquake and the COVID-19 pandemic have prevented them from gaining even a foothold on a secure and dignified life. Right now, Devaki is living in a temporary shelter where she moved after her house was destroyed by the 2015 earthquake.

Victims' harms have only been compounded by the government's failure to acknowledge the realities faced by victims and to implement measures to address their needs in a way that maintains the confidentiality of victims' identities while providing benefits that reach women in their daily lives.

1. Serious physical injuries with immediate and ongoing effects

All the women interviewed for this Study suffered serious physical injuries because of the sexual violence and torture. In many instances, the attacks were perpetrated by groups of men who brutally beat and raped the victim for a period of days, weeks, or even months. During the interviews some survivors focused primarily on the initial impact of the sexual violence, torture, and abuse when in custody (e.g., bleeding, fever, lost consciousness, difficulty sitting, swelling, bruising, malnourishment, and hair loss), although almost all mentioned other ailments that continue to this day.

There were many commonalities in the conditions cited, which, though overlapping at times, suggest separate chronic conditions, such as *torture-related physical trauma* (e.g. wounds, difficulties sitting or standing, leg pains), *gynaecological symptoms* (e.g. uterine pain and regular malodorous urethral discharge), *chronic pain/backpain* (“pain in my body,” “my body aches even today”), *generalised physical ailments* (e.g. “I have many health problems;” “I am never completely well,” “body swells”), and *an inability to work*, especially heavy work.

Many survivors, such as Sneha, need daily medications to alleviate their continuing symptoms.

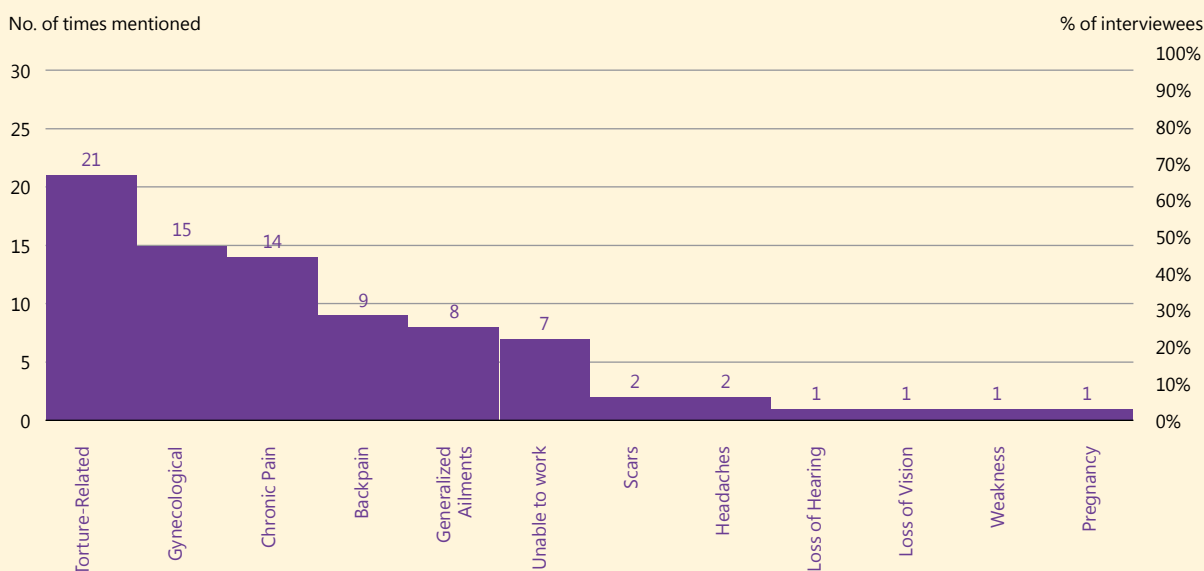
“I need regular medicine for my uterus. If I skip medicine even for one day I cannot sit properly.”

Yet, many struggle to pay for those medications. Radha shared,

“Due to the financial constraints, I do homemade therapy like doing massage with ghee¹⁴⁷ with the help of my daughter.”

This is especially true of those who are no longer able to perform “heavy work,” which is often among the few available income-generating options open to them. The ongoing pandemic and the lockdown have only worsened that situation. Although a few attributed their physical limitations in part to age or COVID-19, all tied their poor health in some way back to the “incident.” Gauri* said in her interview:

PHYSICAL/MEDICAL IMPACT OF CRSV ON THE VICTIMS INTERVIEWED FOR THE STUDY



¹⁴⁷ Ghee is clarified butter usually made from cow milk.

“Having bodily pain is obvious to me as I went through that brutal torture. I don’t want to remember that incident. I still have pain in my back. I can’t do heavy work. I feel tired very quickly. I don’t know whether this is because of my age or the torture and violence I faced.”

A few, like Sirish, spoke also about the continuing medical impact affecting family members caused by war wounds, some still debilitating:

“During the time of conflict my husband [who joined the Maoists] was injured [multiple] times. There are splinters on his head and bullets in his chest. Those bullets are not removed yet... His hands and legs don’t work because of the injury during the armed conflict.”

2. Psychological trauma and post-traumatic distress

Most of the women also described a range of debilitating psychological symptoms stemming from the trauma they suffered. Many experience flashbacks,

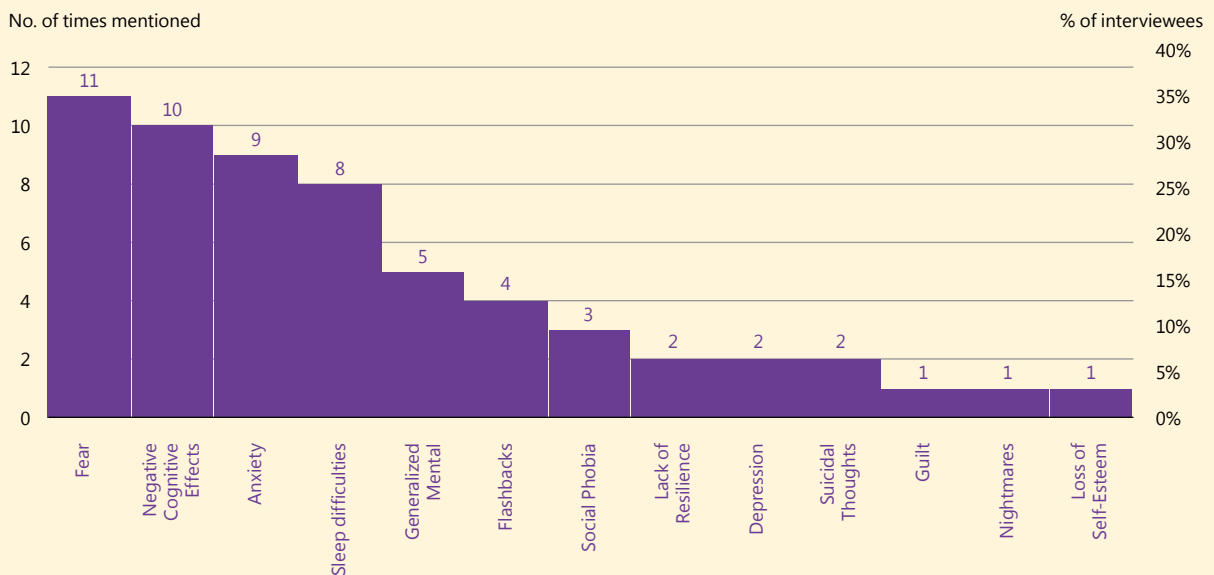
nightmares, anxiety, fear, difficulty sleeping, loss of self-esteem, social phobia when in groups or in the presence of the police or army, and other negative effects on their cognition (e.g., forgetfulness, memory loss, “my mind doesn’t work”).

Out of the 31 interviewed, 27 identified specific symptoms indicative of psychological trauma; three did not raise the issue; and one survivor denies suffering any real psychological effects, saying

“Since I was involved in the Maoist movement with my awareness, I personally am strong enough in terms of psychological aspects but still feel pain when I see the current political scenario.”¹⁴⁸

In addition, many victims are suffering from secondary trauma because of harms suffered by family members during the war. Many of their relatives were killed, one before her eyes during combat;¹⁴⁹ others count themselves among Nepal’s families of the disappeared. Some suffered anguish and distress while family members were arbitrarily detained, as did their family members when they too were detained.

PSYCHOLOGICAL IMPACT OF CRSV ON THE VICTIMS INTERVIEWED FOR THE STUDY



148 NA, Interview with Gauri (n104).

149 NA, Interview with Ganga (I18) (Province 5, Nepal, 4 June 2021).

Some, like Shyama, were victimised by both sides over the course of the war. The cumulative toll on both the women interviewed and the intergenerational trauma experienced by family members like Meena's son is evident from the testimonies:

"My husband joined the Maoists and he was killed by the police. I was living with my mother in-law. She also committed suicide... because of the tension of her son's death. I am living with my youngest son. He is also unwell.... He is a drunkard and quarrels when he drinks. He tells me that he cannot look after me anymore."

Two survivors spoke at length specifically about the harms inflicted upon their daughters. Ganga and her daughter, for instance, were arrested by security forces and kept on the upper floor of the police station for 19 days, where they were raped repeatedly. Her husband, who was a Maoist division commander, and son were killed in combat. And as already mentioned, Bhawani was raped in front of her daughter:

"After they left, [her] daughter told everything that she saw to her father.... When he heard that, he beat me badly. On one hand I was raped, and on the other hand I was badly beaten by my husband. I couldn't get up from my bed for 3 days."

3. Financial impact

Out of 31 respondents, 11 specifically linked the incident with some form of financial impact (e.g., unable to do heavy work, difficulty educating children, loss of business or property, sole breadwinner

after being rejected by husband). More, however, spoke only generally about their dire financial plight which impacts not only their health but affects every aspect of their daily survival including their children's education. Most have "no regular source of income",¹⁵⁰ a reality worsened by the current COVID-19 pandemic.

For a number of the victims, the traditional structures of familial and community support upon which women are forced to depend in Nepal, usually a husband or son, have been upended by the violations because of the nature of the crime of sexual violence.¹⁵¹ Women who no longer have "any relatives who can earn money for them" are struggling the most.¹⁵²

Although some families were supportive in the immediate aftermath of the incident, many were not. The common scenario described in the interviews was abandonment and, given the constraints placed on women's educational and employment opportunities in Nepal, a life of financial insecurity. Tara*'s husband, for example, threw her out of the house when he learned she had been raped during the war, leaving her alone to raise their child. She lived with her parents for a time but found that arrangement too difficult. As a result, she is now the "breadwinner of my house" with responsibility for looking after her school-aged child. However, her health is poor, and she is unable to "do heavy work." Since she is not recognised by the government as a conflict victim, she survives almost entirely by doing small projects for civil society organisations.

Others suffered a similar fate. Four survivors were thrown out of their house and as a result have limited means for supporting themselves given the rigid gender roles assigned to women in Nepal's patriarchal society. For this reason, Prerana* would like to reconcile with her husband who left her a few years ago after he realised that she'd been sexually abused during the war. She has children with him, and his support is essential to her survival:

150 NA, Interview with Hema (A23) (Province 6, Nepal, 6 June 2021).

151 It is more culturally acceptable for mothers to call on their sons rather than daughters for help, as Hema explained: "My daughters married when they were ready to earn some money. In our culture asking for any kind of financial support from married daughters is not considered good." NA, Interview with Hema (n150).

152 NA, Interview with Jyoti (Y26) (Province 7, Nepal, 28 May 2021).

"If somebody can bring my husband back then I will feel good. My children are going through a hard time. If they can be provided good food, education, then this will be a great support for me now. My body does not work, and I don't have hope for the future myself now."

A few like Sneha relocated to avoid the stigma.

"My community doesn't look at me with good eyes. They say false things about me.... I couldn't get any support. Once I tried to return to my village but hearing their lies was unbearable. So, I left my village. I went to [a relative]'s village to survive. She gave me one stove, one room, and 3 kgs of rice. From this, I tried to start my new life."

But for most, that is not even a possibility. They remain dependent on other family members and, if eligible, on the small social security allowances provided by the government to some single women and other vulnerable populations, like those received by Bhawani:

"I don't have anything now. That's why I have to live with [a relative]. He asks me for rent but where will I get money for rent? I can't pay him any rent. Even family don't support you when you don't have any money. I get the 'single woman allowance' of two thousand rupees and my [child] gets disability allowance of four thousand rupees. These six thousand rupees [about USD 43.00] per month is how I manage my expenses. I also do some daily labour if I get any."

Also struggling are those whose husbands were disabled by injuries sustained during the war. Parijat*'s husband was tortured by the army because he was suspected of being a Maoist. The physical harms he suffered, coupled with the physical and mental harms suffered by Parijat

herself, have made it difficult for both to work, and neither was eligible for interim relief benefits available to families of those disappeared or killed.

To survive, victims often work in various capacities to make ends meet, with few holding down only one job. Shakti explained the challenges she faces:

"We do agriculture, but this is not sufficient for our survival."

Instead, as is common with subsistence workers, they are forced to cobble together a combination of jobs to survive.¹⁵³ One survivor has a small fishpond that she stocks with fish to sell; she also maintains a small vegetable garden to help put food on the table and will perform day labour when the opportunity arises.

What this tells us is that most survivors are living in extreme poverty, barely able to provide for even their most essential needs. As such, certainty and sustainability must all be necessary components of any reparations programme, including various forms of regular support payments.

¹⁵³ Approximately 20 per cent of households in Nepal are "mildly food insecure, 22 per cent moderately food insecure and 10 percent severely food insecure." UN Human Rights Council, Working Group on the Universal Periodic Review, 'Compilation on Nepal, Report of the Office of the United Nations High Commissioner for Human Rights', Thirty-seventh session, 18-29 January 2021 (29 October 2020) UN Doc A/HRC/WG.6/37/NPL/2, para 45.

| 4. Loss of education

One of the common consequences of CRSV was loss of education. Fourteen of the survivors were school-going children at the time of the incident, with the youngest victim only nine years old.¹⁵⁴ As a result, the incident often caused a lengthy interruption in their schooling or ended their education entirely.¹⁵⁵ Of the 14 survivors who were attending school at the time, all but two had their education interrupted, with seven dropping out entirely and five resuming their studies after a long hiatus.¹⁵⁶ Jyoti explained the dynamics at play in her community after she was released from jail and how that affected her decision about returning to school:

“After I was released from jail, I tried to go to the school... I was a good student, but the perception of the community towards me had changed. Teachers used to ask me about the incident... I was surprised as none of my friends wished to sit with me... I felt hatred and humiliation from their behaviour. The perspective of all the people towards me had changed. Therefore, I didn’t go to school for two years but after two years I again joined... [and] passed the School Leaving Certificate.”

During the interviews, survivors connected their missed education with lost lifelong opportunity and the restrictions placed on women in Nepali society. As Devaki, who joined the Maoists, summed it up,

“I feel so frustrated. We cannot continue our studies. Being women, we faced a different impact of the conflict.”

Likewise, Rashila imagined how her life might have been different:

“I couldn’t study due to the incident. Had I been able to continue my study I could have been financially independent now. I wouldn’t have to face the situation that I faced in the past nor the situation that I am facing now.”

One need only compare these observations with the reflection of one victim who was able to resume her studies and the difference it appears to have made in her life. “This is why I continued my studies. When I reflect now, I believe this is my strength as well. I wanted to do something in my life.”¹⁵⁷

In addition to the personal loss of schooling, the children of three respondents also stopped their education because of the conflict. Meena was detained and had to leave her children at a relative’s house:

“Due to the armed conflict my [children] could not study. I had to leave them, and they were left all by themselves when I was in custody. They have not gotten any jobs because they are uneducated.”

154 The eldest was 55 at the time of the incident.

155 NA, Interview with Ava (R16) (Province 5, Nepal, 3 June 2021); NA, Interview with Sunmaya (Y29) (Province 7, Nepal, 15 June 2021). Not to be forgotten are the 10 victims who never received any education. For example, Avilasha (R15) (“I haven’t studied and always lived my life in pain. I want my child to get proper education. I am always worried about that.”), Ava (R16) (“I didn’t go to school. I spend all my time doing household work. I got married [young].”), and Sunmaya (Y29) (“I have not studied at all. I have not even seen the school.”)

156 None of the respondents mentioned school closing and other interruptions in their schooling caused by the war generally, although those impacts are well-documented.

157 NA, Interview with Dilmaya (n125).

Ganga had to go underground during the armed conflict:

"My family had to go underground because of our involvement in the movement. We moved to many places and my children had to go with me. They couldn't study properly."

And Parijat's children have been negatively impacted because her husband who was the breadwinner of the house was severely injured during the war:

"My husband was brutally tortured and suffered injury after he was taken by the army. He can't work properly. Earlier he used to do farming and earn money. We couldn't send our children to good schools because of financial problems."

5. Social stigma and loss of reputation and status

Victims' social lives and status in the community have been and continue to be disrupted by the sexual and other violations they suffered. Despite the passage of time since the incident, concerns about social stigma do not appear to have diminished appreciably. Most have only revealed the atrocities committed against them in confidence to a medical practitioner or a representative from a small circle of victims' groups

and civil society organisations that work on behalf of conflict-affected victims. They live in fear that someone else will find out.

As a result, among the interviewees most severely impacted by social stigma are those whose sexual violations became public. Anonymity in Nepal is a rare commodity. Once revealed, crimes of sexual violence are seen as a stain not only on the individual victim, but also on their family and community, as Neeta described: *"Our sexuality is considered a prestige issue."*

For some, confidentiality was not an option as the crime occurred in the presence of witnesses. Babita* was woken after the attack by her neighbours when they tried to give her some water to drink.

"There were no clothes on my body. Somebody had covered me with their shawl. I was bleeding and there was blood flowing on my legs. That was a black day for me. I went home with the help of others. What was I supposed to say when everyone knew what had happened to me?"

No matter how or when people found out, the result for most victims was the same. Today some victims are still being ostracized or shamed by their families, some are living as outcasts from society. As mentioned, four respondents, for instance, separated from their husbands after their case became known.

"I told him the real incident. Right after listening to this, he threw me out of his house. I didn't do anything wrong. My married life was destroyed due to this incident. I was not able to become a good wife, good daughter in law and good daughter as well."¹⁵⁸

158 NA, Interview with Tara (n87).



Participant during workshop in Nepalgunj in 2017.

© Elena Naughton

Jyoti eventually reconciled with her husband and family after a few years had passed, and she had established a successful business.

"During that period, I had the opportunity to learn a skill to start a small cottage industry.... As I was doing well at it, I was made a trainer I taught my skills to the neighbourhood women. They used to make [things] for the whole day and I used to go to market to sell the products.... Gradually, I began to earn good money. I used to support my sisters from my earnings. Then my husband who used to call me bad names had come to take me home. I didn't understand why that was happening, but I went with him. Maybe he realised his mistake or saw that I was earning good money.... Although my husband accepted me, my mother-in-law did not for a long time. So, we started to live together separately from his family. But now, things have changed. Now his family also accepts me."

That, however, is not the usual pattern. For most, the breach in family and societal ties is permanent.

Four respondents are also living with their husbands who know about the incident.¹⁵⁹ However, some of them face regular domestic violence. Bhuni* is abused in part because of the sexual violations she suffered years earlier:

"My husband works as a [driver], and he drinks alcohol and plays cards. After drinking, he tortures me referring to the sexual torture that I experienced. Sometimes I feel like I wish I could die instead of suffering like this.... I think of leaving my husband but again I look at my son and let go of that thought."

As is Sabina*:

¹⁵⁹ NA, Interview with Shakti (n117) "My husband and my community know about my incident. My husband supported me. I told my husband about my incident. He was the one who came to bring me home."

“My husband knew about it, but I hoped that he would never bring up the topic. But every time he is angry, he tells me that I was defiled by the army and am impure. His words always pierce through my heart. My situation is still the same and I am just living through every day.”

To prevent against this eventuality, in the immediate aftermath of the violence, many victims knew they “couldn’t share this incident with anyone” and, as a result, “suffered alone.”¹⁶⁰ The same holds true today. Even for those who have managed to keep the incident secret, they, too, continue to face social stigma that corrodes relationships and their self-image. Many of them live under the constant fear of disclosure. Others live in relationships tainted by the mere suspicion of what might have happened when they were arrested and imprisoned by the security forces or were abducted by the Maoists. Even without confirmation that they suffered sexual violence, assumptions are drawn, and some are seen as “characterless”. Prapti’s husband threw her out of the house on such suspicion. Sharada explains the dynamic:

“My community does not know about my full incident. They only know I was arrested. My community perceives me as a characterless woman due to my involvement in the Maoist party. They think I was in a relationship with many guys and was involved in the Maoist movement whereas this is not true. Adding to this, I am married to a Dalit guy. My parents also do not allow me to enter their home due to the fear of our community thinking ill of them.”

The results of this collective shaming and abuse include family dissolution, psychological distress, social isolation, lost schooling, and a reduced capacity to obtain or perform work. Singly, or in combination, these things ultimately affect every aspect of victims’ lives: physical/medical, psychological, economic, social, and legal.

In some instances, victims were compelled to marry. Smriti was forced to marry one of the men who raped her under the threat of death. The man, a major in the army, did that with the consent of her parents but did not tell them that he was already married with children. She, too, is subjected to domestic abuse.

Others felt compelled to marry early, in part for security reasons:

“Due to this incident to save my life, I got into an early marriage. At that time, both the armies and Maoist saw the girls like us as powerless and poor. They used to abduct the girls like me, torture and rape them. Many were killed afterward. Thankfully I am still alive.”¹⁶¹

The stigma and blame heaped on the victims has also been internalised. Out of 31 respondents, two mentioned that they’ve been blamed for what happened to them and are perceived as “characterless” for joining the Maoist movement. Radha worries about the safety of her daughters and the potential for violence at the hands of her husband:

“I faced daily violence from him. I also fear that my husband might rape my daughters. Many times, I go to check the door of my daughters’ room to see whether they have properly locked it.”

A few of the women were widowed during the conflict and suffer stigma because of that, as Sunmaya described:

“People treated me badly after my husband died. They said that it will be bad luck if they see a widow like me. They said it directly to my face. I felt so bad.”

In addition to the harsh treatment inflicted on victims by family members and their communities, some have also been revictimised by civil society organisations who press them for details about the violations they suffered but cannot protect their confidentiality. The most egregious example was that provided by Prerana* who was essentially outed by an organisation that was purported to be helping:

160 NA, Interview with Bhuni (K13) (Province 5, Nepal, 1 June 2021).

161 NA, Interview with Prapti (n45).

"I shared with my husband that I was jailed but haven't shared with my husband about the sexual harassment I faced during the conflict.... One person from one of the organisations came to meet me and assured me of support for medicine. I trusted her. Time and again she asked to send the photocopy of the bill of medicine, almost five times. After that, my husband suspected that I was abused in the time of conflict. Then he left me and my children.... My family life is ruined now."

6. Victims formerly associated with armed groups

Among the women interviewed, eight spoke of their time with the Maoists. Some, like Hema, were forcibly recruited; others, such as Avilasha, were inspired by the party's rhetoric and voluntarily joined:

"They said many good things and convinced us to join the Maoist. I had no idea about politics. Without knowing anything I joined the party. I was underground for about 3 years. We went to many places to attack and fight."

Three specifically mentioned having some role in combat. Gauri, for instance,

"was arrested... while there was crossfire happening between a joint force of army and police with our cadres."

It is unclear how many women in total joined or were recruited into the Maoist forces in Nepal, with some estimates placing the number of women combatants as high as 40 to 50 percent of the total force.¹⁶² In January 2007, the United Nations established a special political mission in Nepal (UNMIN - United Nations Mission in Nepal) to assist with the implementation of the then newly signed peace agreement. It was tasked

with monitoring the ceasefire agreements as well as "the management of arms and armed personnel of both sides."¹⁶³ The opposing forces were to undertake the reintegration and rehabilitation of former Maoist fighters themselves, either into the Nepal Army, the police, or in other sectors.

As part of that process, UNMIN assisted with a programme of registering and verifying Maoist army combatants, which included the identification of minors among the ranks. Ultimately, UNMIN was able to verify that 3,846 out of the total 19,602 eligible Maoist combatants were women.¹⁶⁴ Nearly 3,000 under-age combatants were also verified by UNMIN.¹⁶⁵

The disarmament and demobilisation process took place over a period of about six years during which members of the PLA, the Maoist's military wing, were to live in cantonments. Sharada was among those who spent time in a cantonment after the war. While there, she was forced to marry another Maoist for whom she does not "have any feelings."

"I stayed in the cantonment in [location removed] after the peace accord. My husband was also staying in a cantonment in... [another] district. Our headquarters compelled us to get married. The headquarters transferred me... saying that they were taking me for treatment but actually they had planned for my marriage. After the marriage, I tried to commit suicide several times as I was not ready for marriage... But my party compelled me to get married to the person whom they arranged for me. I was not in a stable mental state at that time."

The rest of the former combatants interviewed for this Study appear not to have been confined to a cantonment but instead reintegrated themselves into civilian life by returning home or relocating, as Avilasha did to avoid being recruited again by the Maoists.

162 ICTJ and Advocacy Forum, 'Across the Lines: The Impact of Nepal's Conflict on Women' (December 2010) 25 citing Mandira Sharma and Dinesh Prasain, 'Gender Dimensions of the people's war: Some Experiences of the Rural Women' (2004).

163 UNSC Res 1740 (23 January 2007) UN Doc.S/RES/1740.

164 CPA (n14). An additional 4,008 combatants who registered were disqualified, including 2,973 under the age of eighteen by the time of the ceasefire code of conduct agreement.

165 Child Soldiers International, 'Child Soldiers Global Report 2008 – Nepal' (20 May 2008) <https://www.refworld.org/docid/486cb1ec.html> accessed 27 January 2022.

"I spent a year in jail and then I was released. At that time my mother heard that I had died. Even newspapers had published news saying I was dead... When I returned home from jail my mother cried a lot on seeing me. When people came to know that I was home, many Maoists came to meet me. They asked me to go with them and tried to convince me, but I didn't go. I thought that instead of joining the Maoists I would rather leave this place. It was too much pressure, so I [relocated]... The earnings were not good. I returned home a few days after signing the Comprehensive Peace Accord."

Victims' experiences are consistent with separate research undertaken into the situation of female combatants after the war in Nepal. Ultimately, only a small number of women were able to meet the eligibility requirements for integration into the security forces.¹⁶⁶ Instead, the "vast majority of female cadres simply became invisible and quietly returned to their communities deeply stigmatised and disempowered."¹⁶⁷ Although former adult combatants were to be provided with a small amount of cash (approximately, \$140), as well as rehabilitation assistance by the government and the UN in Nepal which included schooling, vocational training, and help setting up small businesses, none of the CRSV victims mentioned receiving such payments.

As a result, most of the former combatants interviewed for this report remain in the traditional roles ascribed to women in Nepal's patriarchal society, although two are serving as local government officials. Thus, most are focused on their daily needs and the ongoing impact that their wartime participation in the Maoist movement is having today. For Shakti, who was forcibly recruited by the Maoists, she is unable to forgive them for what they did to her:

"We didn't get involved in the Maoist movement out of interest but were forcibly abducted. Our life was destroyed. I can't forgive them ever in my life."

Some, like Gauri, benefitted from an amnesty for charges the government was considering bringing:

"I was kept for ... months in a police station and jail and then released after the Comprehensive Peace Accord. Allegations were made against me in several cases. After the peace accord, the government dismissed those cases, and I was released. I was kept under close surveillance but after the state lifted the cases I was released."

However, most of those who fought on behalf of the Maoists express feeling betrayed and often complain about how they've been forgotten since the peace agreement was signed.¹⁶⁸ As Devaki explains:

"They promised us that everybody will be treated equally. What kind of equality is this? We are discriminated against in policy. They lie to us. We are not getting health treatment. We will never forget the scars and pain of conflict."

Despite the role women played during the war, including as combatants, and the promises of equality made to encourage them to join the fight for change, they were largely side-lined from discussions relating to rehabilitation and integration. In fact, the government committee charged with taking up these issues "did not include a single female member."¹⁶⁹ Improvements in gender balance were achieved during the constitution drafting process, with 32.7% of the 601 members elected to Constituent Assembly. In addition, a Women's Caucus was formed with 197 members from 19 political parties.¹⁷⁰

As such, although on paper, some progress toward gender equality and non-discrimination has been made at the constitutional level, on transitional justice issues, CRSV victims like other conflict-affected victims continue to be marginalised. For those victims who aligned themselves with the Maoist movement, they are vehement about receiving some form of government acknowledgement of the role and contribution they played in bringing "system change" to Nepal and perceive reparations somewhat differently. For them, reparations and in particular acknowledgment, means being recognised for the contribution they made to bring change to Nepal.

166 Roshmi Goswami, 'UNSCR 1325 and Female Ex-Combatants: Case Study of the Maoist Women of Nepal' (UN Women, October 2015) 8.

167 Ibid 10.

168 Of the eight survivors who were associated with the Maoist movement, 3 were indigenous. The remaining five are of high caste, either Chhetri or Brahmin, and two of those have or are serving in government. It is primarily those of high caste who complain about a lack of recognition for their "contribution".

169 ICTJ and Advocacy Forum (n162) 7-8.

170 IDEA, 'Nepal's Constitution Building Process: 2006-2015 Progress, Challenges, and Contributions of International Community' (Stockholm, 2015) 12-13.



Entrance to Kumvar Adda Disappeared and Martyrs Memorial Park, Barbardiya Municipality, Bardiya District, Province No. 5, 2018. (None of the individuals shown participated in this study)
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IX. LACK OF ACCESS TO ASSISTANCE OR INTERIM RELIEF

1. 2008 Interim Relief Programme

Since the end of the conflict, there has been no government relief or reparations programme for conflict-related sexual violence or torture victims in Nepal. To date, the main national benefits programme intended for conflict victims was the Interim Relief Programme (IRP),¹⁷¹ a compensation scheme instituted in 2008 to provide benefits primarily to relatives of the killed and disappeared, who were categorised as “conflict victims”, and approximately 80,000 internally displaced people.¹⁷² That programme, which was administered by the government’s Ministry of Peace and Reconstruction (MoPR),¹⁷³ excluded both torture and CRSV victims.

Ultimately, during its operations, the IRP benefited a total of 14,418 families of those killed during the war, 1,530 families of disappeared persons, 5,659 abducted, and 79,571 displaced with funding from the World Bank and the government of Nepal.¹⁷⁴ The MoPR also provided psychosocial support in ten districts starting in 2013. In addition, as the UN’s Human Rights Committee has reported, “the Government has provided for *ad hoc ex gratia* payments to victims of human rights violations committed during the conflict. However, those policies [also] excluded victims of rape and other forms of sexual violence.”¹⁷⁵

It appears that approximately ten CRSV victims interviewed for this Study may have been eligible as relatives of the disappeared and killed, with six having

received family benefits under the IRP programme. For instance, Sunmaya’s husband, a local official, was killed brutally by Maoists. As a result, she received compensation in the amount of 5 lakhs (NPR 500,000, or approximately USD \$5,000) half of the total paid to wives of those killed (her husband had a second wife). She also received training as a tailor through a programme for conflict victims administered by the Women Development Committee, and her son received a 2-year educational scholarship.¹⁷⁶

Gauri received benefits as a victim of abduction but not for the sexual violations or torture she suffered:

“I received Rs 25,000 from the state as an abducted person just before the local election but was not recognised as a person who faced torture and violence. I am recognised as a person who was abducted in a time of conflict.”

Twenty-four victims, however, have received no form of government support, including at least four who should have received IRP benefits as victims of other crimes. Bhuni, for instance, did not receive support or compensation even though family members were forcibly disappeared. She is a member of the Dalit community, which is among the most marginalised in Nepal, and was unaware about how to apply,

“We had no idea where to ask for help and support.”

171 The programme was called the “Citizens’ Relief, Compensation and Financial Assistance Procedure (CRCFAP)” in the 2010 legislation. Ultimately, the Ministry of Home Affairs took over from the MoPR in administering the programme.

172 Ruben Carranza, ‘Relief, Reparations, and the Root Causes of Conflict in Nepal’ (ICTJ, 1 October 2012) <https://www.ictj.org/publication/relief-reparations-and-root-causes-conflict-nepal> accessed 25 January 2022.

173 MoPR was created on 31 March 2007, with the agreement of key political leaders who had signed the peace agreement. Manish Thapa, Ministry of Peace and Reconciliation in Nepal.

174 Sharma and others (n15) 26–27. For a full list of beneficiary categories, see Conflict Victim Common Platform, ‘Reparative Needs, Rights and Demands of Victims of the Armed Conflict in Nepal’ (May 2018).

175 CCPR, ‘Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013’ (n86) n 7.

176 The Women Development Committee mentioned by Sunmaya appears to be part of a Village Development Committee (VDC) which helped to administer the IRP. VDC’s are known to have had low active participation by women in planning and decision making. UNDP, ‘Assessment of Village Development Committee Governance and the use of Block Grants’ (Kathmandu: Ministry of Local Development and United Nations Development Programme, 2009) 21–22.

This scenario is not unusual, given the IRP's reputation for faulty data collection and other shortfalls in design and implementation, including insufficient funding, a lack of coordination among key stakeholders, and the politicisation of application processes and eligibility determinations.¹⁷⁷

In addition to the IRP, it is possible that some CRSV victims received benefits under other relief and rehabilitation programmes, for instance as internally displaced persons (IDP) or as ex-combatants, although none of the victims interviewed mentioned that fact. The national IDP policy formulated in 2007, for example, provided shelter, food, security, health services, training, and some compensation for return, integration, and resettlement.¹⁷⁸ Some of the victims qualified for support under a separate government programme for single women, but that doesn't constitute recognition as a victim. According to Meena:

"I got an allowance from the government for 9 years for being a single woman but after I got married that also stopped. People said that I was married, and I didn't need any support and didn't even consider me as a conflict victim."

A common thread runs through the government's relief programmes: CRSV victims are ineligible to receive benefits as CRSV victims. The Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2071 (2014 Act) had the potential to improve upon that, although it does not conform to international definitions.¹⁷⁹ It defines "victim" as a

"Person who died or suffered harm in the form of physical, mental or sexual violation or incurred financial loss and damage or detainee and his/her family as a result of the gross violation of human rights in the course of armed conflict, and this term also includes the community which sustained severe adverse impact humanitarially, socially or communally as a result of the gross violation of human rights."¹⁸⁰

The Act also defines "gross violations of human rights" to include "rape and sexual violence," "which were committed in the course of armed conflict directed against unarmed persons or civilian population or committed systematically."¹⁸¹ However, neither rape nor sexual violence are separately defined creating ambiguity around what acts are covered.

As part of its mandate, the TRC was to "make recommendation on reparation to be provided to the victims or their families."¹⁸² However, the law was at best ambiguous about how such a recommendation would be made in cases of sexual violence and rape victims.¹⁸³ Under the 2014 Act, a reparations recommendation is to be made "upon the completion of an investigation." But as many victims of CRSV already found when seeking to file a complaint with the TRC and being turned away, establishing proof of sexual violence is often impossible where physical evidence is no longer available and testimonial evidence is often impossible to obtain, especially not without putting victims at serious risk of social stigma. Victims of rape and sexual violence should not be required to provide physical evidence to

177 Carranza (n172).

178 CCPR 'Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013' (n86) 3. Purna Maya reported receiving interim relief as an internally displaced person in her communication with the Human Rights Committee. Although the complainant had reported her torture and rape to the Chief District Officer in the presence of the perpetrator, no action was taken on those allegations.

179 For instance, this definition is unclear about the status of immediate family members and dependents as victims. Here, the word "family" is used in connection with detainees, which appears limiting. For example, the children of CRSV victims have suffered significant psychological, economic, and other harms because of the crimes perpetrated against their parent. But it is unclear whether they would be considered a victim.

180 The Enforced Disappearances, Enquiry, Truth and Reconciliation Commission Act (TRC Act) (2014) 2(h).

181 Ibid 2(j).

182 TRC Act (n180) 13(1)(d).

183 An amendment to the Act proposed in 2018 might have rectified the longstanding inequity of the Interim Relief Programme by allowing conflict victims who were subjected to torture, rape, or sexual violence to be recommended for "interim relief," and for other possible reparations. However, that amendment was never passed into law. Amended Draft, Section 23 "(1a) While making the recommendation for the interim relief pursuant to sub-section (1), the recommendation shall be made to provide interim-relief only to the victims who have not in the past received interim relief, relief or other support from the Government of Nepal including the victims of rape, other sexual violence or torture, and other possible reparation pursuant this Act shall be taken into account while making such recommendations."

access reparations benefits. Instead, the submission of a statement by victims of rape and sexual violence should suffice to establish eligibility.¹⁸⁴

Similarly, in 2016, the political parties again promised in their Nine Point Agreement to provide “*medical treatment, protection and livelihoods [to] those who sustained injuries during the conflict period and people’s movement.*” However, here, too, CRSV victims were effectively left out, as that programme appeared intended to take the form of additional support to those who had already received benefits, including those killed and disappeared.¹⁸⁵

At the end of 2021, after years of inaction, the TRC concluded investigations in 29 cases and issued reparations recommendations. Based on those recommendations, monetary compensation totalling no more than Rs500,000 (approximately \$3,600) and additional forms of reparation, including possibly interest-free loans, skill development training, and educational scholarships, are being considered. At the time of writing, no decisions had been rendered on CRSV cases. Unsurprisingly, many of the survivors interviewed for this Study remain resentful of the fact that they were excluded from the IRP:

“I haven’t received anything from the government. Many received relief support in the name of conflict victims. We don’t have any evidence of the violence... But my Maoist friend who is in a top position now knows that I am a conflict victim and was arrested by the army. They know everything. But they didn’t do anything for us. If we were provided with the compensation, we could have also done some small business for our sustenance.”¹⁸⁶

This has continued to the current day and is deeply wounding to survivors, as Prapti explained:

“The government didn’t give us priority when they were formulating their interim policies. The family of the disappeared people and people who were killed at least received relief. The government still has not acknowledged our suffering and the incidents we suffered. We were excluded from the category of conflict victim. This is an injustice.”

One need only compare how “families of security personnel” who experienced harm – arising from the 1996-2006 conflict or other causes – have been treated by the government. They are covered by existing social security programmes whether for harms arising from lawful physical violence (e.g., injury from combat) or unlawful physical violence (e.g., torture). Either can be addressed at the Nepal security sector’s relatively well-funded and better-equipped facilities, including its own modern military hospital.¹⁸⁷ In 2019, Nepal also declared 2,807 security personnel as martyrs.¹⁸⁸ On the other hand, and by comparison, both civilians and Maoist ex-combatants victimised by the same lawful or unlawful causes of physical harm have no access to

184 In the context of an administrative reparations programme, greater flexibility should be accorded victims to establish eligibility, as recommended in the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict to “*expand the scope of evidence for sexual violence.*” Given the amount of time that has passed in Nepal since the incidents and the unavailability of corroborating witness testimony in many instances, a presumption of eligibility should be accorded survivors for instance who have made a claim before the TRC and/or previously reported the incident to the many international and civil society organisations who documented conflict-related sexual violence crimes while the war was ongoing and after the peace accords were signed. International Criminal Court Rules of Procedure and Evidence (2002) Rule 63 (“*a Chamber shall not impose a legal requirement that corroboration is required in order to prove any crime within the jurisdiction of the Court, in particular, crimes of sexual violence.*”)

185 Republica (n131) pts 7.4 and 6. (“4. *To provide reparations, as per the decisions taken by previous governments, to the family members of martyrs and those who were made to disappear.*” “6. *To make proper arrangements for medical treatment, protection and livelihoods of those who sustained injuries during the conflict period and people’s movement. To make necessary increment on the arrangements made for those injured who have already been categorized.*”)

186 NA, Interview with Devaki (n5).

187 Rastriya Samachar Samiti, ‘New Military Hospital building starts service’ *The Kathmandu Post* (4 August 2018) <https://kathmandupost.com/valley/2018/08/04/new-military-hospital-building-starts-services> accessed 25 January 2022.

188 Business Standard, ‘Nepal declares 2,807 security personnel as martyrs: PM Oli’ (30 January 2019) www.business-standard.com/article/pti-stories/nepal-declares-2-807-security-personnel-as-martyrs-pm-oli-119013001263_1.html accessed 25 January 2022.

remedies other than what the short-term IRP benefits previously offered, if at all. For civilian and ex-Maoist combatants who survived torture and sexual violence, as already said, there have been no remedies at all.

2. Civil society organisations programmes for conflict-related sexual violence victims

For years now, in the absence of government assistance, civil society organisations have provided beneficial support to survivors of CRSV. At least 13 survivors received direct support or capacity-building training from one of the implementing partners on this Study, Nagarik Aawaz or ICTJ, or from other organisations who have been working with conflict victims, including Women for Human Rights (WHR),¹⁸⁹ The Story Kitchen (TSK), Trial International – Nepal, Advocacy Forum, the Himalayan Human Rights Monitors (HimRights) and Kopila Nepal, among others.

The type, nature, and scope of that support varies by organisation. The Nepal Women Community Service Center (NWCSC),¹⁹⁰ an NGO located in Lumbini province, has arranged for surgeries and other medical treatments¹⁹¹ and is providing psychosocial counselling to some women. Rita talked about the support she received from NWCSC:

"Nobody helped us then [during the war]. Our family was poor, and my parents didn't have money for check-ups. They took me to the hospital, but I didn't get proper treatment. Even my brothers were not earning at that time. Now I am getting treatment after I got involved with NWCSC. They give me psychosocial counselling and they even took me to the doctor. They gave me medicine which is helping me a lot. They also gave me 3 months training on tailoring. Now I want to start my tailoring shop so that I can earn some money."

Advocacy Forum provided rehabilitation, psychosocial support, and legal support,¹⁹² as has Trial International – Nepal.¹⁹³ A few women also mentioned that they have shared their stories with WOREC Nepal,¹⁹⁴ the Tharu Women Upliftment Center,¹⁹⁵ and/or NWCSC.

At least 14 survivors have received individualised psychological counselling, although not all named the provider. Many, like Chandani, have found comfort in the sessions:

"But now I am talking to the psychosocial counsellor, so it has helped me a lot."

Many have also found comfort in group sessions or workshops held by civil society organisations. A few are employed as peace facilitators and some, like Tara, write articles for civil society organisations for pay.

189 NA, Interview with Radha (E24) (Province 6, Nepal, 6 June 2021). "Women For Human Rights, single women group (WHR) is a nongovernmental organization. WHR was established in 1996 to fight for socio-cultural, economic and political rights of single women of Nepal. WHR strives to create a just and equitable society where there will be 'no discrimination on the basis of marital status.'"

190 Nepal Women Community Service Center website (1993) <https://nwcsc.org.np/> accessed 27 January 2022. ("Established in 1993... Nepal Women Community Service Center (NWCSC) is the first women specific non-government organisation in Rapti Zone. Run by a group of dedicated women volunteers, the NWCSC strives for equal status and empowerment of women from rural areas").

191 NA, Interview with Sirish (Y9) (Province 5, Nepal, 13 June 2021).

192 CCPR, "Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013" (n86).

193 Trial International has provided legal assistance, as well as covering the cost of physiotherapy and medical support.

194 WOREC Nepal website (1991) www.worecnepal.org/ accessed 27 January 2022.

195 Tharu Women Upliftment Center (TWUC) (1990) www.twucbardiya.org.np accessed 27 January 2022. "Tharu Women Upliftment Center (TWUC) is a non-governmental, non-profit, grass-root level and service oriented & local social non-governmental organization established in 1990 by efforts of ethnic Tharu women of Bardiya district." "It has a family of 200 general members including 11 active executive committee; all general and executive committee members are women. NGO has 45 female volunteers and 33 male volunteers and 15 paid staff members. It is working in the field of socio-economic development, improvement on health status of disadvantaged, untouchable, ethnic Tharu and other community. To boost up the social, economic, educational and health status of the women, children especially Tharu community is the main objective of TWUC."

Although these civil society initiatives do not come with official acknowledgment, they are helping to build a community where survivors can share their stories without risk of judgment or disclosure; in essence, a “safe space.” Ava* described her experience with NWCSC as follows:

“There are many women like us who are involved in that organisation. They know about my story. They are like my friends. I told them about it. Besides that, nobody knows about it.”

However, not all survivors interviewed for this Study have received support, including eight survivors who reported they have not received any.

3. International responses

To ensure further support for CRSV victims in the absence of ongoing government programmes, it is essential that international, regional, and national donor organisations continue supporting current initiatives and conduct comprehensive follow up research with the local civil society and victims’ groups about lessons learned, what has been accomplished, and what should be done in the future, and that they consider similar initiatives to those undertaken in the past.

In April 2010, for instance, UNFPA and UNICEF jointly implemented a two-year project funded by the United Nations Peace Fund for Nepal (UNPFN)¹⁹⁶ to ensure that “incidences of sexual violence against women and girls during the conflict and post-conflict in Nepal are identified/documentated and victims gain access to justice through participation in transitional justice processes.”¹⁹⁷ That project delivered important services such as reproductive health services,

including surgeries for uterine prolapse; psychosocial counselling; and legal counsel.¹⁹⁸ It also made findings about treatment hesitancy among CRSV victims that should be considered today: “Although 917 women were referred by [Reproductive Health] camps for Uterine Prolapse surgery in hospitals only 74% went to the hospitals despite the fact that they were assured of free transportation and services, in part because of fear of stigma.”¹⁹⁹

In addition, UNFPA has also been implementing a Gender Based Violence Prevention and Response (GBVPR) Project in some districts since 2016. This project includes the training of personnel at One-stop Crisis Management Centres (OCMC), where GBV survivors can obtain health and psychosocial services. As part of that project, government at the local level helped construct safe houses and maintain those already built. Phase II (2020-2024) of that project began in 2020 and is to continue into 2024. That project is designed to expand the model of prevention and response to allow for “more sustainable shifts in attitudes and behaviours of individuals and the community, as well as in governance while enhancing the quality of response services.” It involves working with the police, health and psychosocial workers, teachers, local government structures like the judicial committees, and Hospital/ One-Stop Crisis Management Centres.²⁰⁰

International Organization for Migration-Nepal (IOM) conducted a joint project with the United Nations Population Fund which completed activities in 2015.²⁰¹ That project aimed to “scale up conflict and gender sensitive services addressing post conflict needs of victims of sexual violence.” Prerana received relief under the IOM administered programme. However, that relief was short-lived:

196 UNDP, Multi-partner Trust Fund Office, UN Peace Fund for Nepal (UNPFN) operated from March 2007 until 30 June 2016 <http://mptfundp.org/factsheet/fund/NPF00> accessed 27 January 2022.

197 UNICEF and UNFPA, ‘Ensuring recognition of sexual violence as a tool of conflict in the Nepal peace building process through documentation and provision of comprehensive services to women and girl victims/survivors’ (August 2016) UN Doc PFB/NPL/B-4.

198 UNDP (UNPFN), ‘Final Report on Activities Implemented under the United Nations Peace Fund for Nepal for the Period 2007 to 2016’ (August 2016) 36.

199 UNICEF and UNFPA, ‘Evaluation Report, Ensuring recognition of sexual violence as a tool of conflict in the Nepal peace building process through documentation and provision of comprehensive services to women and girl survivors’ (26 November 2012) UN Doc PBF/NPL/B-4, ix.

200 UNFPA, ‘Gender-based Violence Prevention and Response Project II: Embarking on a New Chapter in Nepal’s Commitment to Ending Gender-based Violence’ https://nepal.unfpa.org/sites/default/files/pub-pdf/final_brochure-english.pdf accessed 28 January 2022.

201 IOM, ‘Building the Foundation for Access to Justice and Reparation for Conflict Related Sexual Violence Survivors (CRSV)’ Migration Health Research Portal <https://migrationhealthresearch.iom.int/proposal/building-foundation-access-justice-and-reparations-conflict-related-sexual-violence-crsv> accessed 6 May 2022.

"I was supported by IOM for medical support for six months. After that they stopped. I recommend organisations to support us for a longer-term. I felt very good while I was receiving medicine. Now Nagarik Aawaz is supporting me Rs. 2000 per month for my medicine which is a big help. I haven't received any support from the government."

In addition, IOM also provided MoPR with a CRSV Case Management Protocol to guide them when standardising existing and new data on CRSV in Nepal and to enable the creation of a centralised CRSV database. Any future programme should take advantage of existing tools such as these.

A full mapping of other past and current programmes for GBV victims in Nepal, including an assessment of the scope and geographic reach of existing programmes, which is outside the scope of this report, should be undertaken to ensure that local services for CRSV victims are accessible as part of a future reparations programme.



A mine-action expert (left) trains local members of the Nepal and Maoist Armies on the safe removal of unexploded devices, 9 July 2007.
© Steve Malloc / UN Photo



X. CURRENT NEEDS

In 2014, ICTJ conducted an in-depth survey of the immediate and long-term needs and aspirations of more than 400 conflict victims in 10 districts of Nepal. Participants included survivors of torture and sexual violence who were ineligible to receive benefits as part of the IRP. The needs most frequently raised by female victims of torture and sexual violence during that study were financial and medical support, including monthly cash allowances, support for repayment of loans, basic subsistence needs, free health care, free education, and employment.²⁰² Yet victims' demands were not limited to the "socioeconomic." Rather, their responses reflected their "holistic notion of the meaning of justice" and their "broader aspirations for reparations that address moral as well as material harms."²⁰³ These included demands for prosecutions, the disclosure of the truth about the serious crimes they suffered, and long-term security and protection guarantees, including the prevention of future human rights abuses.

The same holds true today. The findings of the current Study track the findings of the 2014 report closely, with survivors expressing a need for "multidimensional support" or "holistic reparations."²⁰⁴ They still primarily include health care and economic assistance, and, although few in the group used the word "justice," the need for addressing non-material harms in the form of truth, prosecutions, and guarantees of non-recurrence and security protection persists.

In the ranking of current needs, the need for medical treatment remains among the top concerns, as do socioeconomic needs, which comprise three of the top six most frequently mentioned needs: financial support (referred to variously as "regular income," "compensation," "economic support," "financial problems"), educational support, and employment

(described as "regular jobs," "income-generating activity," "jobs with stable income"). "Basic subsistence needs" ("food, clothing, shelter") were mentioned separately and encompass similar, albeit potentially more dire, concerns. Medical treatment also includes a financial component, as almost all victims need free health care, as well as better access to care.

This is not surprising given the demographic profile of CRSV victims, with most survivors coming from marginalised communities many of whom are living on the poverty line.

In addition, during the 2014 interviews, most survivors did not articulate a strong "distinction between their immediate and longer-term needs, tending to list all of their needs as immediate and repeating them when asked about longer-term hopes."²⁰⁵ A similar pattern emerged in the interviews conducted for this Study, with only a few survivors looking farther into the future to identify long-term needs. The few that made a distinction generally did so when describing benefits as "long term support" or "lifetime compensation." For the other survivors, the present is dominated by matters of survival and immediate needs, which undermines any real ability to imagine a future. Sabina when asked about her hopes replied simply,

▮ *"I don't know. I can't think of anything."*

Because of the multidimensional nature of victims' needs, this section groups related needs together with the different categories ordered based roughly on the number of times victims mentioned them, from most to least, in the Current Needs Chart below. Victims' preferred types and modalities of reparations measures are discussed in section XIII (Victims' Views and Priorities on Reparations).

202 ICTJ (n8) 47-49.

203 Ibid 2.

204 NA, Interview with Prapti (n45).

205 ICTJ (n8) 47-48.

“I did too many treatments, but my health didn’t improve. My children couldn’t study. Even I couldn’t work anywhere. We spent everything on medicine. Even my husband couldn’t go anywhere to earn because of me. He had to look after me. If the government opened an account in my name and compensated me that would give me satisfaction.”²⁰⁶

1. Medical treatment and psychosocial support

Due to the torture and violence women suffered during the armed conflict, almost all the respondents mentioned one or more existing physical and/or psychological elements that still require treatment. Free healthcare, medicine, and/or medical treatment were thus mentioned as a priority of survivors.²⁰⁷ In addition, two survivors described what they are owed as a form of restitution for costs already incurred to obtain medicine and medical treatments.

For many, like Prerana, the need for free medical and psychological treatment is urgent.

“My health condition is very bad. Still, I cannot walk properly if I don’t get medicine regularly. Many times, I have suicidal thoughts looking at my physical and financial conditions. Due to COVID, still my chest pains a lot. My needs are increasing day by day as my children are also growing up and my health condition is deteriorating. I have a urethral discharge problem. If I do heavy work, my back starts to ache. My leg doesn’t work properly. There is a small wound in my leg and there is puss inside.”²⁰⁸

The women still face physical disabilities that affect even the most basic aspects of their lives. In Prema’s experience:

“I was sick for very long. Even today it is difficult for me to sit. It is a problem for me to use the toilet. The western style toilet is easier for me but the eastern style that is in our village is very difficult. I can’t sit properly in such toilets ... All this is because of that incident. I can’t even do housework ... Earlier I could collect grass for the goats but now I can’t. I can’t carry heavy loads.”

Although some have received assistance from civil society organisations to address some of these needs, those programmes are often short-term. As a result, survivors report suffering recurrences of already treated physical conditions. Post-traumatic stress disorder, of which many survivors show symptoms (e.g., flashbacks, nightmares, and anxiety), also appears particularly resistant to short-term treatments, as Prapti explains:

“The flashback of the incidents still scares me. I even wake up in the middle of the night; scared by the traumatising experience. It eased after I started to get involved in a [trauma] programme at a local organisation and after I shared my multilayer trauma with others which I was carrying for a long time... But still, the flashbacks of the incident come and go. At that time, I get scared and wake up.”

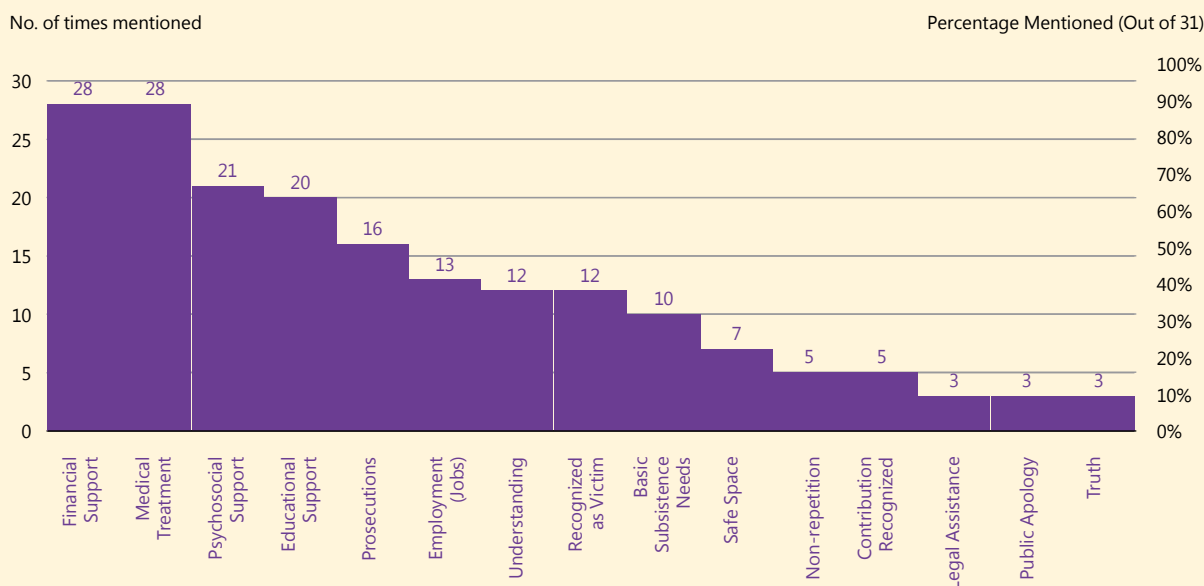
Those suffering from suicidal ideations like Prerana and Shyama are at immediate risk and in need of urgent outreach and treatment. To address these needs, victims should be provided with both free medical

206 NA, Interview with Shyama (L12) (Province 5, Nepal, 30 May 2021).

207 With 26 mentioning medical treatment and 21 mentioning psychosocial support.

208 NA, Interview with Prerana (I28) (Province 3, Nepal, 27 June 2021).

CURRENT NEEDS OF THE VICTIMS INTERVIEWED FOR THE STUDY



care and psychosocial counselling since most cannot afford regular treatment on their own. As such, any future reparations effort should include a suicide prevention and outreach programme by mental health professionals and NGOs for CRSV victims. This effort could help address the longstanding need in Nepal for mental health programming generally²⁰⁹ and for psychosocial support for women and sexual minorities in particular.²¹⁰

2. Financial support and jobs

The victims of CRSV face dire financial situations stemming from the incident and the many structural inequalities and intersecting forms of discrimination women face in Nepali society, which are made manifest in broken homes, dysfunctional family and community

situations, low levels of educational achievement, illiteracy, and a lack of jobs. At least two victims are the “sole breadwinner” in their household and were compelled to care for their children alone, after being thrown out of their homes because of the CRSV.

Consistent with our findings on ongoing harms, victims placed a high priority on individual reparations in the form of financial support and employment opportunities. Some combined forms of economic support, with eight of the 31 respondents listing medical and educational support together with job opportunities; twelve cited both medical support and employment opportunities; and one expressed a desire for financial “independence.” In a few instances (five of 31), victims asked for employment opportunities for themselves as well as for family members. Avilasha was one of these five:

209 WHO (The Global Health Observatory), ‘Mortality and global health estimates: Suicide Rates’ www.who.int/data/gho/data/themes/mental-health/suicide-rates accessed 27 January 2022; UNICEF, ‘Nepal Case Study: Situation Analysis on the Effects of and Responses to COVID-19 on the Education Sector in Asia’ (October 2020) 12. In 2019, the WHO reported that Nepal ranks fourth in overall (male and female) rates of age-standardized suicides and fifth in the rate of female suicides in south-east Asia. Since the advent of the COVID-19 pandemic in March 2020, suicide rates are reported to have increased with “1,350 persons (including 319 children and 876 women) are reported to have died by suicide.”

210 Suresh Thapaliya, Pawan Sharma and Kapil Upadhyaya, ‘Suicide and self-harm in Nepal: A scoping review’ (2018) 32 *Asian Journal of Psychiatry* 20-26. As a 2018 scoping review of published studies on suicide and self-harm behaviour in Nepal showed the role causative factors such as interpersonal relationship problems, life events, and cultural stressors have on female mental health and eventual suicidal ideation. For married women, these include “*failure in romantic relationships, forced marriage, inter-caste marriage and marital disharmony due to real or rumoured second marriage of spouse to be involved;*” and in unmarried women “*chronic illness.*” For gender minorities, the role of perceived discrimination based on their sexual orientation and its impact on suicidal ideation. These findings warrant additional research and renewed effort to address the structural inequalities and practices that subjugate women and sexual minorities and contribute to mental health crises.

"We are not young anymore. My husband is also [over 40] years old already. We try and work as much as we can but until then he can do the labour work. He is getting old. If my husband got any kind of work, then that would help us."

Victims expressed needs can be grouped into two broad categories 1) various forms of direct financial support including help with basic subsistence needs, access to free or discounted services, compensation, assistance with the repayment of loans, and educational scholarships for their child(ren) and 2) employment opportunities, including business opportunities and jobs, consistent with their physical condition and capacity.

This demand for one, the other, or both, likely reflects the fact that some survivors can no longer do physical labour because of physical injuries and do not have the education needed for other jobs.

"I can't do any heavy work. I can just look after the pigs and goats."²¹¹

Out of 31 respondents, 25 expressed a need for financial support and job opportunities because of the limitations presented by a physical condition.²¹² Over a quarter of respondents specifically mentioned being "unable to do heavy work" or said they could not "sit for long hours." Both conditions make consistent work difficult. As a result, for some, the best option is to work for themselves running a small business, as Dilmaya explained:

"Currently, my pressing needs are my health and difficult economic condition. I am in serious need of an income-generating opportunity. I want to open a simple small meat and vegetable shop. I had even bought some bricks to build a small shop but due to the limitation of the budget I couldn't do so as I am ill... If I get support for this, many of my needs and problems will be settled. I looked for a loan and also have asked my friends and family circle, but no one trusts us."

Others preferred job training, like Rita:

"I have recently taken training on tailoring. I hope that I can take it forward.... I can't stitch fancy clothes, but I will eventually learn.... Here in the village people stitch their clothes so I can earn money from tailoring. I want advanced training too."

Given the opportunities available to women in Nepal, most income-generating activities are unlikely to address the level of extreme poverty the survivors face. Ultimately, sustained financial support in the form of a pension or monthly cash allowances and perhaps loan repayments are needed, like the living allowances paid under the IRP to victims assessed to have more than a 51% disability²¹³ and the government support provided to single women because of their vulnerability.

In addition, among the most mentioned types of financial support referred to by the survivors interviewed for this Study was educational support. Out of 31 respondents, 18 identified the need for educational support for their children and 2 for themselves. Since many of them are living near or below the poverty line, educational costs cannot always be prioritised, which puts their children's futures at risk, something they understand too well, with more than half still supporting dependent children at home.

"We need immediate support for our children's education. Children are the future of our country. We were left behind. At that time, we even couldn't eat properly, getting an education is far from our imagination."²¹⁴

211 NA, Interview with Sirish (n191).

212 Although six focused on other needs during the interview, they too are experiencing significant financial difficulties and are also in need of economic support.

213 Conflict Victims Common Platform, 'Reparative Needs, Rights and Demands of Victims of the Armed Conflict in Nepal' (May 2018) 11.

214 NA, Interview with Prapti (n45).

3. Punishment for perpetrators

"If only one person can be punished, many will be healed."

With those words, Dilmaya distilled the desires and realities of some CRSV survivors in Nepal. More than half the women interviewed (16 of 31) insisted that an essential component of any programme of redress is punishment for the perpetrator(s). A few have already taken steps to make that happen, like Prapti, who filed a case *"in the high court with the support of Trial International."* Others, like Ganga, have shared the name of the perpetrator in an open forum:

"I have openly shared the name of the policemen who were involved but nobody does anything. They should be punished."

Smriti participated in an international human rights conference in the United States. Others shared the details of the crime with the TRC.

Yet at the time of writing this report, there have been no meaningful criminal trials, only a few perfunctory processes behind closed doors before military courts, courts martial, or the so-called "people's courts" established by the Maoists that ended without meaningful sanctions.²¹⁵ This is true despite the fact that the identities of some are known, as one survivor explained,

"[t]here are many perpetrators who are recognised by our other sisters who went through similar incidents to mine."²¹⁶

In many cases, the survivors interviewed for this Study understood the challenges inherent in criminal processes, including the difficulties of proving culpability:

"If the perpetrator is punished only then will I be satisfied. I don't recognise the perpetrator as I was gang-raped in another village in a dark room. It's been a long time as well."²¹⁷

However, they also emphasised the importance of holding perpetrators to account publicly so that those who committed the crimes and society at large will be forced to confront both the crime and the consequences.

"If the person who harmed me can internalise how he would feel if the same incident happened to his daughter and sister. Only this gives me satisfaction."²¹⁸

Although many survivors seek criminal accountability, they also understand that retributive justice alone is not likely to be enough. Additional reparative measures designed to restore their dignity are also essential:

"Even if the people who inflicted harm to me were brought in front of me, chopped up and killed as well, I won't be satisfied. Having said that, if those perpetrators are punished then I might feel some level of satisfaction. But I have seen many of my friends struggling with their health and economic condition, if it can be addressed maybe they will be satisfied. They also say the perpetrator must be punished. Many of them also want their respect and dignity to be restored through programmes. I also feel the same."²¹⁹

Sunmaya tied the lack of accountability to the ongoing crisis of sexual violence in Nepal:

"I hope that government will punish all the rapists. Even today they are not doing anything when there is news of rape every day."

215 HRW, 'Silenced and Forgotten: Survivors of Nepal's Conflict-Era Sexual Violence' (2014) <https://www.hrw.org/report/2014/09/23/silenced-and-forgotten/survivors-nepals-conflict-era-sexual-violence> accessed 27 January 2022; HRW, 'Waiting for Justice: Unpunished Crimes from Nepal's Armed Conflict' (2008) www.hrw.org/sites/default/files/reports/nepal0908web_0.pdf accessed 27 January 2022. Human Rights Watch has documented two cases in which local Maoist leaders accepted rape allegations and punished the perpetrators "by publicly beating them and forcing them out of the village." These proceedings however did not "provide fair or adequate redress for such crimes."

216 NA, Interview with Dilmaya (n125).

217 NA, Interview with Rashila (E25) (Province 6, Nepal, 9 June 2021).

218 Ibid.

219 NA, Interview with Shyama (n207).



People's Liberation Army (PLA) fighters.
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4. Recognition and acknowledgment (including apology and victim identity cards)

For almost one-third of victims, there is a strong and abiding sense that if they are ever to establish themselves again *"in our society with respect"*, they must be formally recognised and acknowledged, even if not personally. Monetary compensation and free services can start to address the economic harms they suffered. And criminal accountability

can determine responsibility and the guilt of those who violated their rights. But for some, only public acknowledgment of the crimes and some form of recognition of their status as victims are likely to help lift the shroud of stigma that has enveloped their lives.

Survivors suggested several forms of acknowledgment that could help with that process. A formal public apology could be issued by the government, as a form of collective reparations that is part of a larger package of benefits:

"We need support for the physical harms that we faced, education for our children, and economic support as well psychosocial support. The state must ask for a public apology for our suffering."²²⁰

220 NA, Interview with Prapti (n45).

An official apology would have the advantage of maintaining victims' anonymity while raising awareness in society. That was the approach taken in Sierra Leone when then-President Ernest Bai Koroma apologised to the *"mothers, sisters, partners, and female compatriots for what we let them go through during the war."*²²¹

Shyama expressed a preference for a personal apology delivered by the perpetrator "In front of my community":

"The person who inflicted torture and violence on me was a Maoist cadre... He started to tell people that what he did was his mistake and that he wanted to come to say sorry to me. Many people shared that with me. They told me to forgive him. But I can't. In my lifetime, I can't forget the torture, allegations, and the violence that I faced because of him and his friend. If he came in front of my community and asked for an apology maybe I can accept it. But only coming to me and saying an apology alone is not acceptable to me. He should ask for an apology in front of my community and my community should understand I didn't do anything wrong."

The women see a public apology as a way of changing social attitudes and building trust. Indeed, the very first demand in the Charter of Conflict Victims (*Dwanda Pidotko Badapatra*) adopted by the National Conference of Conflict Victims on Transitional Justice on November 20–21, 2018, was for an apology or other form of public acknowledgment: *"In order to create a foundation of trust, the State, the then insurgents and the top leadership of the major political parties must*

*through public acknowledgement express remorse and tender apologies for the human rights violations committed during the decade-long armed conflict."*²²²

In addition to an apology, five survivors interviewed for this Study mentioned that the State must acknowledge their status as conflict victims by issuing an official *"identity card with respect."* For them, an official card would provide acknowledgment, while at the same time facilitating access to services.²²³ These victims along with seven others believe it is essential for them *"to be categorised as conflict victim women"* to create an *"environment"* in which *"when we go out nobody can hate us."*²²⁴ As discussed further below, formal recognition should be considered carefully to ensure that CRSV survivors cannot be identified as CRSV victims merely because they possess a victim ID card or have access to certain services, perhaps by making ID cards and the services part of a broader benefit programme for victims of all conflict-era violations, like the families of those who went missing during the conflict who were issued ID cards by the CIEDP.

Similarly, for those who aligned themselves with the Maoists during the war,²²⁵ they seek a particular form of acknowledgement for the role they played in the *"movement"* and for the *"contribution"* they made to bring about societal change and the success of the Maoist party.

*"It is because of our contribution that the Maoist party came into its position. Many nights we walked with them without any food and water. But we were never acknowledged. Now they are in power, but they didn't do anything for us. They've done an injustice to us."*²²⁶

221 President Ernest Bai Koroma, 'Statement on International Women's Day' *The Sierra Leone Web* (27 March 2010) www.sierra-leone.org/Speeches/koroma-030813.html accessed 26 January 2022.

222 Conflict Victims Common Platform, 'Charter of Conflict Victims (Dwanda Pidotko Badapatra)', adopted by the National Conference of Conflict Victims on Transitional Justice (20 – 21 November 2018, Kamaladi, Kathmandu).

223 NA interview with Neeta (L31) (Province 5, Nepal, 29 May 2021).

224 Ibid.

225 There were at least eight victims with that profile: M4, A11, R15, A5, I18, I33, I1, A2. Of the eight, five specifically complained about the lack of recognition by party leadership.

226 NA, Interview with Devaki (n5).

Gauri expressed this shared sentiment well:

"Looking at this political context, I don't think our struggle will ever be acknowledged. We need to be honoured by the government as warriors for system change. By doing so, we will feel respected, and our contribution will be honoured in the historical documents of Nepal. We must be honoured as warriors for system change officially, by the state by providing us the certificate of appreciation."

It is hoped that official recognition would bring them respect. Greater recognition is also seen as a potential way to improve their self-esteem. In the words of Devaki,

"If they do so, this will strengthen our self-esteem. We can feel that we didn't do anything wrong and feel good. The wound that we've carried for a long time, which still hurts us, might be healed."

5. Community understanding and awareness-raising

There is also a related need for greater societal understanding about CRSV and the lack of culpability of survivors for the incident. Out of 31 respondents, twelve respondents stated that their family and community need to understand that survivors are not at fault for what happened during the conflict. Survivors like Prema are tired of being blamed:

"People even talk about us saying that we fed the Maoists and that is why the army raped me. When I think about it, I feel like my heart is on fire."

Tara, who was cast out from her home after her husband found out and then "humiliated" her in the community, wants people to understand that:

"I didn't do anything wrong. My married life was destroyed due to this incident. I was not able to become a good wife, a good daughter in law and a good daughter as well."

Similarly, Dilmaya wants to no longer be "blamed for being characterless for the incident which was not our mistake and choice" and "to live [her] life with dignity." To do this, she explained,

"It is necessary to make people aware that it was not our fault. Therefore, the state should also initiate such kind of initiatives whereby we can be established in our society."

This awareness-raising does not mean that the individual crimes suffered by survivors interviewed for this Study should be made known. The importance of maintaining confidentiality remains a high priority of those interviewed, as it was in 2014, although of the 22 women interviewed for that study, most had already told their husbands about the rape or other abuses they had suffered. That is not the case of the women interviewed for this Study. Out of the 31 interviewed, around 21 have not yet told their husbands.

Instead, understanding is presented as a transformative goal that has the potential to raise societal awareness to help victims overcome the potential for social stigma and to allow them to go public with their stories, if they so choose.²²⁷

227 Conflict Victims Common Platform, 'Reparative Needs, Rights and Demands of Victims of the Armed Conflict in Nepal' (May 2018) 29. In its report, the CVCP highlighted CRSV victims' need for a "conducive environment" and for maintaining confidentiality: "Victims of rape and sexual violence prioritized creation of a conducive environment to receive medical treatment along with maintaining confidentiality as their utmost need. In the consultations, victims of rape and sexual violence especially women victims emphasized on needs to remove social discrimination and stigma; to restore dignity and respect as well as rehabilitation in the society. They also stressed on a greater need of ensuring that they would not be re-victimised in the future and demanded a guarantee of non-repetition."

“We need to be culturally and socially established. People need to understand that we didn’t make any mistake. If they understand we can also openly share our incident.”²²⁸

Such awareness-raising could come about through processes undertaken by the TRC, for instance, by convening closed hearings where victims of sexual violence could testify with protective measures in place to ensure anonymity and then issuing a report of the findings. Or, public testimony could be offered by one or more survivors, as occurred in Tunisia on the first day of hearings held by Tunisia’s national Truth and Dignity Commission. There, a male survivor of sexual violence testified before those assembled in the hearing room and before a large audience following live on TV and the Internet.²²⁹ As mentioned, a few CRSV victims in Nepal have already provided testimony in other settings and could be offered the opportunity, if willing and provided with protective and psychosocial support measures, to do so.

Informational hearings could also be convened by the TRC at the national and local levels around the topic of CRSV at which experts and government officials with knowledge about CRSV and more generally GBV could share research and information. During these sessions, connections could be drawn between the violence that occurred during the conflict, the conditions that allowed GBV to be normalised then, and the how those conditions continue today.

However, as CRSV victims emphasised, no one appears particularly optimistic about the likelihood of the TRC taking any kind of action anytime soon on individual CRSV victim cases or to *“find out and record the truth and bring it out to the general public”*.²³⁰ *“Our transitional justice process is very slow. I don’t even remember when I filed my case with the TRC. It was long ago but nothing has happened. I have lost hope. I have even stopped discussing these issues.”*²³¹

As of result, in the meantime, awareness-raising campaigns should be undertaken by other State bodies like the Ministry of Women, Children and Senior Citizens or the NHRC, to promote the “community understanding” CRSV victims’ seek. Such awareness raising to promote understanding around the war would benefit not only CRSV survivors but also non-conflict related GBV victims and potentially advance understanding about the many forms of institutional, structural, and systemic discrimination imposed on women, girls, and sexual minorities in Nepal.

6. Creating safe spaces where victims can share their stories

Out of 31 respondents, seven expressed the need for a safe space where women can meet, share their stories, and support one another.

“I wish there was a space where I could share my problems and difficulties.”²³²

The desire for a “safe space” comes out of the victims’ need to be understood and acknowledged not only by society more broadly, but also by those who understand them well: their fellow victims. As Dilmaya explained,

“We go to the programs of different organisation where we feel very good to meet with our sisters who went through the similar suffering and supporting us for our own individual healing.”²³³

228 NA, Interview with Sharada (n109).

229 Sibley Hawkins and Kelli Muddell, ‘Men and Boys are Victims of Sexual Violence, Too’ (ICTJ, 27 March 2017) www.ictj.org/news/men-boys-victims-sexual-violence accessed 26 January 2022.

230 TRC Act (n180) s 13(a).

231 NA, Interview with Ganga (n149).

232 NA, Interview with Chandani (L22) (Province 5, Nepal, 2 June 2021).

233 In Nepal, it is common for women to call one another sister as an honorific.

However, it also reflects an abiding need for strict confidentiality, which now can be found mainly in the presence of a few trusted civil society interlocutors, victims' groups, and other CRSV victims. The challenges at stake are summed up well by Devaki:

"The organisation can help us by conducting a separate meeting with us to explore our needs confidentially. By doing so, we can feel that somebody is listening to us which motivates us to share our true stories. For this, we need a safe space. Then they can help us to obtain the [reparations] benefits in a confidential manner."

As a result, consistent with *Do No Harm* principles, future efforts to establish "safe spaces" should be organised and/or administered with the assistance of organisations and ministries with demonstrated success bringing women together without breaching their confidence. Organisations like WOREC, UNFPA, and Nagarik Aawaz, one of the implementing partners on this project, have been providing safe spaces for CRSV and other GBV victims to meet and access medical and psychosocial support. In addition, the NWC has been operating crisis management centres, as have the Ministry of Health and Population and the gender empowerment unit in the office of the Prime Minister and the Council of Ministers.²³⁴ They provided free legal and psychological services to women and girl victims of violence, although none of the CRSV's victims mentioned those centres. Those working in these facilities, whether those run by the government or NGOs, should be consulted about what works and what does not. Future programmes could then be funded through government and international grants consistent with that guidance.

7. Guarantees of non-recurrence and security protection

At least five survivors are also looking to the future and the importance of preventing a recurrence of violence, some by referencing what they called "the four pillars" of transitional justice, which they define as accountability, truth, reparations and non-recurrence. For instance, Sunmaya addressed recent sexual violence incidents and connected them to the abuses she suffered during the war:

"I hope that government will punish all the rapists. Even today, they are not doing anything despite news of rape every day. When I hear about rape cases, I remember my incident. I wish nobody must go through such torture. But I hear news of such cases even today. Small children are raped. I don't know what the government is doing. The government should punish such rapists. I had to run here and there shouting for help. So, I feel that these young girls must be going through the same. I feel very bad."

Their expression shows how long-lasting the painful impact of war is for women and how long it takes to heal. As Prapti put it,

"I wish this kind of incident/violence never happened to anyone and especially to our children and others as well. Such kind of conflict that we experienced should never be repeated."

Rita put it in even simpler terms:

"I hope that nobody has to go through such pain again."

Given the levels of ongoing violence, both inside and outside the home, some survivors including Hema expressed fear for their personal safety and seek "a guarantee for our holistic (physical, cultural, social, economic, and psychological) security." As mentioned, five of the women are still experiencing violence at the hands of their spouses. Four were thrown out of their homes. Recurring physical violence is very much a fact in their lives, as is psychological abuse. It is also a fact of life for the other victims too.

Because Nepal has failed to address CRSV in any meaningful way (not through criminal accountability, truth-seeking, reparations, nor through changes in applicable statutes of limitations or other laws that restrict victims' access to justice), violence against women, girls, and sexual minorities remains normalised. The same culture of silence that existed during the war persists today, leaving not only CRSV survivors vulnerable to ongoing violence, but others as well. Concerted effort is needed to break that silence and to stop the cycles of violence perpetuated not only by State actors but also by others.

²³⁴ The Gender Coordination and Empowerment Unit was established in the Office of the Prime Minister and Council of Ministers (OPMCM) in 2010 and among other things monitors implementation of the National Plan of Action against GBV.

| 8. Knowing the “truth”

Three respondents expressed a specific desire to know the “truth” about the harms inflicted on them during the war,²³⁵ when asked about reparations or about their current needs.

“I want to know the truth about the incident that happened to me,”

said Tara. For two of the survivors, the truth seems to be tied to getting more information about the attack they suffered – the “truth about the incident that happened to us” – as Tara phrases it, “why our human rights were violated.” For her, the effort to unearth the truth makes her feel less alone:

“Earlier I felt I was the only one who suffered from the armed conflict. I used to cry the whole day but now we are searching for truth about the incidents that happened to us. There is still a deep pain inside, but we can’t show it from outside.”

For Neeta, the truth also needs to be told so that “the new generation” knows about “the past conflict” and people are “aware about the past history.” Nearly

15 years since the conflict ended, there is still a need for outreach within families and communities to build understanding about the truth of what happened during the war and what others suffered as a result. As one survivor who serves as the vice chairperson of a municipality admitted, she doesn’t know “what other women [who faced sexual violence during the war] go through every single day.” She expressed a hope that

“Maybe even just listening to their stories will help them.”²³⁶

Ideally, the TRC would “find out and record the truth and bring it out for the general public”, as required by its mandate.²³⁷ As the repository of over 63,000 complaints, it should be among the best placed entities to assemble the full record of what happened and to inform victims. However, to date, the commission seems bound and determined to focus on investigating “incidents of gross violation of human rights,” instead of meeting its other responsibilities to “find out and record the truth and bring it out for the general public” and to make “recommendation for action including reparation.” Without a deeper understanding of what happened and why, the prospect of meaningful change is likely to remain a distant goal. This approach also demonstrates a fundamental misunderstanding of the functions of a truth commission to the detriment of all victims. It has also not been adequately resourced or sufficiently supported (politically, technologically, nor technically). Additional resources and support should be made available to ensure this is remedied and that aspect of its mandate is completed.

235 Not everyone used the word “truth.” Some spoke in more general terms of needing to know or understand why they were attacked.

236 NA, Interview with Ganga (n149). (“Even though I won the election and am working as a vice chairperson I haven’t been able to do anything for the women like me who faced sexual violence during the war. It makes me sad. I come to work every day and meet lots of people which helps me to forget my pain to some extent. I don’t know what other women go through every single day. Maybe even just listening to their stories will help them.”)

237 TRC Act (n180) s 13(a).



Bagmati River, Kathmandu, Nepal, 2017.
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XI. AVENUES FOR REPARATIONS

1. Obligations and commitments under international and domestic legal and policy frameworks

Nepal is obligated to provide an effective remedy to victims of violations of international human rights and humanitarian law, consistent with its commitments under core human rights conventions, optional protocols, and other treaties it has signed. These include, most notably, the four Geneva Conventions signed in 1964, and the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT), both signed in 1991.²³⁸ Under CAT, among other things, Nepal committed to ensuring that a victim of an *“act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible,”* and under the Geneva Conventions to *“enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches”* of international humanitarian law.²³⁹

Nepal has not met these commitments. Nor has it signed the Rome Statute²⁴⁰ or ratified the Convention for the Protection of All Persons from Enforced Disappearance.²⁴¹

Similarly, although it made numerous commitments during the peace process to righting the wrongs done during the war, including those perpetrated against

women and girls and marginalised populations, those commitments have not been fulfilled. The Decision of the Summit Meeting of the Seven-Party Alliance and the Communist Party of Nepal (Maoist), signed on 8 November 2006, included broad commitments for *“providing appropriate relief, recognition and resettlement for the family members of those killed in the course of the conflict and for those injured and rendered handicapped and disabled.”*²⁴² In the later Comprehensive Peace Agreement (CPA), both sides also ensured that *“impunity will not be tolerated”* and *“the right of the victims of conflict and torture and the family of disappeared to obtain relief.”*²⁴³ Yet, although Nepal has provided some “relief” to a few victims, it has abdicated its responsibility to torture and CRSV victims, who have received no relief for the harms and continuing consequences of those crimes.

The only step that the government has taken to advance CRSV victims’ rights as part of the country’s transitional justice processes has been the creation of a truth commission for *“establishing the facts on those involved in gross violations of human rights and those who committed crimes against humanity in the course of the armed conflict.”*²⁴⁴ In 2014, Nepal’s parliament, the Constituent Assembly (CA), enacted the TRC Act, providing a legal framework for transitional justice in Nepal. Under the TRC Act, two commissions – the TRC and the CIEDP – were created in 2015, with the former responsible for CRSV cases. But since then, as discussed further in subsection 3 below, although the

238 Nepal has also signed eight humanitarian conventions, including the four Geneva Conventions of 1949, and 11 ILO Conventions, among others. Among the other notable accessions or ratifications are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Covenant on Economic, Social and Cultural Rights (CESCR); the Convention on the Prevention and Punishment of the Crime of Genocide, and the Convention on the Rights of the Child (CRC). (See Annex XX for additional information.) For a more complete listing of Nepal’s international treaty obligations, see Annex XX and UN OHCHR, ‘Status of Ratification Interactive Dashboard’ <https://indicators.ohchr.org/> accessed 26 January 2022.

239 Convention (IV) relative to the Protection of Civilian Persons in Time of War (adopted in Geneva 12 August 1949) art 147.

240 In July 2006, a few months before the Comprehensive Peace Agreement was signed, Nepal’s House of Representatives issued a resolution directing the government to ratify the Rome Statute. However, that resolution was not followed. In addition, in 2011, Nepal included ratification of the Rome Statute in its Action Plan on Implementation of UPR Recommendations during the 1st cycle of its Universal Periodic Review. It has however taken no further action toward ratification since that time.

241 Among the omissions are the Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

242 Decisions of the Summit Meeting of the Seven-Party Alliance and the Communist Party of Nepal (Maoist) (8 November 2006) art IV(1).

243 CPA (n14) art 7.1.3.

244 Decision of the Summit Meeting of the Seven-Party Alliance and the Communist Party of Nepal (Maoist), (n267) art IV(4). Nepal has also established a commission for resolving questions involving enforced disappearance during the war.

TRC has collected a small number of complaints from CRSV victims, it has made no progress on revealing the truth around wartime sexual violence, nor has it advanced CRSV victims' claims for reparations. Instead, its operations have been hampered by a lack of political commitment by Nepal's leaders. It has not received either the necessary budget or human resources to carry out its work. And because of a statutory requirement for annual renewals of its mandate after an initial two-year term, it has operated in a constant state of uncertainty.

This is all part of a larger pattern. On paper, the government of Nepal and its political leadership have repeatedly promised to advance human rights and a broader reform agenda. However, in practice, those commitments have almost always fallen short or failed entirely, either stalled or subverted by powerful spoilers who continue to protect their interests at the expense of victims. They have done this by, for example, impeding progress on necessary changes to the applicable law, many required by Supreme Court decisions, and by sabotaging any opportunity to advance investigations, whether domestically or internationally. This is particularly true in regard to cases involving CRSV.

For instance, in the CPA, the parties made a number of overarching commitments to a broad-based reform agenda "to carry out a progressive restructuring of the state to resolve existing class-based, ethnic, regional and gender problems" and to abide by "universally accepted principals of fundamental human rights."²⁴⁵

In the immediate aftermath of the war, Nepal's government moved promptly to adopt an interim constitution in 2007 and elected a constituent assembly for the purpose of writing a new Constitution. The actual drafting process took years but finally came to fruition in 2015 with the adoption of a new Constitution.²⁴⁶

The 2015 Constitution guarantees many fundamental freedoms and rights to citizens, some with implications for CRSV victims. These include the rights: to "live with dignity" (article 16); to information including for victims of crime (articles 21 and 27); "to seek basic health care services from the state" (article 35); "to food" and "to be protected from a state of starvation" (article 36); and "to appropriate housing" (article 37).

The 2015 Constitution includes the right to be free from torture among the most fundamental rights and freedoms of society. Article 22(1) states, "No person in detention shall be subjected to physical or mental torture, or be treated in a cruel, inhuman or degrading manner." It also guarantees victims of torture the right to reparations in the form of compensation as provided for by law. A similar provision existed in the 1990 constitution which was applicable at the time of the war, discussed further below.²⁴⁷

The CPA also contained general commitments ensuring that the violence perpetrated against women and children before and during the conflict would not continue.²⁴⁸ Under article 20 of the interim constitution, women were guaranteed the following rights:

"(1) No discrimination of any kind shall be made against the women by virtue of sex. (2) Every woman shall have the right to reproductive health and reproduction. (3) No woman shall be subjected to physical, mental or any other kind of violence; and such act shall be punishable by law. (4) Sons and daughters shall have the equal right to ancestral property."

The 2015 Constitution also contains provisions specific to violence against women. Article 38(3), for example, specifically addresses violence against women, according to which "no woman shall be subjected to physical, mental, sexual, psychological or other forms of violence or exploitation on the grounds of religion or

²⁴⁵ CPA (n14) arts 3.4-3.5.

²⁴⁶ Nepal has had seven constitutions over its history. Under the 1990 Constitution, which was applicable during the conflict, Nepal was a "Hindu and Constitutional Monarchical Kingdom" and women were guaranteed only three seats in the 60-member upper house of Parliament, the National Assembly. Constitution of the Kingdom of Nepal, Act No. 2047, issued 1990, arts 4(1)-46.

²⁴⁷ Ibid art 14.

²⁴⁸ CPA (n14) art 7.6.1 ("Both sides fully agree to protect the rights of the women and children in a special way, to immediately stop all types of violence against women and children, including child labour as well as sexual exploitation and abuse.")

social or cultural tradition or practice, or on any other grounds. Such act shall be punishable by law, and the victim shall have the right to obtain compensation in accordance with the law."

It also establishes a "right to social justice"²⁴⁹ that entitles identified groups with "a prioritised opportunity, with justice and due respect, in education, health, employment, housing and social security, in accordance with law." Conflict victims are included among those groups as follows:

"The families of martyrs who sacrificed their lives in the people's movements, armed conflicts and revolutions for a democratic progressive change in Nepal, the families of those who were disappeared, persons who fought for democracy, victims of conflict and the displaced, persons who were physically maimed, the wounded and the victims."²⁵⁰

In addition, the 2015 Constitution establishes certain state policy objectives for addressing "social justice and inclusion." These policies cover certain vulnerable populations including women conflict victims. Under article 51(j)(2) of the 2015 Constitution, the state is required to make "women self-reliant who are vulnerable, victims of conflict, excluded by family and the society, by making necessary arrangements of rehabilitation, protection and empowerment for them." Child conflict victims are separately entitled "to special protection and facilities from the State" under article 39(9). In addition, CRSV victims are also entitled to other forms of assistance under other provisions of

the 2015 Constitution, including as victims of crime, single women, marginalised, indigent or economically poor, and the disabled.²⁵¹

These provisions establish rights and remedies for conflict victims including CRSV, among others. **To date, despite these commitments, no concerted attempt has been made to accord CRSV victims of the 1996-2006 period priority access to essential services or programmes of rehabilitation, protection, or empowerment. Nor have essential changes been made to the Nepal's legal framework relating to crimes of sexual violence and torture to provide CRSV with access to justice.**

Instead, throughout the conflict and continuing until today, and despite such rights and guarantees, the legal framework has remained inconsistent with international standards and the international commitments Nepal has made. Both the 1990 Constitution and 2007 Interim Constitution included a provision prohibiting torture of persons "detained during investigation or for trial or for any other reason."²⁵² In 1996, Nepal passed the Compensation Relating to Torture Act which allowed victims to file a compensation request for up to Nr 100,000 (approximately \$900) but did not provide for criminal accountability.²⁵³ However, the statutory period for making such a claim – 35 days from the event of torture or after a detainee's release – was found to be "flagrantly inconsistent with the gravity of the crime" and in breach of international law.²⁵⁴ Yet, legislation criminalising torture was not passed until December 2017,²⁵⁵ when Nepal's Parliament passed The National Penal (Code) Act, 2017,²⁵⁶ which among other things,

249 Constitution of the Kingdom of Nepal (n72) art 42.

250 Ibid art 42(5).

251 For a fuller discussion of the rights and protections under the 2015 Constitution, see Elena Naughton and Kelen Meregali, "Now Is a Time to Lead: Advancing Transitional Justice Initiatives through Local Governments in Nepal" (ICTJ, 13 July 2018) <https://www.ictj.org/publication/%E2%80%9Cnow-time-lead%E2%80%9D-advancing-transitional-justice-initiatives-through-local-governments> accessed 26 January 2022.

252 The language relating to torture in the 1990 Constitution, article 14(4) and the Interim Constitution of Nepal, 2063 (2007), article 26(2), are very similar: "No person who is detained during investigation or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhuman or degrading treatment." In addition, the 2007 Interim Constitution required the enactment of a law criminalizing torture and compensating its victims: "Any such an action pursuant to clause (1) shall be punishable by law, and any person so treated shall be compensated in a manner as determined by law."

253 Compensation Relating to Torture Act, Act Number 14 of the year 2053 (1996), provided "compensation for inflicting physical or mental torture upon any person in detention in the course of investigation, inquiry or trial or for any other reason or for giving cruel, inhuman or degrading treatment to such a person."

254 CCPR, 'Communication No. 1863/2009, Views adopted by the Committee at its 105th session, 9 to 27 July 2012 under art 4 para 4 of the Optional Protocol to the International Covenant on Civil and Political Rights' (2 August 2012) UN Doc CCPR/C/105/D/1863/2009 para 7.6.

255 "No person who is detained during investigation or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhuman or degrading treatment. Any person so treated shall be compensated in a manner as determined by law."

256 The National Penal (Code) Act, Act number 36 of the year 2017.

prohibited torture in detention²⁵⁷ and allowed for a sentence of up to 5 years imprisonment and a fifty thousand rupee fine (about \$350), or both, depending on the gravity of the offense.²⁵⁸ However, the statute of limitations to report allegations of torture by the police remains ridiculously short – six months.²⁵⁹ And, the legislation did not include a provision to remove the statute of limitations for conflict-era torture.

To make the law meaningful and consistent with international standards, Nepal must lift the statute of limitations on torture for conflict cases.²⁶⁰ The same is true for cases of rape and other sexual violence violations in which every tactic has been used by those in power to obstruct prosecutions and to prevent CRSV from filing or advancing complaints before the national bodies with jurisdiction over such cases, including the TRC.

2. Access to effective remedy for conflict-related sexual violence

At the domestic level, CRSV victims have been afforded no meaningful access to justice for conflict-era crimes. There are many obstacles standing in their way, most notably the statutes of limitations in effect at the time of the conflict and other restrictive evidentiary standards.²⁶¹

During the war, a 35-day statute of limitations applied in cases of rape under section 11 of the 1963 National Code.²⁶² Yet, it was effectively impossible for most, if not all, victims of CRSV to meet that extremely short deadline.²⁶³ Some were in arbitrary detention for the entire 35-day period. Avilasha was kept in army

“Custody for [almost two years] with [her] hands and legs tied,”

while Shakti was held for five months in an army barrack. Others were imprisoned for similar time periods: 90 days, 3 months, and 4 months.²⁶⁴

That statute of limitations was left in effect when Nepal’s 2014 TRC Act was passed into law. It was extended to one year in 2017 when a new Criminal Code was adopted together with five other acts. However, the changes did not remove the restriction on filing cases for conflict-era victims,²⁶⁵ as the provision did not allow for non-retroactivity of those limitations for conflict-era cases, nor recognise that the *“statute of limitations shall not apply to gross violations of human rights.”*²⁶⁶ And as the Special Rapporteur for violence against women has highlighted, the extended statute of limitations *“may still fail to provide victims with adequate time to come forward”* given *“fear of reprisal”* and the real possibility of re-traumatisation when submitting a complaint.²⁶⁷

257 Ibid s167(1). *“Section 167(1) No authority who is competent under the law in force to investigate or prosecute any offence, implement law, take any one into control, or hold any one in custody or detention in accordance with law shall subject, or cause to be subjected, any one to physical or mental torture or to cruel, brutal, inhuman or degrading treatment.”*

258 Previously, under section 12 of the Compensation Relating to Torture Act, a victim could take separate criminal action for instance for illegal detention under chapter 8 of the National Code.

259 National Penal (Code) Act, Act number 36 of the year 2017, s 170(2).

260 It must also recognize the continuous nature of the crime of enforced disappearance and its status as a crime against humanity; and it must provide for penalties proportionate with the gravity of crimes under international law.

261 The same is true for other conflict victims including victims of enforced disappearance, killings, and torture among others.

262 National Code (Muluki Ain) 2020 (1963), chap 14 para 11 (*“If a suit on the matter of rape is not filed within Thirty Five days from the date of the cause of action, the suit shall not be entertained.”*). The National Code is a unified law and includes criminal, civil, procedural, and penal provisions.

263 The Human Rights Committee has found that the 35-day statute of limitations applicable to the crime of rape under domestic legislation is *“such an unreasonably short statutory period for bringing complaints for rape,”* is *“flagrantly inconsistent with the gravity and nature of the crime,”* and has a *“proportionately negative effect on girls and women, who are predominantly the victims of rape.”* CCPR, ‘Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2556/2015’ (11 June 2019) UN Doc CCPR/C/125/D/2556/2015. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?Lang=en&symbolno=CCPR%2FC%2F125%2FD%2F2556%2F2015 accessed 26 January 2022.

264 NA, Interview with Sneha (A5) (Province 4, Nepal, 5 June 2021); NA, Interview with Devaki (n5); NA, Interview with Meena (n113).

265 Nepalese Criminal Code Act (2017) chap 18 s 229(2) which entered into force in August 2018.

266 UNGA, ‘Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’ (21 March 2006) UN Doc. A/RES/60/147, para 6.

267 UNHCR, ‘Report of the Special Rapporteur Dubravka Šimonović on violence against women, its causes and consequences’ (n18) para 59.

In addition, even if the statute of limitations were lifted, the underlying laws also need to be reformed. For instance, the criminal code which was amended in 2017 still has a narrow definition of rape as “sexual relations with a woman without her consent and with a girl under the age of 18 with her consent.” In addition, although the definition of sexual relations was broadened to include sexual intercourse, oral intercourse and penetration with objects, rather than simply intercourse, as was the case in the past, other offenses like sexual slavery, which at least three (perhaps more) victims who participated in this Study may have suffered, enforced prostitution, forced pregnancy, and forced sterilisation are not addressed. It is also unclear if rape and other forms of sexual violence can be considered genocide, a war crime, or a crime against humanity under domestic law, consistent with applicable international standards.²⁶⁸ As such, Nepal’s legal framework still does not accord with its international obligations, likely leaving many conflict-victims without legal recourse, including sexual minorities.

At the national level, CRSV victims in Nepal technically have recourse to several institutions tasked with receiving complaints of gender-based violence, including the Nepal’s NHRC Committee and the other bodies with responsibility for protecting and monitoring human rights under Nepal’s 2015 Constitution, including the National Women Commission (NWC).²⁶⁹ However, these fora are largely ineffective and inaccessible to CRSV victims.

Under Article 253 of the Constitution, for instance, the NWC was given remit over matters relating to the rights and interests of women in Nepal and with powers to *inter alia* “formulate policies and

programs, monitor Nepal’s laws and obligations under international treaties, carry out study and research work on the legal provisions relating to gender equality, empowerment of women, and to make recommendations for reform.”²⁷⁰ It also has the power to file cases against any persons or bodies on matters of violence against women, harmful social practices, and the deprivation of women’s rights.

However, since the NWC became a constitutional body, it has been slow in getting up and running, including in the appointment of a full complement of five office bearers, including a chairperson. Recently, advances have been made in that regard²⁷¹ and new regulations and procedures have been issued.²⁷² A total of 1,570 GBV complaints were registered in fiscal year 2020-21, with 1,352 (86%) related to domestic violence and 218 (14%) related to violence against women (e.g., mental torture, physical assault and beating, economic torture, and character assassination). A total of 900 complaints were also reported “cleared”.²⁷³ However, action is not being taken on conflict-era cases.

In addition, as reported by the Special Rapporteur on violence against women, its causes and consequences Dubravka Šimonović following her visit to Nepal in 2018, the Commission is likely to face other challenges: There has been only a “limited increase in the Commission’s budget and human and technical resources.”²⁷⁴ As a result, as reported by Meera Sherchan, the spokesperson for the commission, it has been “unable to recommend actions in criminal cases for years now,” including in cases of rape.²⁷⁵ Devaki, one of the victims interviewed for this Study confirmed that reality,

268 The sentence for rape was increased recently from seven-years to life imprisonment. And sex without consent, including marital rape, was also criminalized by the Criminal Code of Nepal, consistent with international law.

269 For example, the National Human Rights Commission, National Women Commission, the National Dalit Commission, National Inclusion Commission, Indigenous Nationalities Commission, Madhesi Commission, Tharu Commission and Muslim Commission. Additional assistance is also putatively available from the Ministry of Women, Children and Senior Citizens and at the Ministry of Social Development.

270 An earlier NWC Act was passed in 2007 but the NWC only received constitutional recognition with the 2015 Constitution.

271 Rastriya Samachar Samiti, ‘National Women Commission gears up its activities’ *The Himalayan Times* (5 October 2021) <https://thehimalayantimes.com/kathmandu/national-women-commission-gears-up-its-activities> accessed 6 May 2022.

272 For example, the National Women Commission Regulations, 2021; the National Women Commission Operation of Meeting Work Procedures, 2021; and the National Women Commission Internal Management Guidelines, 2021 were approved.

273 Samiti, ‘National Women Commission gears up its activities’ (n271).

274 UNHCR, ‘Report of the Special Rapporteur Dubravka Šimonović on violence against women, its causes and consequences’ (n18) paras 22-26.

275 Binod Ghimire, ‘National Women Commission remains defunct as the cases of violence against women continues’ *The Kathmandu Post* (1 December 2020) <https://kathmandupost.com/national/2020/12/01/national-women-commission-remains-defunct-as-the-cases-of-violence-against-women-continues> accessed 26 January 2022.

“Once, I met Nayan Kala Thapa. She was the Chair of the Women Commission and is a Maoist leader. But she never listened. I felt humiliated so I never went back again.”

And local judicial committees created under the 2015 Constitution do not have jurisdiction over cases involving conflict-related violations. Even if they did, it seems unlikely that they could be equipped to provide justice in CRSV cases, given the extraordinary sensitivity required, even if a decision was made to expand their jurisdiction. As the Nepal Law Society found, *“disputes involving gender-based violence, domestic violence, or social justice require complex and comprehensive solutions outside the scope of a judicial committee’s skills to fully address the needs of victims and disputants. These victims and disputants, many of whom are women and people from marginalised groups, require access to a whole range of social support services, including legal aid, health care, psychosocial counselling, shelter and livelihood support, and human rights advocacy and protection.”*²⁷⁶

As such, although Nepal’s government has taken some very preliminary steps to encourage coordination between and among these bodies and the government ministries that are empowered on paper to address the many needs of GBV victims and to facilitate access to justice, it appears that nothing has been done to ensure that CRSV victims’ needs are being considered as part of that effort, nor to ensure that adequate resources are allocated, and sufficient capacity dedicated. An assessment should be taken up by the government (with input from UN, government embassies, and other national and international stakeholders) to assess which entity(ies)/ ministry(ies) are best placed to move forward to help implement reparations, discussed further below. The entities include the NWC, the Ministry of Women, Children and Senior Citizens (MoWCSC), and Gender Coordination and Empowerment Unit established in the Office of the Prime Minister and Council of Ministers. Consideration should also be given to the

powers vested in local governments to assist with initiatives to address CRSV victims’ needs,²⁷⁷ and to the ongoing role if any Nepal’s TRC should play.

3. Reparations and the Truth and Reconciliation Commission

The 2014 TRC Act provides for reparation in the form of compensation, restitution, rehabilitation, and other “appropriate arrangements”, including *“facility and concessions to the victim or any member of his/her family as per his/her condition.”*²⁷⁸ Among the facilities or concessions that can be recommended are “free education and medical treatment”, “skills-oriented training”, “loan facilities” with or without interest, and “employment”.²⁷⁹

The TRC can only issue reparations recommendations “upon completion of an investigation”. Among other things, that investigation is to look *“into the incidents of the gross violation of human rights and find out and record the truth and bring it out for the general public,”* and to *“ascertain victims and perpetrators.”*

Under the Act, upon issuance of a recommendation, the MoPR was to have responsibility for implementing the recommendations.²⁸⁰ However, since 2014 when the Act became law, that responsibility, including the task distributing compensation to conflict victims, was transferred to the Ministry of Home Affairs (MoHA).

3.1. Submitting a complaint and TRC investigation

To initiate an investigation, the Act provides for the submission of a complaint by a victim (or someone on their behalf), although the Act allows the Commission to investigate information that *“comes to [their] notice,”* which could include cases *sub-judice* before *“various courts and authorities,”* or that which it *“deems appropriate to investigate.”*²⁸¹

276 Til Prasad Shrestha and Namit Wagley, ‘Judicial Committees in Nepal: A Closer Look’ (Nepal Law Society and The Asia Foundation) 49-50 <http://nepallawsociety.org/uploads/attachments/py45jbbel5e4whqp.pdf> accessed 26 January 2022.

277 For a fuller discussion of jurisdiction and scope of local powers, see Naughton and Meregali (n251).

278 TRC Act (n180) art 23(1).

279 Ibid art 23(1).

280 Ibid art 28I.

281 Ibid art 13.

The TRC can suspend the proceedings on a complaint, “[i]f there is no sufficient ground to take action upon conducting an investigation” by giving “reason thereof”.²⁸² For instance, under the TRC Rules, a complaint may be suspended for various reasons, including that it “prima facie lacks fact and evidence or unclear complaint.” The Commission can revive a suspended complaint in response to a petition “submitting reliable evidence to prove the statement of a complaint or information suspended... or if reliable evidence is discovered by the Commission while conducting investigation.”

To date, no recommendations have been issued by the TRC involving CRSV and the basis for decisions involving other crimes have not been made public, so it is not yet possible to ascertain what will be judged a “sufficient ground to take action” or what facts or evidence are required. However, based on the experiences of survivors so far, the process of submitting complaints and evidence, and the Commission’s process for investigating the claims have been unsatisfactory.

However, only about half of the survivors (16 of 31) who participated in this Study reported making a claim with the TRC. Among those who did, at least three decided not to pursue a claim for rape or other form of sexual violence in their complaint. Instead, they filed as torture survivors or as a victim of abduction, some because of the “stigma that women and girls face when reporting cases of sexual and gender-based crimes.” In the case of Rashila, a commissioner intervened to ensure that the complaint included all violations.

“I submitted my case. Initially, I mentioned myself as a torture victim only, but the former commissioner, told me to enclose full and true details; otherwise, it is not possible for me to get justice.”

But that care on the part of one commissioner does not appear to have happened in many other cases.

Instead, on several occasions, commission officials prevented victims from registering cases of sexual and gender-based violence for lack of “evidence”.

“I am aware of transitional justice mechanisms. I also supported many conflict victims to provide this information... Many people who were impacted by conflict are from very low economic status. They were not able to go to the local peace committee due to the travel expenses ... and they were not provided with the travel cost. Due to this many women, victims were left out of the current transitional justice process. Many women did not receive an arrest warrant at the time of their arrest. Without showing this kind of document as evidence, their cases were not considered documented. The State and commissions asked us to show the evidence of our arrest and the torture. Due to this we feel very humiliated.”²⁸³

The insistence on evidence was a common challenge faced by CRSV victims like Radha:

“The Truth and Reconciliation [Commission] asked us for evidence of our incident but how can we show this as I was abducted from the road. Since then, I have forgotten many things as this incident happened while I was young and still a student... They need to trust us, and our oral testimony has to be considered as evidence. What woman wants to destroy her life by saying I was raped in our society? So, trusting us is very necessary.”

282 Truth and Reconciliation Commission Rules (TRC Rules) 2072 (2016) s 8.

283 NA, Interview with Gauri (n104).

Shakti was able to overcome the evidentiary requirement by bringing a witness but as already discussed, witnesses are rarely available.

"Yes, I came to Kathmandu and went to Truth and Reconciliation Commissions (TRC) in [location omitted] on my own. I met with members there and asked them what is happening to my application? ... It's been six years, and nothing has happened... they invited me to Kathmandu and asked me to bring at least one witness. I brought one witness with me. But to date, nothing has happened. They asked me to sign a paper. But I don't know what that was."

This requirement infuriated many survivors, as Prapti very eloquently expressed:

"One of the people who were collecting the cases told me to bring a witness or evidence of the incident. I got so angry. I told her 'Ghatana Baja Bajayera aundaine,' [a Nepali metaphor meaning music does not come along with the incident]. If I had known, I would be facing sexual violence, I could have told my friends to come that day and witness the incident. So, this is very insensitive."

Additionally, the officials who accepted the complaints often did not comply with basic protocols in effect for CRSV and other victims in need of special accommodations. As happened during the IRP registration process, political parties were in control of the process and some victims were unable to "rely on them" for appropriate counsel, or to provide them with the accommodations that were their due.²⁸⁴ Under the 2014 TRC Act, the Commission was empowered to make a "separate arrangement" for survivors of sexual violence when filing a complaint,²⁸⁵ such as providing a female statement taker or a separate room,²⁸⁶ and could cover travel and other costs.²⁸⁷ Although the statement takers did allow survivors to make statements and to provide testimony or other information on a confidential basis, such as by filing under a different name, the interviews were not always conducted sensitively. Sharada described her experience:

"I have applied to the TRC as a torture victim only... When I went to the Local Peace Committee to submit my application, one woman was asking about my case and a man was typing. So, I didn't tell my whole incident."

Radha described a similar situation, "On the envelope, I only wrote I was abducted but inside I mentioned my full incident. I applied using a different name but mentioned my full incident. I was also invited there with a witness. One lady was documenting our case. After a few questions, she handed it over to a man. There was no separate and confidential room. So, I was not satisfied." Worse yet, officials were sometimes disrespectful of survivors' need for confidentiality.

284 NA, Interview with Mamata (n24). "There were many staff from different political parties at that time in the Local Peace Committee. I don't rely on them."

285 TRC Act (n180) art 13.7 ("The Commission may make a separate arrangement as prescribed for facilitation of children, senior citizens, person with disability and person subjected to sexual violence in the act of filing complaint with the Commission.")

286 TRC Rules (n282) s 5(c) and (d).

287 TRC Act (n180) art 17(4) "If a person present to make a statement or testimony for, or provide information to, the Commission asks for actual cost incurred in travelling, food and accommodation, the Commission may provide reasonable cost to such person." It is unclear if this provision also covers those seeking to submit a complaint.

"I submitted my application in the commission in Kathmandu. Earlier, I was planning to submit my application in Dang in Local Peace Committee as they were collecting the cases. Then I received a call from Dang from one of the representatives of the local peace committee who asked me 'what kind of victim I am on the phone and asked me to bring the evidence of my incident.' He insisted I share this [information], right away on the phone. I tried to explain to him that I was outside and couldn't speak openly. Then he said, 'your application will not be collected if you don't share your incident now.' ... Rather I submitted my case directly to the Truth and Reconciliation Commission in Kathmandu ... and complained about his behaviour to a commissioner. Later on, I came to know that the person dealing with me was the computer operator and he is not trained in dealing with women like us."²⁸⁸

Some found the complaint process traumatic:

"While we were submitting the application to the TRC through the Local Peace Committee they asked us to bring the evidence going into the same police station where I was kept. Why should I go to the same police station where I have been tortured in such an inhumane way? This act of government has once again provided me a psychological pain."²⁸⁹

At least one survivor did not submit a complaint because she could not afford to travel to a registration location. Among those who did not participate in the complaint process at the TRC (14 of 31), most said they were not familiar with transitional justice mechanisms, although one chose not to apply, saying:

"I feel we are not beggars."²⁹⁰

In terms of those who have filed, a number reported that their applications have been lost. Sneha explained,

"I have submitted my case to the commission. But I hear that my application is lost. I identified myself as a torture victim."

Gauri, who worked with a local peace committee, confirmed that commission files have been lost:

"The files which were submitted through the Local Peace Committee to the Ministry, I heard many files were lost as well. Action has to be taken by the government to find these files."

Thus, there are significant gaps in the existing database of complaints submitted to the TRC that will need to be remedied.

3.1.1. REPARATIONS RECOMMENDATIONS

In addition, the criteria established under the TRC Act and Rules are narrowly defined and will present challenges, if and when, recommendations are issued by the TRC for CRSV victims. The TRC Act specifies the following broad categories: compensation, restitution or rehabilitation, or other appropriate arrangements, including *"facility[ies] and concessions."* The TRC Rules also provide guidance about the form, possible amount, and eligibility requirements that will apply:

²⁸⁸ NA, Interview with Tara (n87).

²⁸⁹ NA, Interview with Mamata (n24).

²⁹⁰ NA, Interview with Gauri (n104).



Offices of the Truth and Reconciliation Commission, Handigaun, Kathmandu, Nepal, 2017.

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TRC RULES

- **Compensation** based on *"the gravity of damage and loss the victim suffered"* up to an amount of three hundred thousand rupees (about \$2,100), *"taking into account the compensation, if any, already received by the victim from the Government."*²⁹¹
- **Physical or mental treatment, restitution, rehabilitation, or psycho-social counselling** based on the recommendation of the Commission *"indicating the ground, reason as well as conditions thereof."*²⁹²
- **Free education** up to diploma level to those who are willing to pursue studies.²⁹³
- **Skill oriented training** per qualification for those who do not wish or are not capable of pursuing educational studies.²⁹⁴
- **Loan** of up to five hundred thousand rupees (about \$3,500) without interest or concessional (reduced rate) interest *"for those unemployed who are willing to carry on any trade or business."*²⁹⁵
- **Arrangement for settlement** of up to five hundred thousand rupees (about \$3,500) for those who have no settlement within Nepal.²⁹⁶
- **Medical treatment** from the government hospitals not exceeding one hundred thousand rupees (about \$700) for those who are physically weak.²⁹⁷

291 TRC Rules (n282) s 32(1) and (2).

292 Ibid s 32(3).

293 Ibid s 33(1)(a).

294 Ibid s 33(1)(b).

295 Ibid s 33(1)(c).

296 Ibid s 33(1)(d).

297 TRC Rules (n282) s 33(1)(e).

In each instance, the rules limit the amount and/or eligibility to qualify. In addition, the Rules provide additional “*grounds and criteria for compensation, facilities*

and concessions” when making a recommendation. These criteria anticipate an individualised assessment of each victim, including of disabilities:

GROUND AND CRITERIA FOR COMPENSATION, FACILITIES AND CONCESSIONS

While making recommendation for compensation, facilities or concessions for the victims, the Commission shall employ the following grounds and criteria:

- a.** Actual loss, mental pain or torture the victim suffered,
- b.** Physical, mental or financial condition of the victim,
- c.** Age of the victim at the time of occurrence of the incident,
- d.** Number of family members dependent on the victim and minimum expense necessary for raising livelihood,
- e.** Number of children of the victim and the minimum expense to be incurred in their study,
- f.** Physical conditions of the family living together with the victim and the means of livelihood,
- g.** Quantity of loss if financial loss occurred because of those activities as capture, confiscation, looting, arson etc. of property,
- h.** Condition of disability in the case of the victim subjected to mutilation,
- i.** Economic status or capacity of the dependent family to raise income if the victim is dead,
- j.** Academic, financial, physical or mental pain the victim suffered because of displacement,
- k.** Other objective facts the Commission deems appropriate.

Again, these criteria are potentially limiting and are unlikely to result in the kind of comprehensive reparations that survivors of CRSV in Nepal require.

First, efforts to establish victims' degree of resulting disability from sexual violence to determine the type of reparations needed are generally discouraged.²⁹⁸ Another approach would be to provide all victims with a minimum common package of benefits that could be enhanced in response to particularised needs.

Second, this assessment process could re-traumatise survivors and, as with the complaint process, discourage participation by survivors who have not yet made public the nature of the violation to their family, friends, and community. It will also require a commitment of significant staff and resources to implement.

Third, in many instances, many of the defined categories are conditioned on need or other status which do not consider the realities CRSV and other victims face. Skills trainings for instance should not be limited only to "*those who do not wish or are not capable of pursuing educational study*", but should be made available to victims who want to both continue their studies and obtain additional vocational skills. It

shouldn't be an either/or. Similarly, loans should not be available only to the unemployed but also to those who are currently working and desire to pursue for example other income-generating activities, such as starting a business. As we've seen, many women hold multiple jobs, although that is rarely enough to sustain them. They should not be penalised for working hard. And medical treatment should not be capped at one hundred thousand rupees (approximately \$800) and made available only to those suffering from physical weakness, as is currently contemplated. Many victims could be denied treatment for debilitating conditions that would unlikely fit that description.

Finally, because many of the children of CRSV survivors were also negatively affected by the crimes perpetrated against their parent, they too are eligible under the Act. As currently defined, however, it is unclear whether or if they too would qualify given the restrictive conditions imposed.

The various limitations and criteria set in the TRC Act and Rules should be revisited with the specific realities and needs of CRSV victims in mind. This analysis and the attendant challenges are discussed in greater detail below in section XIII on Reparations.

²⁹⁸ Nepal's IRP included financial assistance to disabled persons due to conflict assessed according to the percentage of disability. That programme suffered from many challenges including a lack of transparency in the application process and difficulties reassessing disabilities over time. Sharma and others (n15) 30.



XII. VICTIMS' PERCEPTIONS AND AGENCY

This Study aims to gain insight into CRSV survivors' perceptions and expectations regarding reparations, while also increasing their understanding and awareness of their rights as victims of violations of international human rights and humanitarian law. To do that, the interviewees were asked to consider what should be done in response to the harms suffered and who should be responsible.

Before asking those questions, the interviewer first sought to get a sense of 1) what each survivor already knew about transitional justice and reparations; 2) who is responsible for repairing the harms; 3) whether their perception of reparations and its importance had changed over time; and 4) how much they had already been involved in activities relating to transitional justice and with victims' organisations. The answers to these questions may inform the content of any outreach efforts that will need to be taken in advance of a reparations programme and what steps should be considered to help manage survivors' expectations.

Before proceeding, the interviewer also provided a brief explanation of transitional justice and reparations concepts so that each survivor would be able to judge the implications for them and their families during the interview and to ensure they understood what was being asked.

1. Familiarity with the concept of reparations

Almost half of the victims (45.6%) said they were familiar with the word reparations and seemed comfortable discussing the concept.²⁹⁹ However,

slightly more than half (17 out of 31, or 54.84%) had no knowledge or understanding of reparations. Unsurprisingly, many of those individuals had never attended a workshop or training. These include the seven women from Rolpa, a remote region in Nepal's mid-west, which was considered the "*Maoist insurgency's heartland*"³⁰⁰ and as such was the scene of much conflict-related violence. Despite those ties to the conflict, the women of Rolpa appear to have received less information about transitional justice and reparation than other victims. This is likely due in part to the lack of any meaningful national or local-level State structures committed to getting information to women about their rights and ongoing transitional justice process.

"No, I have never attended any workshops or training related to transitional justice, truth seeking or reparation until now. Nobody invited and nobody informed about it."³⁰¹

As a result, our interviews suggest there is likely an ongoing information gap around the concept of reparations and opportunities for redress among women victims of CRSV in remote areas of the country. A similar finding was made in 2018 by the Committee on the Elimination of Discrimination against Women.³⁰² In addition to the government, civil society actors should recommit to ensuring that remote areas like Rolpa are not missed when future workshops are conducted.

Among those aware of and knowledgeable about reparations, many displayed a nuanced understanding and provided detailed definitions. Some likely gained that expertise as members of a victims' group. Tara, for instance, exhibited a high level of knowledge:

299 When making this assessment, the researchers took into account the interviewee's self-assessment of their knowledge, past attendance at workshops, and ability to define the term and confidence when doing so.

300 Bob Gersony, 'Western Nepal conflict assessment' (Mercy Corps, 28 December 2003) <https://reliefweb.int/report/nepal/western-nepal-conflict-assessment> accessed 24 January 2022.

301 NA, Interview with Bhuni (n160).

302 CEDAW, 'Concluding observations on the sixth periodic report of Nepal' (14 November 2018) UN Doc CEDAW/C/NPL/CO/6, 3 ("*The low level of awareness among women and girls of their rights and the mechanisms available for gaining access to justice and seeking remedies.*")

"I know what reparations are. This is very important to us and [our] need for this has not changed over time as we haven't received any support from the government. I have always wanted to know the truth about the incident that happened to me. I want a legal remedy which has not changed; the perpetrator has to be punished. The State has a moral obligation to repair our harm. We were never acknowledged by the State as conflict victims despite our ongoing demand. The State never provided a public apology and [taken steps for] non-repetition. Our economic and health condition has never been addressed. We are spending our days like dead people."

Others were less confident in defining reparations but provided succinct descriptions that included many of the basic components before the interviewer offered an explanation:

"I think I know to some extent. Punishing the perpetrator, recognising us as conflict victims (we have never been acknowledged by the State), getting an identity as a conflict victim and fulfilling our basic needs for food, clothing and shelter. All are in my understanding of reparation."³⁰³

Others asked for an explanation and expressed interest in what they had been told:

"Hearing you I feel this is important for us, but I don't have faith we will have access."³⁰⁴

All in all, although some did not have a technical understanding of reparations as a concept, many of the victims could articulate how reparations could address their current needs. However, only a few survivors talked about how reparations could provide "justice" and only a few used the word justice (*nyaya* in Nepali). Ganga for instance equated justice with punishment of the perpetrators who raped her and her daughter, not reparations:

"I want justice for what we went through. I have openly shared the name of the policemen who were involved but nobody does anything. They should be punished."

Others spoke of justice in the context of interim relief benefits and the injustice they suffered because of the government's decision to exclude CRSV victims from the programme, as discussed above.

The strongest sense of justice (and injustice) can be found in the testimonies of those who aligned themselves with the Maoists and feel unrecognised for their contribution to bringing the Maoists to power. They want to be acknowledged and treated equally and fairly by the government and by those in their communities, which includes participation in any future reparations programme:

"We never get any justice. If we were provided with some relief, we could also go to the hospital for treatment. If the Government and our party could have told us that we have supported this much from our side and we have acknowledged your contribution only, it might have given some level of satisfaction. Also, if our financial and medical condition is addressed, then we will feel satisfied."³⁰⁵

303 NA, Interview with Dilmaya (n125).

304 NA, Interview with Prerana (n208).

305 NA, Interview with Devaki (n5).

2. Who is responsible for repairing the harms?

Most victims (27 of 31, or 87%) believe the government is responsible for repairing the harms they suffered, although a third of those believe that civil society and victims' organisations also have a significant role to play (8 of 24, or 33.3%). One survivor who is a member of the Maoist party assigned responsibility for reparations to both the "Government and our party."³⁰⁶ The rest, however, expressed no real hope that the government will do anything, given its poor track record to date. Some like Prapti hope that civil society and victims' organisations who have helped in the past will come through again.

"We don't have trust in the government. Maybe organisations can help us. We trust them. We can openly share our incident with an organisation like you and some others who have been supporting us regularly. You empowered us and also teach us the language for doing our advocacy on our own."

Gauri, who is involved in politics as a member of a district-level committee, also has low expectations of government's commitment to redress:

"Since I am involved in politics, I feel pain when I go to such meetings. We are still living in pain for many years. Those actors, who promised us holistic empowerment and believe in a republican state, are not doing anything. They were in a position to help us to reduce our pain, but they didn't do anything."

However, many years of government inaction have rendered some of them hopeless:

"I don't have any hopes now. Too many years have passed but nothing has happened. All the senior leaders who are in power now know about my incident, but nobody does anything."³⁰⁷

Yet, many still said reparations are important and relevant to their lives because they continue to struggle to fulfil their basic needs, face serious health crises, and feel unacknowledged.

3. Victims' perceptions of reparations and its importance over time

Most victims (17 of 31) felt that reparations are either "important" or "very important" and that their importance has not changed because the consequences of conflict abuses persist, as Dilmaya explained:

"Reparation is very important for us, if it is provided, and the importance of this has not changed. Because my husband and I faced different impacts of the conflict, it is very necessary for us. As we both faced torture we can't do heavy work, going outside. There are other women also who don't have any relatives who can earn money for them. So, it is very necessary for them as well. The women like [us] who faced sexual violence are still not recognised as conflict victims. Maybe reparation can address this issue."

³⁰⁶ Ibid.

³⁰⁷ NA, Interview with Ganga (n149).

Instead of discussing whether and how their perceptions of reparations have changed over time, most survivors focused on the lack of any government response to the violations. In essence, nothing has changed, because *"nothing [meaning government action] has happened yet."*³⁰⁸ As Neeta elaborated:

"I know what reparation is. The perception and the importance for this, is never changed. We still need medical treatment, jobs according to our capacity, identity cards to show in the bus while we are travelling or to get other benefits provided by government. Seeing this maybe people can also respect us, and we will not feel the hatred in their eyes and in their words."

A few were also able to explain how their perceptions of reparations have changed over time and what that would mean for any future reparations programme.

"My perception and needs have changed now. Now, I feel like, how can I be alive and how can I survive with comfortable earnings and with good health. Who can support me in my small business that I have been doing now? How can I reach the people who can support me? Now it's different according to this long period, at least in my case."

For a few victims, the questions about the importance of reparations again provoked anger at the government and a demand for acknowledgment, especially among those aligned with the Maoists:

*"I feel this is very important to us. We were used by the Maoist party for their vested interest. Nothing has happened to help us. Now they are in power. But the torture that we suffered [has] never been addressed."*³⁰⁹

As for the rest, many of whom were not familiar with the concept of reparations, most did not feel ready to express an opinion one way or the other about the importance of reparations and whether their perceptions have changed over time.

4. Factors that contributed to empowering conflict-related sexual violence victims

Since the end of the civil war, civil society and international organisations have attempted to reach out to CRSV survivors and other marginalised victim populations in Nepal to provide both a measure of support in the absence of a government response and to build victim networks for advancing their priorities. Most of the victims interviewed for this Study welcomed these efforts. For many, the first person who they spoke to openly about the incident was someone from a women's organisation. As Avilasha explained,

"NWCSC is the first organisation that came looking for us and asking us our problems. It is because of them that I am getting counselling and feeling better."

Over the years, many have come to see the other women who have shared their experiences as a community of *"sisters"* to whom they can talk and share their pain, as described by Dilmaya:

308 NA, Interview with Chandani (n232).

309 NA, Interview with Devaki (n5).

“We go to programmes offered by different organisation and feel very good meeting with those who suffered similarly. It supports us in our individual healing and helps us move on in our lives.”

For others, the combination of support and opportunity for advocacy is very important. Radha described how she has felt empowered by participating in activities with other conflict-victims and has learned how important it is to advocate for what she and other survivors need:

“I used to go to the programme of conflict-affected group. Earlier I used to just participate. But now I also understand that we need to do advocacy for our issue on our own with the help of organisations. I also realised I am not the only one who was victimised during the armed conflict but there are many sisters as well going through a similar pain of mine. Now we have started to discuss how we can bring solutions to our lives. We understand we have to fight for our rights and need to speak. Having said that we cannot speak openly as well. We can’t go openly in the media.”

The interviews show how sustained support and engagement can build resilience and ultimately empower some victims. Sirish, for example, has found that the psychosocial support received has helped

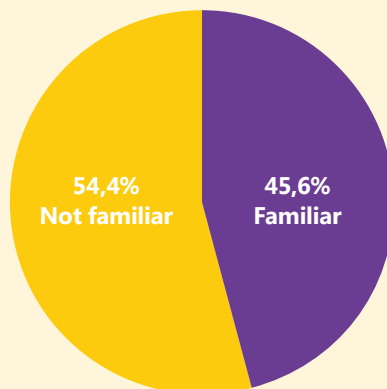
bring a “change in my thinking and habits...[that] has helped me a lot. I have become positive towards my life.” Others have gained new skills. Jyoti learned “to make incense sticks and candles” and “was made a trainer as well” and has “started earning after being involved in that programme.” She is now teaching her skills to other women.

For many, activism provides strength, hope, and a sense of community. Shyama helps “transfer the knowledge that [she] gained from NWCSC and Nagarik Aawaz to other conflict-affected women.” Yet, there are still women who have not been reached:

“Many sisters do not want to participate in programmes organised by organisations. They say that nothing will happen and at least for now they are surviving by themselves in a small way.”³¹⁰

The provision of additional safe spaces could help break down that reticence and ensure that these individuals are shying away not out of fear of a confidentiality breach but because they are managing on their own.

FAMILIARITY WITH THE CONCEPT OF REPARATIONS AMONG VICTIMS INTERVIEWED FOR THE STUDY



310 NA, Interview with Sharada (n109).



*Office of the UN Resident Coordinator in Nepal, UN House, Pulchowk, Lalitpur, Kathmandu, Nepal, 2017.
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XIII. VICTIMS' VIEWS AND PRIORITIES ON REPARATIONS

To assess victims' views and priorities about reparations, the interviews included a series of questions designed to elicit ideas about how best to repair the harms. They were asked about what kinds of things should be done to address the harms and provide "some sense of satisfaction" and the services or programmes that would be most useful for their children and families. In addition, each victim was asked to identify any challenges and risks they might face when accessing benefits and what could be done to overcome them.

1. Forms and modalities of reparations identified by conflict-related sexual violence victims

Because many victims of CRSV are without hope after years spent waiting for Nepal's government to finally acknowledge their plight and provide reparations, even the act of imagining a future can be hard, as Rita conveyed, "*I don't even know what will give me satisfaction.*" A few felt very strongly that the harms

and pain they suffered can never be healed. Avilasha, for instance, who was abused for almost two years while in army custody, focused mainly on what could not be done, rather than on what could, "*I have no expectations from the government. If they were planning to do anything for us victims, they would have already done it.*"

Yet, the vast majority were quick to identify what is needed and to offer suggestions. In their answers, victims highlighted different characteristics or types of reparations (e.g., "discounted services", "subsidies", "compensation") that would address the consequences of the harms they suffered, some are among those enumerated in the 2014 TRC Act; others are not.

Their preferences and the issues to be considered are summarised here. We have also identified some possible national-level ministries or bodies that could help implement reparations. In some instances, local and provincial-level institutions also have overlapping responsibilities but, because of the large number that could be involved, they are not listed separately.³¹¹

311 Naughton and Meregali (n251).

TABLE 1: CHARACTERISTICS AND MODALITIES OF REPARATIONS

Component of Reparations	Description and Issues for Consideration
<p>Urgent Access to Rehabilitative Medical and Psychological Services</p>	<p><i>Rationale:</i> Despite the passage of time since the war ended, many victims spoke of ongoing urgent physical and psychological conditions and of needing “immediate” and “regular” treatment, including for injuries sustained because of the CRSV, such as persistent and severe gynaecological symptoms, backaches, ongoing trauma, and suicidal ideation, among others.</p> <p><i>Modalities:</i> Victims should be given free access to urgent comprehensive physical medical exams by medical doctors, including specialists; diagnostic testing; psychosocial counselling and other mental healthcare; and cost-free medicines and follow up treatment at referral or specialised hospitals as needed. To ensure all necessary treatments are made available, access should be granted not only to social service units at the local and district levels where free healthcare is often dispensed, but also to free consultative services and treatments in regional hospital centres, in Kathmandu, or abroad. To access those services, CRSV might be issued victim ID cards, although steps would be necessary to ensure the privacy and confidentiality of their treatment, underlying causes, and conditions. All costs associated with the medical treatment should be covered, including costs of transportation and accommodations, if travel is needed. Because children born of rape in Nepal remain a largely unidentified population, efforts should be made to identify these vulnerable children during healthcare and psychological assessments so that their trauma and mental health needs can also be addressed.</p> <p><i>Responsible entities include the District Health Offices, the Ministry of Health and Population, and the Ministry of Women, Children and Senior Citizens which works with vulnerable populations including women, children, persons with disabilities, senior citizens, and transgender people. CSOs (civil society organisations) and victims’ groups working with CRSV victims will also have a role to play in providing psychosocial support.</i></p>

<p>Immediate and long-term economic support</p>	<p><i>Rationale:</i> Given the nature of the harms suffered, both short- and long-term (or “lifetime”) economic support are necessary. Short-term relief like that provided under the IRP is not likely to be sufficient. Many are facing dire financial situations, with some having difficulty meeting basic subsistence needs, including food. A quick infusion of urgent financial support perhaps in the form of lump-sum or and/or monthly support payments should be provided to address the immediate financial crisis victims face. That step could also help rebuild trust among the victim population and encourage victims who have not applied for benefits do so. Urgent support would then be followed by and complemented with a comprehensive package of reparations to support victims’ sustainable and long-term livelihood and to compensate for lost opportunities. This package would encompass such programmes as skills training, employment opportunities, and education (including vocational training) to address the harms suffered by both CRSV victims and their children (discussed more below) and increase household resilience.</p> <p><i>Modalities:</i> Victims spoke variously of a “health facility”, a “discount”, or a “subsidy” in services. A package of immediate and long-term livelihood support could take the form of monthly allowances or social security payments, like those paid to single women and the disabled, or pensions, as well as tax waivers, loan or rental payments, and free and discounted services (e.g., pre-paid bus fares). In addition, skills and employment training, and measures for promoting self-employment opportunities (including start-up loans, micro-credit) should be made available to victim and their children.</p> <p>Many of these types of relief are among those mentioned in the 2014 TRC Act, which include long-term “<i>facilities or concessions, in the form of reparations to the victim or, as per the situation, any member of his/her family as follows: (a) Free education and health-care facilities; (b) Skill-oriented training; (c) Loan facilities with or without concessional interests; (d) Arrangements of habitation; (e) Employment facilities; (f) Facilities regarding restitution and rehabilitation; (g) Other facilities or concessions as deemed appropriate by the Commission.</i>” (2014 TRC Act, art. 23.) However, as mentioned, eligibility and other conditions should not be imposed.</p> <p><i>Responsible entities include the Ministry of Women, Children and Senior Citizens and the Ministry of Education, Science and Technology. Local ward and district level officials also have the power to grant facilities.</i></p>
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Educational support and curricula improvements

Rationale: Educational benefits were among the frequently mentioned forms of reparations mentioned by those interviewed (20 of 31). In most instances, victims were not proposing that they personally would return to school to continue their studies (although two did suggest that), but instead proposed that their children should be eligible for free tuition, or in the case of one woman, her grandchildren, as a way of overcoming the enduring consequences of the violations for their children and easing the daily burdens they face. For some, that approach also has the potential to benefit them indirectly, especially for those who have a son, given the dependency structures in Nepal.

Modalities: Nepal's IRP included a scholarship programme for the children of persons who were killed, disappeared, and disabled above 50% during the conflict. However, that programme did not cover CRSV victims and at least initially provided scholarships for up to only three children. Educational benefits for CRSV victims and their children should cover not only victims, their children, and grandchildren but also include vocational training and adult education programmes. As of now, the TRC Rules limit "free education up to diploma level" and "skills oriented training" which could restrict who participates and the kinds of studies they pursue. Vocational and graduate level programmes should be added. In addition, reforms to Nepal's educational sector could be undertaken at the same time to increase awareness around CRSV and GBV, for instance by including the study of human rights, including gender discrimination, in the curricula, which is also a standing recommendation of the NHRC and is included in Nepal's draft response to the NAP for 1325 and 1820.

Responsible entities include the Ministry of Education, Science and Technology and Ministry of Home Affairs in its capacity to promote human rights.

<p>Measures for Acknowledging Victims and Promoting Community Understanding</p>	<p><i>Rationale:</i> Many victims spoke of the need for various forms of reparations to address the moral damages and enduring consequences of sexual violence like stigma. These included public apologies, community awareness-raising, and truth-telling initiatives designed to promote understanding about what happened during the war and to get people to realise that they were not to blame. As Neeta explained, <i>"It is very necessary for people to be aware about the past, and we need to be engaged in this process. Now, there are very few people who are aware about the past suffering with their direct experience."</i></p> <p>Official public apologies could be issued by the Prime Minister and other government and party leaders to conflict-affected victims, including perhaps personal letters of apology to CRSV victims who have already gone public about the violations. Other collective or symbolic measures could be implemented in the form of community awareness-raising programmes to reduce stigma against CRSV victims, other GBV victims and their families, including any children born of rape, and to help them re-establish themselves into society. These programmes, whether implemented at the local, provincial, or national levels, could also address broader societal needs to combat institutional, structural, and systemic discrimination against women, girls, and sexual minorities.</p> <p><i>Responsible entities include the Truth and Reconciliation Commission, the Ministry of Women, Children and Senior Citizens, and for apologies the Office of the Prime Minister, the Armed Forces, members of the Maoist party, and representatives of the police.</i></p>
<p>Communal Rehabilitation</p>	<p><i>Rationale:</i> In addition to physical and psychological rehabilitation, victims also expressed a need for communal forms of rehabilitation, in the form of safe spaces where victims can come together to <i>"share our problems."</i> Victims interviewed for this Study did not mention public memorialisation efforts, as a form of collective reparations, which likely speaks to the ongoing stigma.</p> <p><i>Modalities:</i> As mentioned, safe spaces are already being operated by victims' groups and civil society, as well as by the Ministry of Health and Population and the gender empowerment unit in the office of the Prime Minister and the Council of Ministers. These efforts should be expanded to reach the many victims who are still in need of these facilities.</p> <p><i>Responsible entities include the Truth and Reconciliation Commission, the Ministry of Women, Children and Senior Citizens.</i></p>

2. Challenges and risks to implementing reparations

Although there is overwhelming support for reparations among victims of CRSV in Nepal, many of the women interviewed for this Study are well-aware that significant groundwork is still required before meaningful reparations can become a reality in Nepal and that they are likely to face many obstacles and risks along the way.

When discussing reparations, many survivors touched on some common themes relating to the state of politics in Nepal, such as the longstanding lack of political will among the country's leadership to advance reparations policies for CRSV and torture victims, and concerns about the budget process and the lack of funds.³¹² A few were very frustrated, especially those who are politically active like Gauri:

"If the state wants, they can help us with livelihood support, health and education. I personally discussed this issue many times with local –provincial and central level governments but they are ignoring this in the name of a different cause. So, this problem remains a big problem still."

However, for the vast majority, their primary concerns are less political than pragmatic. Most victims lack any trust in the government's ability to administer a future reparations programme, especially in a way that guarantees victims' security and does not jeopardise their status or reputation in the community. As Hema explained,

"I see the most challenging part is our security. If the government can ensure our security, only then can we access the benefits. For this also, confidentiality is necessary. Otherwise, we will again go into deep pain and trauma."

One respondent suggested that local rather than national authorities, such as "the rural municipality", might undertake the necessary programmes. However, Shyama believes that local government would be poorly equipped to administer reparations if a programme were ever adopted.

"If this responsibility is provided to the local government, I think our life will be destroyed and we will once again face deep pain. They will recognise us and start talking about ourselves. In this case, it is better that we don't get any."

As already discussed, many victims of CRSV still live in fear that the "incident" will be disclosed and that their lives will be forever changed as a result.³¹³ Some of that concern likely emanates out of survivors' past experiences with the TRC which, as already described, were marked by confidentiality breaches, demands for evidence, insensitive statement takers, and for some, lost files:

"While I was submitting my case, many men were coming and going. There was no sensitivity. I couldn't talk to anyone."³¹⁴

These concerns are likely to arise in connection with any future process and will need to be appropriately managed. No matter who is administering a future reparations programme, the realities of registering and then dispensing benefits to CRSV victims whose very lives depend on maintaining confidentiality is a daunting one.

³¹² Five victims said that although they had shared what had happened, justice has not been achieved, because of a lack of political will on the part of the government.

³¹³ When asked for instance about the risk of accessing reparation benefit, seven of the 31 respondents said they cannot share their incident openly; five said they fear their family lives will be destroyed; five said they fear their community will not understand; nine said evidence or current evidentiary protocols present a challenge for them, and one said she is worried about her security.

³¹⁴ NA, Interview with Shyama (n207).

To mitigate these risks, victims expressed a clear preference for civil society and victims' group involvement in administering any future reparations programme, given the longstanding engagement these organisations have had in providing support to the women on a confidential basis. For example, Nagarik Aawaz has been active since 2001 and The Story Kitchen since 2011, and both organisations were mentioned frequently by the respondents. In addition to being familiar with victim populations, civil society and victims' organisations already have outreach networks in place, including among survivors who have difficulty reading or lack access to information technologies.

In addition, many survivors also raised concerns that they will be required to provide 'evidence' of the crime, as demanded in the past by the police and TRC officials and discussed above in section XI(b). This approach does not consider how long ago the crimes occurred or how unusual it would have been for victims to have had evidence of the crime at the time. As Neeta explained,

"I was a child when I faced violence. How can I submit the evidence they are asking for?"

In addition, many victims were blindfolded or knocked unconscious,

"I cannot identify the perpetrator as I was gang-raped in another village in a dark room. It's been a long time as well."³¹⁵

As such, the current evidentiary standards provide yet another bulwark in support of impunity, one buttressed by a notion that women are likely to file false claims, which, given the high risk of lifechanging stigma, seems absurd. But as Prapti explained, the government already knows what happened and suggested that these requests are largely motivated by an attempt to silence victims,

"Although they know everything, they want to silence us by asking for evidence and witnesses."

In addition to these challenges involving confidentiality and evidence, victims identified additional steps that need to be taken both to build an environment of trust conducive for CRSV victims to come forward and to address the procedural and accessibility problems raised by survivors that could stymie the effectiveness of any future programme. These include:

CORRECT EXISTING DATABASES

The existing database of complaints compiled by the TRC does not accurately reflect the population of CRSV victims in Nepal. As already discussed, an indeterminate number of complaints have been lost. Many victims have only filed as torture victims, not as CRSV victims, and there are many victims who never filed with the TRC, including fourteen survivors who participated in this Study.

LACK OF HEALTH SERVICES IN SOME LOCATIONS

When recommending medical benefits, Sabina emphasised that health services are lacking in certain areas of the country and suggested that health services need to be expanded locally or that travel supplements should be included to offset the costs incurred by survivors when traveling to appointments. *"Financial problems don't allow me to go for check-up. There is no good facility in Rolpa, so we need to go to Dang which costs a lot. Also, I went to Dang once for check-up by taking a loan."*

INCREASE OUTREACH

Previous efforts have lacked outreach and other measures are needed to ensure that those who "can't read" or face other difficulties applying for and participating in a reparations programme are not left out of the process.

315 NA, Interview with Radha (n189).

PROVIDE TRAVEL SUPPORT

Victims also alluded to some logistical challenges when attempting to participate in any future registration process or reparations programme. Bhuni mentioned that in the past she could not attend transitional justice workshops because she “*was busy with my child.*” And Gauri mentioned that some women were “*not able to go to the local peace committee [to file TRC complaints] due to the travel expenses as it was in headquarter and they were not provided with the travel cost.*”

3. Mitigating the challenges and risks

Victims provided several proposals for how best to mitigate or overcome these challenges.³¹⁶

PREVENTING BREACHES OF CONFIDENTIALITY

As already mentioned, most victims assigned responsibility for reparations to the government but recommended that, because of victims’ abiding lack of trust of government, civil society and victims’ organisations should be involved in implementing any programme. However, as one of the respondents said, “*organisations are only bridges.*”³¹⁷ Ultimately, only the government can provide some form of acknowledgment that would have the potential to change how people in Nepal perceive sexual violence.

As such, consideration should be given to which entity or entities should implement relief or reparations programmes and what role if any civil society and victims’ organisations could play, to ensure confidentiality. Several women are in abusive relationships and worry that the disclosure of any information about CRSV will destroy their family, as described by Radha:

“It is very difficult to talk about our incident in public. Sometimes I feel I should share my incident openly but feel scared of breaking up my family. [I have children] and their studies are very good. I don’t have any expectations from my husband. I think if my husband knows about my real incident, he will throw me out of his house. If I must leave him, I can tolerate that but leaving my children will be unbearable to me.”

This includes confidentiality in medical treatment. As Prapti explained:

“Our harm has to be addressed in a confidential manner. One of my friends who was also raped during the conflict went to the hospital for a uterus problem. A doctor at the hospital started to ask her how this happened. She got scared, as she hasn’t told her family about the incident. So, my friend stopped going there for treatment. I don’t know how we can get treatment in a confidential manner. I can openly talk about my incident as I don’t have anything left to lose but for others their family life can be destroyed. So, delicacy is required here.”

To ensure confidentiality and improve the reliability of existing data, one victim recommended a preliminary step whereby civil society or victims’ organisations first hold separate meetings with victims in a safe space:

“There is no existing data with the government or with the organisation. The organisation can help by conducting a separate meeting with us to explore our needs confidentially. By doing so, we can feel that somebody is listening which motivates us to share our true stories. For this, we need a safe space. Then they can help us to obtain benefits in a confidential manner. Sharing our pain and needs with other conflict-affected women as well will be difficult for us.”³¹⁸

In addition, to help mitigate the risk of breaches in confidentiality, a programme for vetting and training those who will participate in any registration effort is

316 When asked about what could be done to mitigate the risks and challenges of implementation: eight insisted on maintaining confidentiality; eight said government can do so by maintaining proper documentation and data collection; four proposed initiatives to make their community understand that they were not to blame for the incident; nine said civil society organisations can help government facilitate access to benefits; and two said separate meetings with the women to understand who needs what and how it can be done.

317 NA, Interview with Chandani (n232).

318 NA, Interview with Devaki (n5).

essential, consistent with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Law suggestion that verification of the facts should not “harm or threaten the safety and interests of the victim, the victim’s relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations.”³¹⁹

ADDRESSING TRAUMA AND LACK OF UNDERSTANDING

Even if adequate mechanisms are set in place to ensure confidentiality, steps will also need to be taken with the victims themselves to ensure they are ready to engage. Prapti proposed a multi-step process for how to work toward a policy that could help survivors address their trauma, build trust, and then engage in a reparation programme on a confidential basis. She suggested first implementing a programme of psychosocial counselling to build trust among survivors before they begin the process of registering and accessing reparations benefits.

“[Counselling] is needed, first to cut down their multilayer trauma by creating a safe space and then to help them to access the reparation in a confidential manner. Maybe organisations can help with this part.”

A parallel effort might also need to be conducted with family members and communities, especially with men and boys to promote understanding around gender-based violence and what happened during the war. As Jyoti recommended, interventions with family might also be considered:

“There must be an intervention put in place to help our family and community understand the suffering we went through.”

BUILDING COLLABORATION BETWEEN GOVERNMENT, VICTIMS' GROUPS, CIVIL SOCIETY AND COMMUNITIES

To assist with this effort, there must be strong collaboration between government, victims’ groups, civil society organisations (particularly women- and victim-led organisations), and existing transitional justice mechanisms like the TRC, and local communities. To date, no meaningful collaboration efforts have been undertaken and there is a lack of trust between the TRC, the government, and victim communities. This has been a longstanding problem stemming from the government’s top-down and exclusionary approach to transitional justice policymaking that effectively reduces victims’ participation to pro forma consultations in which victims, government, and civil society go through the motions, but little knowledge is shared, and no meaningful acknowledgment is provided.³²⁰

The issuance of recommendations and decisions in 29 conflict-era cases in December 2021 was but one example of this heavy-handed and top-down approach. The government’s release of summary decisions without meaningful explanation after years of inaction is best interpreted as an attempt to foreclose by fiat any form of accountability for war-era crimes and to force victims to take inadequate, inappropriate, and ineffective reparations. Such actions undermine hope that there will be the collaboration necessary for navigating the many challenges for implementing reparations for CRSV victims in Nepal.

As a result, immediate efforts are needed to bring CSO, victims’ groups, and government officials, including TRC commissioners, together to collaborate around what needs to be done and how. CSO and victims’ groups are essential parties at the table and the government must be reminded of that fact. These efforts could be undertaken through the good offices of the international community and under the mandate of constitutional bodies like the NHRC and the WNC. Public testimony

319 UNGA ‘Basic Principles and Guidelines on the Right to a Remedy and Reparation’ (n266) 22(b).

320 The last selection process of TRC commissioners is but one example. In February 2019, a five-member committee was formed by the government to recommend the names of candidates for consideration. It conducted a limited vetting process which for instance decided against reappointing any of the previous commissioners and published a list of 61 names for comment. Ultimately, however, the appointments reflected the “political consensus” of party leaders and resulted essentially in a power-sharing arrangement.

could be taken by either body on reparations and CRSV.³²¹ Or alternately, under the 2014 TRC Act, the TRC can constitute a subcommittee “*comprising experts of various sectors*” to carry out activities and the services of specialists, including foreign experts,³²² who could take the lead in convening discussions around reparations for CRSV victims and coordinating consultations with key stakeholders.

In the meantime, civil society and victims’ groups will need to continue and ramp up their advocacy to ensure women who faced conflict related sexual violence get the holistic support they need. Victim-led and women’s organisation could take the lead in these efforts to ensure CRSV victims are not forgotten in future reparations decisions and are part of any effort to formulate and define future reparations programmes.

It is also necessary for civil society organisations to work collaboratively, as well to stop the duplication of their efforts to maximise, in a collaborative way, their support for the women who faced sexual violence and physical violence.

QUESTIONS OF PROOF

To overcome challenges of proof (“evidence”) for purposes of implementing reparations that have already been described above, several victims recommended the government consider written or oral testimony of the survivor or a witness as proof.

PROVISION OF VICTIM ID CARDS

Many victims mentioned victim ID cards as a form of acknowledgment and a way to provide recognition of their status as conflict victims. While this proposal could help facilitate access to services and is a form of acknowledgment, it is far from a bureaucratic panacea. As civil society has pointed out, men were prioritised in the issuance of victim identity cards needed to access relief measures provided in relation to the earthquake. Women were only provided with an ID card in “*households where men were absent.*”³²³ In addition, camouflaging strategies would be essential to ensure that possession of a card is not associated with being as a CRSV victim.

321 National Women Commission Act 2007, s 11(1)(j).

322 TRC Act (n180) art 31-32.

323 Civil Society’s Shadow Report (n53) art 15.



XIV. TAKING THE REPARATIONS AGENDA FORWARD

For most sexual violence victims in Nepal, going public about “the incident” is not an option. A few had no choice because the crime occurred in a public place in front of witnesses. In some instances, family members or neighbours learned about what happened after noticing the resulting physical injuries. Several tried to file a formal complaint with the police but were denied that right and have sought a remedy before the UN Human Rights Committee, under a pseudonym.

But for most victims, their lives since the crime have been largely dominated by the need to survive and to manage the harms caused by the violation, which includes keeping the truth hidden to avoid the stigma and discrimination levelled against CRSV victims. As a result, few CRSV victims in Nepal organise or advocate as CRSV victims or identify as CRSV victims. Most instead refer to the other violations of international human rights and humanitarian law they suffered, including torture, abduction, enforced disappearance, and killing.

Instead, many, in their capacity as victims of other conflict-era violations, have joined together with other conflict victims to advance broad initiatives in support of reparations and other transitional justice measures as members of various victim associations. Among the largest national networks are the Conflict Victims Common Platform on Transitional Justice – Nepal (CVCP 2014), the Conflict Victims’ National Network (CVNN 2019), the Conflict Victim Women National Network (CVWN 2020), the National Network of Families of Disappeared and Missing Nepal (NEFAD 2009), the National Network of Disabled Conflict Victims (NNDCV), and the Conflict Victims’ Society for Justice (CVSJ-Nepal 2008). See Annex IV for a list of additional victims’ groups.

For years, these organisations have worked at the grassroots level to advocate on behalf of conflict victims, including CRSV survivors and have spearheaded efforts to advance transitional justice, including reparations across Nepal’s conflict-affected districts, despite not always being consulted by the government. A sampling of some initiatives:



Supreme Court of Nepal, Kathmandu, 2020.
© Sandeep Raut / Wikimedia Commons

- *International Engagement:* In 2020, groups of conflict victims came together to make several submissions during Nepal's most recent Universal Periodic Review.
- *Domestic Litigation:* With the help of domestic human rights organisations, individual victims and victims' groups have filed cases before Nepal's Supreme Court to challenge among other things impunity for conflict-era violations and the constitutionality of Nepal's Enforced Disappearances, Enquiry, Truth and Reconciliation Commission Act 2071 (2014) and requiring laws to protect LGBTQI+ rights and to change existing laws discriminating on the basis of gender or sexual orientation.
- *Research:* Victims have been active in advancing research initiatives on their own and in partnership with civil society. A notable example relating to reparations was published in May 2018 by CVCP: "Reparative Needs, Rights and Demands of Victims of the Armed Conflict in Nepal." That report provides comprehensive reparations recommendations based on discussions and consultations conducted during 2015-2016.
- *Capacity-Building:* With funding from international and national donors, NGOs have conducted numerous trainings and workshops for CRSV victims to familiarity with transitional justice mechanisms, including accountability, truth-seeking, reparations, and reform measures. These programmes began soon after the signing of the peace agreement and have continued to the present, although at a much-reduced level since the advent of COVID-19 pandemic.
- *Advocacy:* Since the war ended, victims have staged peaceful protests in Kathmandu and elsewhere to keep victims' issues on the national agenda. In June 2018 for instance, women victims of sexual and gender-based violence and female relatives of the disappeared came together to present the "Women Victims of Conflict Justice Manifesto" to commissioners of Nepal's two transitional justice bodies. Similarly, in November 2018, CVCP adopted the Conflict Victims' Charter demanding inter alia that the government of Nepal publicly acknowledge the human rights violations committed during the decade-long armed conflict, commit to bringing the transitional justice process to a meaningful conclusion, ensure the involvement of conflict victims in the process, and replace the TRC with a credible high-level mechanism that is trusted by the conflict victims. The Charter also demanded reparations in the form of "immediate interim legal, medical and compensatory support," psycho-social counselling, the restoration of property taken during the war, access to higher education for children victimised or otherwise affected by the conflict, and "medical treatment to those who were disabled or injured during the armed conflict, ensuring their livelihood through allowances."
- *Women's Tribunal on Sexual Violence on Women During Conflict:* In 2014, an unofficial tribunal was convened in Kathmandu and testimonies were offered by "women witnesses" who had survived "specific acts of sexual violence; and constant sexual intimidation, during Nepal's armed conflict."³²⁴ That tribunal issued findings of the nature of the sexual violations, the rarity of official complaints, and the stigma that followed. The tribunal recommended that CRSV survivors should be included in the IRP and that investigations should be undertaken by the NHRC.
- *Memorialisation:* At the local level, victims' groups have undertaken numerous memorialisation efforts to remember those killed and forcibly disappeared and to speak out about the continued injustice being perpetrated against their families. Victim-initiated photo exhibitions like "14 Stories: Living Memories of War" have toured the country to highlight the ongoing toll facing thousands who were injured during the war.³²⁵

324 Women's Tribunal on Sexual Violence on Women During Conflict, Verdict (Kathmandu, Nepal, 8 December 2014) <https://apwld.org/wp-content/uploads/2014/12/Final-Verdict-14-12-14.pdf> accessed 21 January 2022.

325 Sangita Shrestha, 'Stories of lives walking through the dark tunnel toward the light' *MyRepública* (20 February 2019) <https://myrepublica.nagariknetwork.com/mycity/news/stories-of-lives-walking-through-the-dark-tunnel-toward-the-light> accessed 21 January 2022.



XV. REPARATIONS RECOMMENDATIONS

Given the relatively small number of CRSV victims in Nepal, estimated at only around 300-2,000, the delivery of adequate and effective reparation should be achievable. Yet, year after year, Nepal's government and the political parties that make up its leadership refuse to take up the issue of reparations for CRSV victims and have done nothing to advance policy within the Parliament or to improve operations at the TRC so that it can meet its obligation to provide redress to victims of the conflict.

Knowing what we know about what Nepal's government can and has done in other cases in terms of limited interim relief,³²⁶ one can only conclude that its continued unwillingness to address CRSV victims' reparative needs are more a function of the government's refusal to confront the hard truth about the atrocities committed by both sides during the war, including rape, gang rape, other forms of sexual violence, and torture, and the highly patriarchal nature of Nepali society and its connections to GBSV. These atrocities were widespread and systematic and affected women, girls, including very young children, men, and likely transgender persons of all ages. Yet in the face of victims' complaints and testimonies, they continue to look away, withhold acknowledgment, and refuse to do anything for the victims while allowing the guilty to continue with their lives.³²⁷

The recent decisions in 29 cases in December 2021, which included no cases involving CRSV, appear to confirm that. The government continues to act without consulting or coordinating with victims and victims' groups despite the essential role they have in the process and the critical impact decisions around reparations have on their lives.

Immediate steps must be taken by Nepal's government to provide victims of CRSV and other war-time violations of international human rights and humanitarian law not only with information but with equal and effective access to justice "*irrespective of who may ultimately be the bearer of responsibility for the violation*", and provide "*effective remedies*", including reparation.³²⁸ This section describes what should be done and offers approaches for how reparations can be made a reality, in keeping with international standards and the CRSV victims' need for confidentiality. To implement these recommendations, the government must commit sufficient resources both in terms of budgetary allocations and human resources, including at the ministries of the government that will have responsibility for administering a reparations programme.³²⁹

It should also consider the potential that a comprehensive policy of redress for CRSV victims could have in advancing other goals relating to gender equality and women's empowerment across Nepal, including those adopted in its National Action Plan for the implementation of UNSCR 1325 and 1820. A number of these recommendations have a collective component that could advance change for women broadly by promoting community understanding not only of CRSV but also of sexual assault, domestic violence, rape, intimate partner violence, sexual abuse, and all other forms of sexual violence.

As already described, there are many challenges to implementing reparations in Nepal. These include the challenges addressed above relating to potential breaches of confidentiality and mechanisms for avoiding trauma, but also the many bureaucratic

326 However, Nepal's political leaders have sometimes promised victims compensation at election time, but then failed to keep their word. That happened in relation to the 2005 Chitwan bus bombing by Maoist cadres that killed 38 and injured 72. In 2017, Pushpa Kamal Dahal, while campaigning had called the incident "the biggest mistake of the civil war" and agreed to provide compensation totalling 6 million Nepali Rupees to those who had lost family members, along with free treatment for the injured. Today, victims are still awaiting that compensation. Dipendra Adhikari, 'Sixteen Years of Badarmude Incident: Incomplete Justice and Assurance' INSEC online (7 June 2021) <https://inseconline.org/en/news/sixteen-years-of-badarmude-incident-incomplete-justice-and-assurance/> accessed 21 January 2022.

327 In 2020, the NHRC published a list of 284 human rights violators, including many current and former high-ranking security officials, although violators of CRSV are not among those named. Dewan Rai, 'The NHRC finally lists rights abusers publicly, but will the perpetrators ever be brought to book?' The Record (16 October 2020) www.recordnepal.com/the-nhrc-finally-lists-rights-abusers-publicly-but-will-the-perpetrators-ever-be-brought-to-book accessed 21 January 2022.

328 UNGA 'Basic Principles and Guidelines on the Right to a Remedy and Reparation' (n266) 3 (c) and (d).

329 At the time of writing, not all the ministries of the government were fully staffed because of the battles among political elites.

challenges that are likely to arise when implementing reparations in accordance with the TRC Act and Rules, which will include not only finalising investigations, issuing recommendations, establishing eligibility, and eventually dispensing benefits.

To address these challenges, it is recommended that consideration be given to the following approaches for implementing reparations. These suggestions contemplate a phased approach that begins by working within existing structures and laws so that benefits can be expedited. Additional measures could then be taken, for instance to provide accountability in the form of criminal proceedings, once necessary amendments to the 2014 TRC Act and other laws and processes are made. It also recommends streamlining the recommendations process by providing a common package of benefits to all CRSV victims without the need for individualised assessments as contemplated under the 2014 TRC Act which are likely to re-traumatise victims and increase the risk of inadvertent disclosure of the nature of the crime and stigmatisation. Where necessary, individualised assessments could then be undertaken to address particularised areas of need (e.g., gynaecological, and other medical treatment).

Approaches for Implementing Reparations

Confidentiality is required

Because of the great sensitivities involved in designing and administering a programme of reparations for CRSV victims in Nepal, great care must be taken to ensure that victims' identities are protected at every stage of the process, including when seeking out and receiving benefits. To prevent the disclosure of victims' identities, efforts to camouflage the nature of the underlying crime should be considered. In addition, those administering the programme should have experience working with and, if possible, already have established relationships of trust with CRSV victims or other marginalised populations and/or training in trauma-sensitive implementation strategies.

Confidential coordination and collaboration between civil society and victims' organisations experienced in working with CRSV and the entity tasked with administering reparations is essential

CRSV victims have a deep distrust of the government born of years of official indifference to victims' situation, its failure to provide accountability, and the insensitive behaviour of some officials during past bureaucratic interactions. Much work needs to be done to build an environment of trust in which victims can feel safe to come forward and participate in a State-administered and funded reparations programme. Many victims suggested that civil society and victims' organisations have a role to play in making that happen and in administering any future reparations programme because they have a long track record of working with CRSV victims and a deep understanding of human rights norms and survivors' needs and priorities. Over time, many victims believe civil society and victims' groups have proven to be reliable actors and should assist in designing protocols for engaging survivors confidentially and to help mitigate the risks of re-traumatisation – many already have staff who are trained in psychosocial support techniques. They are also well placed to identify opportunities and approaches for acknowledging victims and ensuring that the process, as well as the benefits, are reparative.³³⁰

Consider using existing databases to confidentially identify CRSV victims

To both address the urgent needs of victims and to get started on dispersing benefits, urgent reparations measures could be provided immediately to those CRSV victims who have previously identified or registered as CRSV victims. This could include the CRSV victims who participated in this Study and those who have already filed a complaint with the TRC, the security forces, or the NHRC, as well as those who have participated in programmes administered by civil society and victims' organisations in the past involving CRSV victims. Given the privacy implications, consent

³³⁰ For additional ideas about how to make the benefits and process meaningful see, Ruben Carranza, Cristián Correa, and Elena Naughton, 'Forms of Justice: A Guide to Designing Reparations Application Forms and Registration Processes for Victims of Human Rights Violations' (ICTJ, December 2017) www.ictj.org/publication/forms-justice-designing-reparations-forms-and-processes accessed 21 January 2022.

would need to be obtained from both the victims and the organisation before sharing any information and consolidating the existing information into a unified reparations registry in a way that guarantees confidentiality and avoids double counting.³³¹

Investigations into the crimes would continue for the purpose of determining the culpability of the perpetrators and for ascertaining the truth, including for the purpose of showing a generalised and systematic practice of sexual violence during the armed conflict and how it affected victims. However, victims' reparations should not be made contingent on corroborating evidence, given the nature of the crime and the impossibility facing many survivors of providing evidence. Victims who have already provided testimonies, either to the TRC, to civil society or victims' organisations, or to other cooperating entities, should be presumed to have had a "*sufficient ground to take action*" and should not need to do so again. Because the potential stigma of CRSV is so high, the testimonies should be presumed reliable and deemed to be sufficient proof of eligibility. No additional evidence should be required.

Although this approach would not cover all CRSV victims immediately, that could be remedied by reopening the complaint process to allow all conflict victims to supplement their original complaints or, if they have not already filed with the TRC, to file now.³³² This would help facilitate participation by those CRSV victims who filed with the TRC not as CRSV victims, but as victims of other violations, e.g., torture or enforced disappearance and victims who may not yet be included like children born of war and members of the LGBTQI+ community. Careful consideration will need to be given to which agency of government should administer this open enrolment process, given the current lack of trust in the TRC and some government ministries, including the Ministry of Home Affairs,³³³ or whether a new independent body should be created. Possibilities could include the National Human Rights Commission, the Ministry

of Women, Children, and Senior Citizens, and the National Women's Commission.

To facilitate participation, a separate mapping of victim populations could be undertaken to identify and register victims who did not register with the TRC or other entities or organisations that have accepted complaints from CRSV victims or have worked with them in the past. The mapping should include LGBTQI+ victims of CRSV since they are an underrepresented population of victims. Consideration should also be given to conducting a separate empirical study of LGBTQI+ victims and other marginalised victims, including those in more remote locations, like Rolpa.

During the open enrolment period, it might be possible to hold additional capacity-building programmes in advance of or in parallel with registration. This would give the government and civil society actors time to ensure that those victims who still lack a full understanding of the concept of reparations and transitional justice are made aware of how reparations would be administered, facilitate their registration, and provide opportunities for the government to acknowledge the suffering of victims and take responsibility for the violations.

This process could be implemented as part of a larger effort that includes both individual and collective forms of reparations that benefit other populations of conflict-affected victims including the broader population of torture victims, to guarantee the confidentiality of CRSV survivors. The issuance by the TRC at the end of 2021 of *ad hoc* decisions in 29 cases are the opposite of what is required. Instead of issuing decisions piecemeal and on a case-by-case basis, the government should establish an operational plan for implementing reparations. That plan could provide for coordination between and among implementing ministries, civil society, and victims' groups, among others, to improve efficiency and build working relationship built on trust.

331 Previous efforts to consolidate existing databases into a unified registry of victims should be considered. See for example Cristián Correa, 'Reparations in Peru: From Recommendations to Implementation' (ICTJ, June 2013) <https://www.ictj.org/publication/reparations-peru-recommendations-implementation> accessed 21 January 2022.

332 TRC Rules (n282) s 3.3. The "*Commission may extend the time-limit for filing the complaint if it deems such time-limit as referred to in sub-rule (2) to be inadequate. Provided, however, that while extending the time-limit for filing complaint pursuant to this sub-rule, the time-limit for filing the complaint may not be extended to the period which results in less than at least six months before the expiry of the term of office of the Commission.*"

333 There have been reports that security personnel have pressured both complainants and commissioners by for instance seeking information from the Ministry of Home Affairs when complaints are lodged against high-ranking Maoists. Yvette Selim, *Transitional Justice in Nepal: Interests, Victims and Agency* (Routledge 2018).

Deciding on the Types and Modalities of Reparations

As already discussed, reparations should be permanent and comprehensive. However, certain benefits may be easier to provide on an expedited and confidential basis (e.g., efforts to raise community understanding about CRSV); others may take more time (e.g., investigation and prosecution of perpetrators).

As such, it would be important to prioritise reparations that address individual victims' needs and are immediately feasible. Given the dire financial situation of most CRSV survivors, financial support, including free healthcare, economic support, and educational support (for survivors and/or their children or grandchildren),³³⁴ discounted services (e.g., bus fares); and income generating opportunities are crucial elements of any reparations programme. As a result, material reparations should be among those prioritised for immediate rollout. To protect the confidentiality of CRSV victims, these initial financial payments and services could be made part of a new iteration of the IRP programme that extends IRP benefits to torture and CRSV victims who were previously excluded, as well as to the families of those killed or disappeared who were eligible but did not receive benefits under the IRP. By doing that, it would be much easier to mask the identity of CRSV victims.

As part of the reparations programme, the government should ensure that necessary and adequate psychological rehabilitation is provided to victims of CRSV for instance by providing survivors with "safe spaces" where they can meet to support one another, to share their pain, and to obtain psychosocial support and job or skills training. This measure should be among the first benefits provided to victims because they could take advantage of existing programmes. These gatherings could be led by the government entities, civil society and victims' organisations who are already active in this area and familiar with what victims need, who can issue individual invitations to protect against disclosure

and ensure that these events are not associated specifically with CRSV but are seen as conflict-victim programmes. These meetings could also be used to help conflict-victims, including CRSV victims, mitigate trauma and isolation, among the most debilitating consequences of sexual violence, and could include sessions on income-generating skills.

A form of collective reparation that could occur on a potentially shorter timeline is an official apology. The Prime Minister and/or other officials, including individuals from the leadership of the security forces and the Maoist party could make a formal, unequivocal apology at an official public event. That event could be broadcast via radio, on television, and via social media to reach a broad audience. The statement of apology could be reprinted and distributed through print publications. An apology could be the first step in what will ultimately need to be a long-term government effort to acknowledge the wrongs that occurred against all conflict-affected victims, to recognise victims' inherent dignity, and to promote "community understanding" around CRSV in Nepal.³³⁵ Consistent with the UN's Guidance Note of the Secretary General: Reparations for Conflict-Related Sexual Violence, acts of a "collective character" like apologies should not single out individual victims to avoid potential ostracization.³³⁶

Begin truth-telling operations at the Truth and Reconciliation Commission

CRSV victims also expressed a strong desire for effective TJ mechanisms which can address the issues of CRSV sensitively through a gender lens, including the truth about why they were subjected to CRSV, the prosecution of the individuals who abused them, recognition by the government, and guarantees of non-recurrence. Given the recent extension of the tenure of both the TRC and CIEDP, the commissions should act to take steps in that regard by addressing the components of their mandates not affected by the 2015 Supreme Court decision. These could include

334 Act Relating to Compulsory and Free Education, 2075 (2018) s 3.9. The "children of the martyrs, who have sacrificed their lives in the process of popular movement, armed struggle, revolution, of the disappeared persons, of conflict victims, of the wounded, of the persons with disabilities shall have the right to get special opportunity as prescribed."

335 Ruben Carranza, Cristián Correa, and Elena Naughton, 'More Than Words: Apologies as a Form of Reparation' (ICTJ, December 2015) <https://www.ictj.org/publication/more-than-words-apologies-form-reparation> accessed 21 January 2022.

336 UN Secretary General (UNSG), 'Guidance Note: Reparations for Conflict-Related Sexual Violence' (June 2014) 8 UN Doc ST/SG(02)/R425.

truth-seeking (“find out and record the truth and bring it out for the general public”³³⁷), excavations to recover the remains of the forcibly disappeared,³³⁸ and public hearings to promote understanding in the community about the violations that occurred during the war.

Given the TRC’s poor performance record to date, the prospects of the TRC beginning even the truth-telling aspects of its mandate appear small. However, as the custodian of the victims’ complaints and related investigatory files, the TRC remains among the entities best positioned to begin that process. Under the 2014 TRC Act, the TRC can constitute a subcommittee supported by specialists, including foreign experts, who could start the process.

In addition, steps should be taken immediately to ensure that the TRC’s existing files are secure; and a plan is set in place for when the TRC ceases operating to ensure the confidentiality of victims’ complaints, internal commission reports, and other documents, including any evidence submitted by survivors or complaints of survivors that has been suspended.³³⁹

Additional Recommendations

To the Government

1) CREATE A CONDUCTIVE ENVIRONMENT FOR CRSV VICTIMS TO COME FORWARD

Because of the urgency of the situation, the Government of Nepal should immediately lay the groundwork for a future reparations policy by taking preparatory steps necessary for creating a conducive environment for CRSV survivors to come forward. These include:

- *Promote community understanding of CRSV in coordination with victim’s groups and civil society, including by conducting public awareness campaigns to end sexual assault, domestic violence, rape, intimate partner violence, sexual abuse and all other forms of sexual violence, while also stating that sexual violence*

incidents during the war were not the fault of the victim, but a crime. As part of that effort, the government should facilitate a national dialogue on sexual violence in coordination with victims’ groups and civil society to improve the status of CRSV and post-conflict victims in Nepalese society. Community-level education programs should also be held with men and boys to raise awareness of sexual violence against women, including CRSV, and facilitate survivors’ reintegration into their families and communities.

- *Address stigma* through changes in school curricula to include the topic of stigma, gender equality, and non-discrimination.³⁴⁰
- *Issue Victim Identity Cards:* Many CRSV victims believe that victim identification cards would help facilitate access to reparations benefits, including free services, and would constitute a form of acknowledgment of their status as conflict victims. However, careful consideration must be given to ensure that victim identity cards are not associated with CRSV and do not reveal the nature of the crime.
- *Initiate training programmes for officials and staff* at all implementing agencies, including at the local level, to ensure that personally identifiable information obtained from CRSV victims, their families, witnesses, and sources is kept confidential, and that officials and staff treat victims, their families, witnesses, and sources with sensitivity and respect, and do not cause re-traumatisation. The training of medical practitioners is also recommended to ensure that they can provide trauma-sensitive care.

2) CONSOLIDATE EXISTING LISTS AND DATABASES OF CRSV VICTIMS

- *Hold roundtable discussions with victims’ groups and domestic and international civil society and UN bodies* to discuss the feasibility of consolidating existing databases and lists of CRSV victims for implementing expedited reparations and for determining approaches for guaranteeing victims’ privacy and confidentiality.

337 TRC Act (n180) s 13.

338 Ibid s 14.6.

339 TRC Rules (n282) 7(4), the commission is to return original documents to the victim if their complaint is suspended. However, before doing that, it is essential that protocols are established to ensure that the return of documents does not result in a breach of victim confidentiality.

340 Saathi, ‘Brief Report, Workshop on Conflict Related Sexual Violence’ (Kathmandu, Nepal, 21 August 2017).

- Undertake consultations with victims' groups and domestic and international civil society organisations that work with CRSV survivors to design protocols for engaging survivors confidentially, acknowledging the wrongs suffered, and ensuring that the process itself is reparative and is consistent with international human rights norms and Do No Harm principles.
- Remove the statute of limitations for filing cases relating to sexual violence perpetrated during the conflict and adopt the definition of rape and other forms of sexual violence to meet international standards and codify rape as a crime against humanity.

3) REGISTER UNREGISTERED CRSV VICTIMS AND IMPLEMENT REPARATIONS

- Allocate necessary resources, both material and human, to the entity(ies) tasked with registering CRSV victims and implementing reparations, including the health facilities at the local level that will be called upon to provide treatment.
- Establish a policy whereby statements submitted by CRSV survivors will suffice to file a complaint with the entity mandated to establish eligibility for reparations, such as the TRC. Victims of rape and sexual violence should not be required to provide physical evidence to access reparations benefits.
- Strengthen existing legal aid mechanisms to ensure that poor and vulnerable survivors receive the legal aid services if any they need to access justice, including reparations.
- Reimburse the cost of transportation for CRSV survivors who must travel to make a complaint.

4) AMEND LAWS, REGULATIONS, AND PRACTICES CONSISTENT WITH INTERNATIONAL STANDARDS

- Amend the 2014 TRC Act consistent with Supreme Court rulings and ensure CRSV victims' right to prompt, fair, and adequate reparation by among other things,
 - increasing under TRC Rule 33(1) the current caps on monetary compensation, loans, medical treatments;
 - ensuring that CRSV survivors are not compelled to participate in reconciliation or criminal proceedings and are afforded meaningful witness protection measures, including for protecting their identity.

- Expedite the adoption of the second national action plan for the implementation of UN Security Council resolution 1325 (2000) on women, peace, and security to address the needs and increase the participation of conflict victims, including CRSV victims, and other marginalised and disadvantaged communities, including sexual minorities in all areas of peace-making.

5) CONDUCT FULL AND EFFECTIVE INVESTIGATIONS AND PROSECUTE THOSE RESPONSIBLE

- Reform the FIR complaint filing process to ensure sufficient safeguards are in place to conduct investigations into CRSV and other crimes, now and in the future. The government should guarantee the confidentiality and protection of victims during the filing of a complaint, investigation and during court proceedings, in reparation registration processes, and in the implementation of reparations.
- Implement reforms for investigating and conducting forensic analyses of cases involving rape and other forms of sexual violence consistent with international standards, in particular the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Guidelines for Medico-Legal Care for Victims of Sexual Violence issued by the World Health Organization.
- Conduct thorough and effective investigations into the facts surrounding the cases of CRSV to improve understanding of the prevalence, patterns, and impact of CRSV in Nepal and its causes. That information should be made known to victims and to the broader public "to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the

*occurrence of further violations.*³⁴¹ Based on those investigations, criminal cases of those responsible should be instituted, public trials held, and the results made public.

- Initiate programmes for vetting and training officials and others who will participate in any future registration effort.

To International Stakeholders

- Take immediate steps to strengthen and improve the operations of Nepal's two transitional justice bodies, the CIEDP and TRC and to support amendments to the 2014 TRC Act. Given that the TRC continues its operations, consideration should be given to conducting trainings with commissioners and staff, for example on issues of confidentiality and archiving, eligibility requirements applied in administrative reparation programmes for survivors of CRSV, and truth-seeking measures, including on the writing and distribution of a final truth commission report.
- Additional support should be provided to victims' groups and civil society organisations to advocate around the issue of reparations and to encourage broader membership in victim organisations and consultative processes among victims who are still not participating. This support should include trainings and workshops for conflict victims in concepts of reparations and transitional justice.
- Support should be provided to victims' groups and civil society organisations who are or will be working with CRSV survivors to strengthen their capacity for providing treatment on a confidential basis consistent with the social dynamics in individual local communities.
- Alone or together with the government, undertake a mapping of the scope and geographic reach of programmes for GBV victims in Nepal to ensure that CRSV victims have local access to services.
- Research should be undertaken into the scale and nature of violations perpetrated against LGBTQI+ victims and their current needs and priorities.
- Ensure that researchers and consultants who conduct studies on issues of CRSV are trained in gender sensitive and trauma-informed practices when conducting interviews or other interactions with CRSV survivors.

To civil society organisations and victims' groups

- Confidentiality protocols should be reviewed to ensure that conditions are in place to prevent the inadvertent disclosure of information that could reveal the identity of CRSV victims, including those recommended in the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict. All staff should be trained in these and other confidentiality protocols.
- Convene discussions around approaches for and the feasibility of consolidating existing databases and lists of CRSV victims for implementing expedited reparations. As part of this effort, consideration should be given as to how to avoid duplication in services or repeated requests from victims for information.
- Efforts should be taken to reach out to and identify victims who are not among the CRSV victims who have been participating in victim support activities, trainings, workshops, and networks. Marginalised victims are likely to include victims in areas like Rolpa which are already known to be underrepresented women of Dalit origin, indigenous women, single mothers, male CRSV victims, and LGBTQI+ victims.
- Coordinate around a study on lessons learned by those who operate safe houses or crisis management centres for victims of sexual violence, including those working with CRSV. Continue programmes that train SGBV victims and underrepresented communities, including CRSV victims, to work as the paid staff of CSO and victims' groups. That effort should be expanded to ensure a diverse skilled workforce representing different ethnic and sexuality/gender backgrounds.

341 UNGA, 'Basic Principles and Guidelines on the Right to a Remedy and Reparation' (n266) 22(b).



Prayer flags.
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XVI. CONCLUSION

It has been over 15 years since the signing of the peace accord in Nepal. Yet, women who faced conflict-related sexual violence continue to suffer from the consequences of the harms inflicted. The special needs of women were always side-lined in the Nepali peace process, which never truly reflected a gender-sensitive approach. Major unanticipated events like the 2015 earthquake, and now COVID-19, have only heightened the urgency of what is at stake for conflict-related sexual violence survivors.

Fundamentally, what almost all the women need most is assistance with their dire financial plight. Symbols alone are not going to be enough for CRSV victims, although efforts and support for such initiatives among the larger victim community remain an important component of any initiative. However, for the victims of sexual violence, there is little to gain in public displays. Sexual violence remains a fraught and potentially life-changing topic and is likely to remain so. Instead, improvements in their everyday lives, including financial and psychosocial support, are likely to make a more meaningful difference in addressing their irreparable harms and suffering.

Because CRSV victims represent a small part of the population of conflict-affected victims, an intervention, whether in the form of a targeted effort or as part of a larger effort of support for other conflict-era victims, has the potential to catalyse action around the needs of other victim populations in Nepal. Given that victims have never been formally acknowledged by the government before, nor have they been provided with any material benefits as CRSV survivors, a programme focused on their needs is less likely to generate resentment on the part of other victims' groups.

The time is long overdue for CRSV victims to receive the justice they are owed after so many years of isolation and suffering, and the substantive support to which they are entitled. Such an effort will be a long-needed sign that Nepal's efforts at reform are not merely a show but represent at long last an acknowledgement that society understands that they are victims who were wronged and are worthy of respect.



ANNEXES

| Annex I: Demographic profile of Interview Participants

Demographic Information		Number of Participants	Percentage of Participants
Age at Time of Incident	Up to 19	20	64.52
	20-29	7	22.58
	30-39	2	6.45
	40+	2	6.45
Current Age	25-29	1	3.2
	30-34	5	16.1
	35-39	10	32.25
	40-44	6	19.4
	45-49	6	19.4
	50-54	1	3.2
	55-59	0	0
	60+	2	6.45
Education Primary Grades 1-8, approx. ages 5-12 Secondary: Grades 9-12, approx. ages 13-16	Not Specified	3	9.7
	None	10	32.25
	Primary (1-5)	2	6.45
	Middle/Upper Primary (6-8)	3	9.7
	Secondary (9-10)	5	16.1
	Higher Secondary (11-12)	5	16.1
	Adult education (literacy)	3	9.7
Marital Status	Never Married	0	0
	Married	20	64.52
	Widowed	5	16.13
	Separated	6	19.35
Number of Children	None	3	9.7
	1	7	22.58
	2	13	42
	3	3	9.7
	4	2	6.45
	5	1	3.2
	6	1	3.2
	Unspecified	1	3.2

Occupation at time of Incident	Agriculture	10	32.25
	Office Worker	0	0
	Small Business	2	6.45
	Labourer	1	3.2
	Housework	1	3.2
	Student	14	45.16
	Government Official	0	0
	Other (Maoist movement)	3	9.7
Current Occupation* (*Victims' primary form of employment. Many hold multiple part-time jobs and some were unemployed due to COVID lockdown.)	Agriculture	11	35.48
	Office Worker	2	6.45
	Small Business	3	9.7
	Labourer	10	32.25
	Housework	4	12.9
	Student	0	0
	Government official	1	3.2
	Other	0	0
Caste/Ethnicity	Brahmin	12	38.71
	Chhetri	2	6.45
	Indigenous (Janjatis)	14	45.16
	Dalits	3	9.68
Religion	Hindu	26	84
	Christian	1	3
	Atheist	4	13
Perpetrator	Government Forces	24	77.42
	Both	2	6.45
	Maoist	4	12.9
	Unknown	1	3.23
Knowledge of Reparations	None	17	54.84
	A little	2	6.45
	A lot	12	38.71
Province	1	3	9.68
	2	1	3.26
	3	2	6.45
	4	1	3.26
	5	15	48.39
	6	4	12.9
	7	5	16.13

Annex II: Participant Codes, Pseudonyms, and Date of Interview

Code	Pseudonym	Province	Date of Interview
A2	Shakti	2	11 June 2021
A5	Sneha	4	5 June 2021
A8	Tara	5	28 May 2021
A11	Gauri	1	2 June 2021
A23	Hema	6	6 June 2021
E24	Radha	6	6 June 2021
E25	Rashila	6	9 June 2021
I1	Sharada	1	20 June 2021
I11	Meena	1	20 June 2021
I14	Babita	5	3 June 2021
I18	Ganga	5	4 June 2021
I19	Bhawani	5	5 June 2021
I20	Sabina	5	9 June 2021
I21	Prema	5	16 June 2021
I28	Prerana	3	27 June 2021
I33	Mamata	1	27 June 2021
K13	Bhuni	5	1 June 2021
L12	Shyama	5	30 May 2021
L22	Chandani	5	2 June 2021
L31	Neeta	5	29 May 2021
M3	Smriti	3	9 June 2021
M4	Devaki	3	13 June 2021
N17	Rita	5	13 June 2021
R15	Avilasha	5	3 June 2021
R16	Ava	5	3 June 2021
U30	Parijat	7	15 June 2021
Y7	Dilmaya	5	27 May 2021
Y9	Sirish	5	13 June 2021
Y26	Jyoti	7	28 May 2021
Y27	Prapti	7	30 May 2021
Y29	Sunmaya	7	15 June 2021

Annex III: Basic treaty obligations

Treaty	Date of Signed/Acceded/Ratified
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)	14 May 1991 (acceded)
International Covenant on Civil and Political Rights (CCPR)	14 May 1991 (acceded); Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP1), 14 May 1991; Second Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP2-DP), aiming to the abolition of the death penalty, 4 March 1998 (acceded)
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	5 February 1991 (signed) and 22 April 1991; Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP), 15 June 2007
International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	30 January 1971 (acceded)
International Covenant on Economic, Social and Cultural Rights (CESCR)	14 May 1991 (acceded)
Convention on the Rights of the Child (CRC)	26 January 1990 (signed) and 14 September 1990; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict CRC-OP-AC, 8 September 2000 (signed) and 3 January 2007; Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (CRC-OP-SC), 8 September 2000 (signed) and 20 January 2006
Convention on the Rights of Persons with Disabilities (CRPD)	3 January 2008 (signed) and 7 May 2010; Optional Protocol to the Convention on the Rights of Persons with Disabilities, 7 May 2010
Convention on the Prevention and Punishment of the Crime of Genocide	17 January 1969 (accession)

Annex IV: List of conflict victims' groups

1. Conflict Victims Common Platform (CVCP)	2. Conflict Victims' National Alliance (CVNA)
3. Conflict Victim Women National Network (CVWN)	4. National Network of Disabled Conflict Victims (NNDCV)
5. Conflict Victims Orphans Society (CVOS)	6. Conflict Victims Society for Justice (CVSJ)
7. Conflict Victims Committee, Bardiya	8. National Network of Families of Disappeared (NEFAD)
9. Society of Nepal Maoist Victims Association	10. Conflict Victims and Farmer Rights Society, Kailali
11. Disabled Conflict Victims Association, Dolakha	12. Conflict-Affected Peoples Concerns Society, Dang
13. Bandurmudhe Ghatana Sarokar Samiti	14. Conflict Victims Teachers Society
15. Conflict Victims Self-Employment Skill Training Centre Nepal	16. Conflict Victims' National Society
17. Conflict Management and Displaced Concern Centre	18. Conflict Victims' Rights Forum, Myagdi
19. Guru Luitel Study and Development Center	20. Muktinath Adhikari Memorial Foundation
21. Maina Bal Bikash Samiti	22. Rina Arpan Dalit Smriti Pratisthan
23. Ganesh Ujjan Foundation	24. Bhairab Memorial Foundation, Gorkha
25. Laxmi Acharya Memorial Trust, Jajarkot	26. Martyr Bashistha Koirala (Sureshchandra) Memorial Foundation, Sindhuli
27. Manilal Memorial Trust, Myagdi	28. Nandalal Koirala Memorial Trust, Gorkha
29. Ra.Si.Pa. Memorial Foundation, Arghakhachi	30. Conflict Victims Women Network, Banke
31. Shiva Prasad Bhatta Memorialization, Gorka	32. Martyr Jaya Bahadur Rawal Memorial Foundation, Jajarkot
33. Martyr Tikaraj Aran Memorial Foundation, Ramechhap	34. Hari Bhakta Memorial Foundation, Rukum
35. Martyrs and Disappeared Warrior Children Foundation	36. Martyr Dasarath Thakur Memorial Trust, Rajbiraj
37. Bhupendra Memorial Trust Nepal	38. Martyr Ajablaal Yadav Memorial Trust, Dhanusha
39. Bhupendra Smriti Pratisthan Nepal, Banke	40. Women for Human Rights, Single Woman Group, Surkhet
41. Conflict Victim Society for Justice, Surkhet	



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