

For Immediate Release

Nepal: Stalling on Justice for Conflict-Era Crimes

Failure to Prosecute Enabling Fresh Abuses

(New York/Kathmandu, November 20, 2020) – The authorities in Nepal are preventing police and prosecutors from pursuing conflict-era cases of human rights violations, undermining the rule of law and efforts for security sector reform, [Human Rights Watch](#) and [Advocacy Forum](#) said in a report released today. During the [10-year armed conflict](#) between government forces and the Communist Party of Nepal (Maoist) that ended in 2006, thousands of people were forcibly disappeared, tortured, raped, or killed.

The 94-page report, “No Law, No Justice, No State for Victims: The Culture of Impunity in Post-Conflict Nepal,” tracks 62 cases of extrajudicial killings that Human Rights Watch and Advocacy Forum [first documented in 2008](#). The groups found that over a decade later, there has been little progress toward prosecutions, despite court orders requiring investigations to proceed, with the police and prosecutors saying that the government has told them these cases will be handled by transitional justice mechanisms. This inaction is helping to sustain an ongoing pattern of serious violations, including extrajudicial killings and torture by security forces.

“The government of Nepal has maintained a robust commitment to impunity, protecting alleged abusers at the expense of victims’ rights, and undermining the rule of law,” said [Meenakshi Ganguly](#), South Asia director at Human Rights Watch. “Rather than providing truth and reconciliation, the weak transitional justice structures have been used to create delays and make excuses to avoid criminal investigations or essential reforms.”

Foreign donor governments and the United Nations should press Nepal’s government to stop impeding justice and to amend transitional justice legislation to comply with Supreme Court rulings and obligations under international human rights law, the groups said.

Since the end of the conflict between security forces and Maoist rebels in 2006, successive governments have provided impunity to alleged abusers. The government established a [Truth and Reconciliation Commission](#) and a [Commission of Investigation on Enforced Disappeared Persons](#) in 2015. The two commissions, which were ostensibly established to expedite the legal system to deliver justice, have received over 60,000 complaints but have not completed any investigations.

Even if the commissions were functional, establishing them does not remove the government’s obligation to prosecute international crimes such as torture, Human Rights Watch and Advocacy Forum said.

The [Supreme Court](#) in 2015 struck down parts of the 2014 Transitional Justice Act which governs the commissions for failing to meet international and Nepali legal standards. The court ordered the government to amend the law, in particular to remove provisions providing amnesty for grave violations. The court [denied an appeal](#) by the government on April 27, 2020, to reverse

its previous ruling. Despite pledges and consultations, the government has not amended the law.

When the conflict ended, the [Comprehensive Peace Agreement](#) of 2006 promised a transitional justice process to “investigate [the] truth about people seriously violating human rights and involved in crimes against humanity.” Victims’ families have repeatedly sought justice through the courts or the police. In some of these cases, the courts ordered the police to investigate, but there have been very few investigations and even fewer prosecutions.

One of the very few cases that have gone to trial is the murder of [Maina Sunuwar](#), a 15-year-old girl tortured to death inside an army barracks in 2004. In 2017, the district court in Kavre convicted three former soldiers of murder, but they remain at large.

In the case related to the 2004 murder of two brothers, Nar Bahadur Budhamagar and Ratan Bahadur Budhamagar, the Supreme Court issued an order in April 2017 noting that the “constitutional guarantee of human rights remains illusionary if police fails to investigate such a serious crime for such a long period of time.” Three years later, the police told Advocacy Forum that the investigation had not yet begun.

In Bardiya district, the current public prosecutor told Advocacy Forum that he could not even locate records of any of the cases in which court orders were issued directing the police to investigate. Human Rights Watch and Advocacy Forum found a similar situation in cases registered with police and prosecutors throughout the country.

“The routine defiance of court orders by police and prosecutors in these cases is not only weakening the judiciary, but also the rule of law,” said Om Prakash Sen Thakuri, director of Advocacy Forum. “Victims feel insecure and vulnerable, as the state continues to protect alleged perpetrators while victims are shunned and pressured.”

In October 2020, the National Human Rights Commission (NHRC) [published](#) the names of 286 people, including 98 police officers, 85 soldiers, and 65 former Maoist insurgents, whom the commission had recommended for prosecution over the past 20 years. While the government has sometimes made payments to victims based on NHRC recommendations, very few of the alleged abusers have been prosecuted.

Resistance to addressing past abuses has entrenched impunity in post-conflict Nepal, and combined with a failure to deliver security sector reform, has fostered impunity in recent cases of serious human rights violations. In a mounting number of alleged extra-judicial killings by the police, deaths allegedly resulting from torture, and shootings of unarmed protesters, the authorities have refused to take action despite strong evidence.

[Recent cases](#) include alleged extrajudicial executions by the police of Kumar Paudel and Dipendra Chaudhary in separate incidents in 2019; the killing of Saroj Narayan Singh, an unarmed protester shot dead by police in 2019; and the deaths of Shambhu Sada, Bijay Mahara (also known as Bijay Ram Chamar) and Raj Kumar Chepang, who died following alleged torture in security forces custody in 2020.

Continuing impunity for human rights violations is undermining donors' efforts to support accountable governance and the rule of law, Human Rights Watch and Advocacy Forum said.

Nepal's international donors, including the [United Kingdom](#) and [United States](#), which support programs to strengthen policing and rule of law in Nepal, should press for concrete action to end impunity for abuses committed during the conflict period as well as ongoing abuses. In the absence of prosecutions in Nepal, prosecutors in other countries should investigate universal jurisdiction cases against Nepali suspects in international crimes.

“Nepali officials like to use the rhetoric of human rights and the rule of law to please international audiences, but successive governments' actions and inactions tell the true story,” Ganguly said. “Never-ending impunity is causing great suffering to victims and their families, making ongoing abuses more likely, and preventing the country from moving forward to a better future with accountability and the rule of law.”

“No Law, No Justice, No State for Victims: The Culture of Impunity in Post-Conflict Nepal” is available at:

For more Human Rights Watch reporting on Nepal, please visit:

<https://www.hrw.org/asia/nepal>

For more Advocacy Forum reporting on Nepal, please visit:

<http://www.advocacyforum.org>

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