

TORTURE BRIEFING

PREVENTION OF TORTURE IN NEPAL

July to December 2011



ADVOCACY FORUM-NEPAL

"LAWYERS' FORUM FOR HUMAN RIGHTS & RULE OF LAW"

INTRODUCTION

One of the critical aims of Advocacy Forum's (AF) is to reduce the practice of torture, promote a system of accountability and address impunity relating to torture. As part of that work, the organization produces briefings on trends and patterns relating to torture and other cruel, inhuman or degrading treatment. These briefings also highlight the state's responses to the complaints communicated to them. AF regularly communicates cases to national and international bodies requesting these bodies to put pressure on the authorities to conduct impartial investigations and to provide security to victims in detention. This briefing is the ninth such briefing providing an analysis of patterns from July to December 2011.

Since the establishment of AF in 2001, its lawyers have undertaken regular visits to places of detention. They currently visit 57 detention centres in 20 working districts namely Baglung, Banke, Bardiya, Dhanusha, Dolakha, Jhapa, Kathmandu, Kanchanpur, Kapilvastu, Kaski, Lalitpur, Morang, Myagdi, Parbat, Ramechhap, Rupandehi, Siraha, Sunsari, Surkhet and Udaypur and collect data from detainees using a standard questionnaire. The main aims of these visits are to assist the police to implement its constitutional obligations to prevent torture and other ill-treatment and ensure redress in the event of torture occurring. The large majority of places of detention visited are District Police Offices (DPOs) and Area Police Offices (APOs) as they are the places where those under arrest are usually brought for interrogation and the detainees often complain of being compelled to confess under torture.

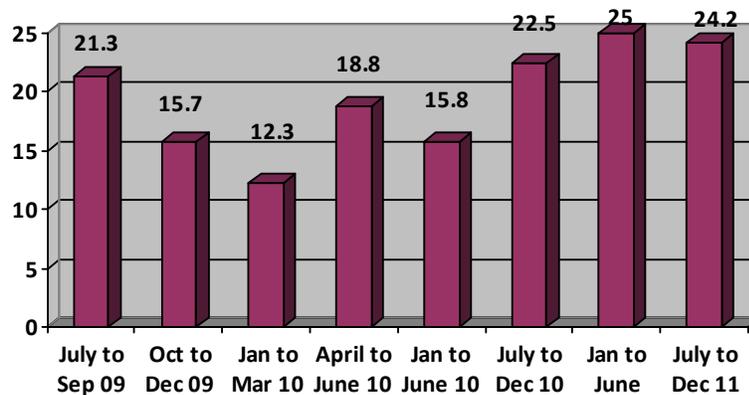
This program of police detention monitoring in areas with high risk of torture forms part of an integrated intervention strategy which also comprises legal aid to detainees who have no access to a lawyer, documentation of cases and patterns of torture, the initiation of court cases to obtain redress, national and international advocacy as well as awareness-raising among key stakeholders.

PATTERNS AND TRENDS ANALYSIS

During the reporting period from July 2011 to December 2011, AF has recorded a slight decrease in the percentage of torture from 25% in the previous six months to 24.2%. The decrease is significant showing a potential positive impact of the regular visits to places of detention to prevent torture and the wider intervention strategy developed by AF. However, serious concerns remain regarding the prevalence of torture in certain districts, in particular in the following districts where the percentages of torture are above the average in the 20 districts: Kaski (51.6%), Sunsari (42.9%), Bardiya (35.9%), Siraha (29.6%) and Parbat (29.3%). There also remains concern about high incidents of torture of certain categories of detainees (in particular juveniles, who continue to be more frequently tortured than adults. On a more positive note, there have been considerable reductions in percentages of torture in certain districts which have been long-term problematic: Dhanusha (reduced from 46.5% to 25%) and Morang (reduced from 39.4% to 11.8%) (see Table 4 in Annex 1).

During July to December 2011, AF lawyers interviewed 1919 detainees in 57 detention centres. Among them were 191 (10 %) women and 1728 (90.0%) men. Of them, 464 detainees (24.2%) have claimed that they were subjected to torture or other cruel, inhuman or degrading treatment. Among the women detainees, 31 (16.2%) claimed they were subjected to torture or other ill-treatment, as opposed to 433 (25.1%) of men. (See Annex 1: Tables 1, 2 and 3 for more details.)

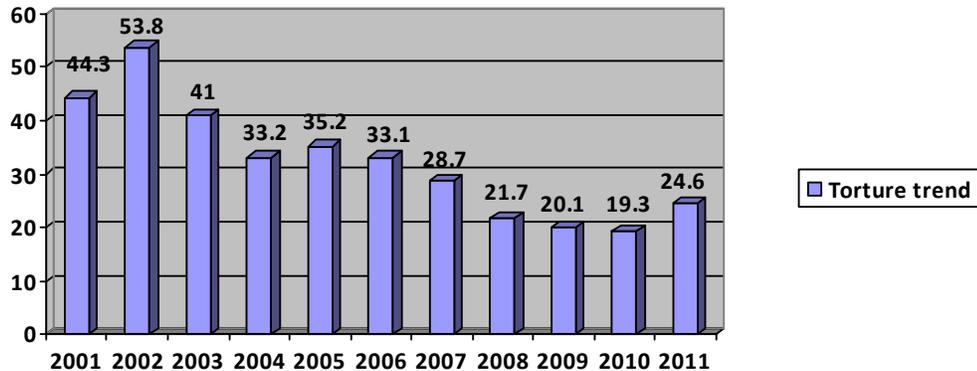
There is concern that the percentage of torture among female detainees reporting they were tortured continues to increase: from 32 (14.7%) during January to June 2011 to 31 (16.2%). The 31 women who claimed they had been tortured had been severely beaten by investigating officers and had been treated without consideration for the rights and needs of women detainees as a particularly vulnerable group.



Trends in Reports of Torture in 20 districts where AF visits places of detention

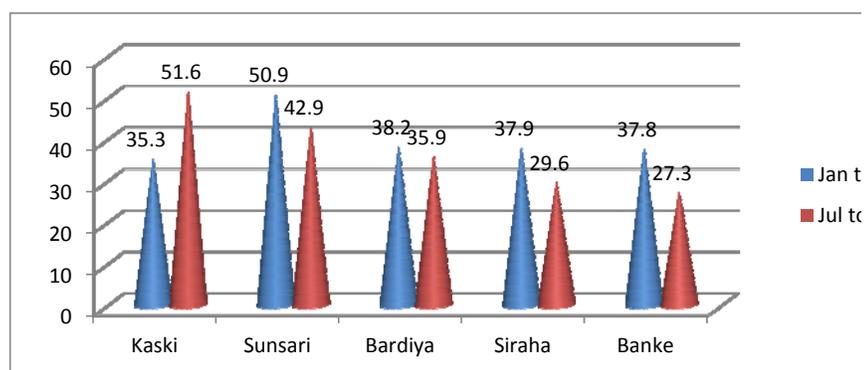
The 24.2% of detainees who claimed they had been tortured during the period from July to December 2011 represent a decrease of 0.8% in comparison to the period from January to June 2011 and an increase of 1.7%

in comparison to the period from July to December 2010. During the latter period January to June 2011, AF interviewed a total of 2268 detainees among whom 567 (25%) claimed that they had been subjected to torture and ill-treatment. During the earlier period from July to December 2010, AF had interviewed a total of 2183 detainees among whom 492 (22.5%) had claimed that they had been tortured. (For more details of the longer-term patterns, see the above graph and Annex 2: Table 1, 2 and 3 for more details regarding the trends and patterns during the period from July to December 2001.) The overall increase in the percentage of torture in 2011 confirms a reversal in the gradual longer-term reduction in reports of torture noticed in the previous years (see graph below).



There remain considerable variances in the prevalence of torture between districts. During this period, the highest torture percentage is 51.6% in Kaski District where 99 out of 192 detainees claimed that they have been subjected to torture and ill-treatment. Among 99 detainees, 60 are juveniles who claimed that they were subjected to torture and ill-treatment. The percentage of torture of juveniles in Kaski district stands at an alarming 65.2%. Table 4 in Annex 1 shows the percentages per district during this period and the highest percentages are highlighted. Among the districts with the highest percentage four are located in the Terai region. They are:

- Sunsari (42.9%)
- Bardiya (35.9%)
- Siraha (29.6%)
- Banke (27.3%)



Trends of torture in 5 districts

The above graph shows the districts with the highest percentage of torture during this period. Kaski, Sunsari, Bardiya, Siraha and Parbat are the districts where the highest percentage of torture was reported. When analyzing trends over the last two periods, it is found that there is significantly high increase in torture reported in Parbat (from 5.3% to 29.3%) and Sunsari (from 50.9% to 42.9%). During this period, there is 2.3% decrease in torture in Bardiya district though it remains among the districts with the highest percentages.

On a more positive note, Dhanusha, Morang and Jhapa districts (which had shown high percentages of torture for a sustained period) showed an encouraging decrease: the reported torture percentage in Dhanusha decreased from 46.5% in the period from July to December 2010 to 25% in the period from July to December 2011. In Morang, decreased from 39.4% to 11.8% over the same period; and in Jhapa from 23.1% to 16.7%.

When analysing the charges under which people who claimed they were tortured were held, the data show that those held under suspicion of involvement in arms and ammunitions, kidnapping, theft, murder respectively face 46.7%, 46.2%, 41.8% and 33.6% chance of being tortured. People later charged with rape (34.7%) are also at high risk of torture. Those charged with attempt to murder are 29.9% likely to be tortured. (See Annex 1: Table 6 for more details)

It is difficult to establish the dynamics behind the high percentage of reported torture. The possible explanations include:

1. The unstable political situation and the appointment of a new minister in the Home Ministry which has brought changes in police institutions and resulted in police officials under the protection of politicians feeling even less accountable for their actions.¹
2. The detainees who claimed that they were tortured were mainly arrested on charges of arms and ammunitions (44.4%), theft (42.1%), kidnapping (39.8%) and arson (36.4%). It appears in these cases that

¹ Chiran Jung Thapa, "Wrong Orders", 13 January 2012, <http://www.ekantipur.com/the-kathmandu-post/2012/01/12/oped/wrong-orders/230355.html>.

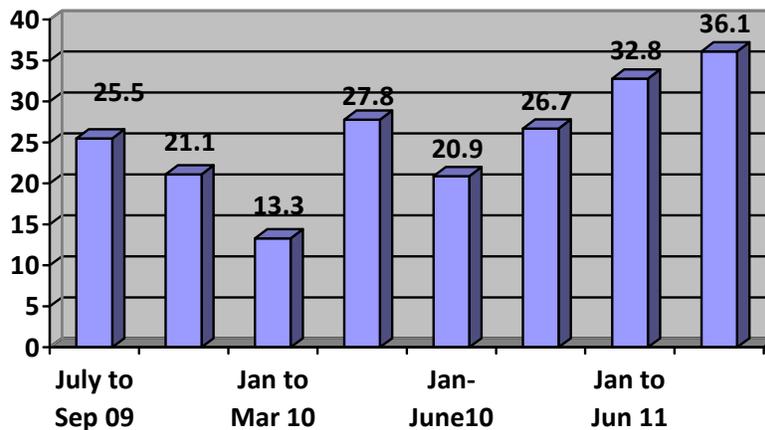
torture is used to speed up investigations. The Arms and Ammunition Act, among other laws, has several problematic provisions facilitating the torture of detainees.²

3. The torture percentage was mostly high in the Terai districts where the statistical data shows the torture percentage in districts such as Sunsari (49.0%, the highest overall percentage), Banke (35.9%), Dhanusha (37.6%), and Bardiya (35.8%). At the same time, two hill districts also reported the highest percentage of torture: Kaski has the second highest of 40.0% and Ramechap reported 36.1%.
4. People are held in detention and tortured in local police posts where there is no access of AF lawyer. The detainees initially detained in local police stations claimed that they are subjected to torture there and later they are brought to an APO or DPO where they claimed that they were further subjected to torture and ill-treatment.

VULNERABLE GROUP

AF has identified juveniles among the most vulnerable categories of detainees, together with refugees, women and people from certain caste or ethnic background.

Juveniles

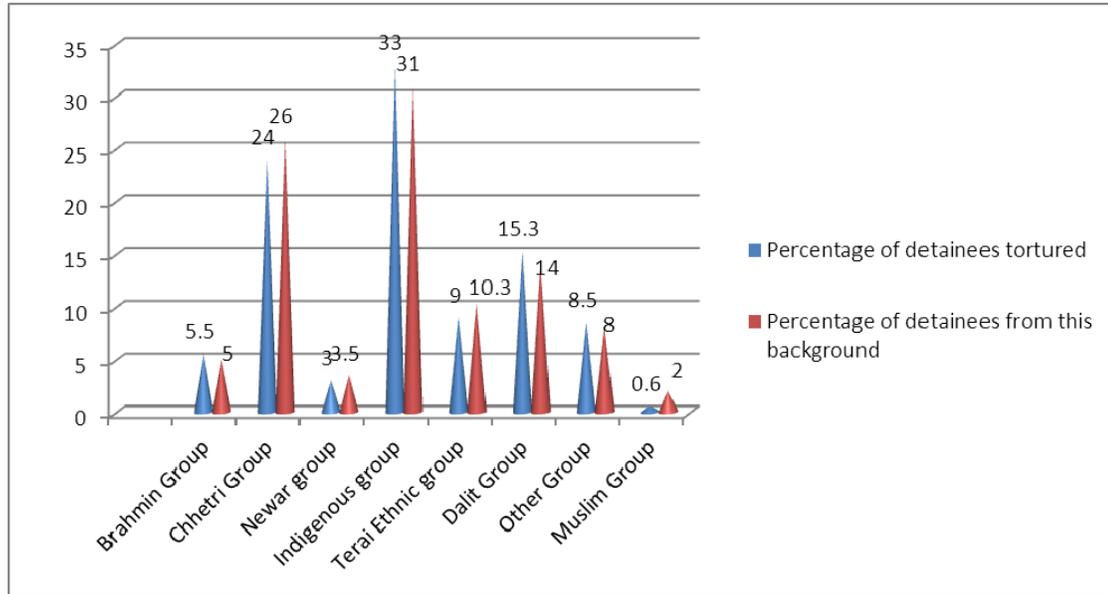


During this period, AF lawyers visited 452 juveniles (below the age of 18) of which 36 (8.0%) were girls and 416 (92%) were boys. Of them, 163 (36.1%) claimed that they were subjected to torture or other ill-treatment. In comparison, in the period from January to June 2011 the percentage was 32.8%, i.e. an increase by 3.3%. The increasing percentage of torture among juveniles since 2010, despite consistent advocacy by AF and others, is of very serious concern. The percentage of juveniles tortured remains higher

² Advocacy Forum and REDRESS, "Held to Account. Making the Law Work to Fight Impunity in Nepal", Appendix.

than the percentage among the overall population of detainees. In other words, police torture children more frequently than adults, and have consistently done so since AF started to monitor these trends several years.

When analyzing the number of juveniles tortured by age (See Table 10b in Annex1), it is striking to note that the average percentage of torture among those below 16 years of age is considerably higher than among those that are 17 and 18.



Caste-wise torture of juvenile detainees

A background-based analysis shows that juveniles from indigenous background are more likely to be tortured: this category makes out 31% of juvenile detainees overall, but 33% of those claiming they were tortured. Juvenile from the Dalit community constitute 14% of detainees, but 15.5% of those claiming they were tortured and other group 8% of juvenile detainees overall, but 8.5% of those claiming they were tortured. In case of the Chhetri group, this category constitutes 31 percent of juvenile detainees overall, but 33% among those claiming that they were subjected to torture. During the previous period from January to June 2011, when doing district-wise analysis, 1 district showed a 100% absence of torture of juveniles and during this period 3 districts reported 100% absence of torture.: Kanchanpur, Kapilvastu and Ramechhap. The districts with a very high percentage of juveniles claiming torture are Parbat (88.9%), Kaski (65.2%), Bardiya (55.6%), Lalitpur (42.9%) and Sunsari (40%).

AF also found that several juveniles were held illegally, i.e. without being taken to court within the required 24 hours. One of them (who was only 13) was hidden by police, and not given access to a lawyer for nine days (see below).

The Supreme Court of Nepal has on more than one occasion directed state authorities to build child rehabilitation homes, and also ordered that children should not be kept in police custody with adults. Under

the Children's Act 1992³, juveniles who have been arrested should be transferred to the custody of their guardians, or to a child rehabilitation home, but the Juvenile Justice Regulations 2006 (brought into force to implement the provisions of the Children's Act) do not specify precisely how these provisions are to be implemented.

In September 2008, following a habeas corpus petition filed by Advocacy Forum on behalf of Suresh B.K and one other juvenile and a Public Interest Litigation, the Supreme Court ordered the government to improve the physical infrastructures of the existing rehabilitation home and to establish more rehabilitation homes in other regions. The court also explicitly prohibited child rehabilitation homes from returning children to police custody. On 15 February 2009, a similar petition was filed on behalf of eleven juveniles detained in six different police facilities in Kathmandu and Lalitpur Districts. On 8 March 2009, the Supreme Court once again ordered the government to create more child rehabilitation homes in Nepal. However the government has taken a long time to act on these orders, though there have been reports that three new child rehabilitation homes are being established in Bhaktapur, Morang and Kaski districts.⁴

Despite these rulings, many children are still kept in police custody. Much of the necessary infrastructure, whether within the police, the courts or in terms of rehabilitation homes still has to properly be put into place across the country.

Rajan Khatri [name changed], 13, (DoB: 1997 June/July), a permanent of Banke district, was arrested by police at around 4 pm on 9 July 2011 on charge of public disturbance under the Public Offences Act and tortured by beating with bamboo sticks. The same day he was taken to Kohalpur Medical College for his medical check-up. He was not given arrest warrant and detention letter. He was not remanded. He is student of class 9.

At around 4 pm on 9 July 2011, two policemen from Area Police Office, Kohalpur came to Rajan's home and arrested him on the charge of fighting with taxi drivers. He was detained at APO, Kohalpur. At around 8 pm the same day, an unidentified policeman took him out of the detention cell and beat him with a bamboo stick for about 2, 3 times on his hips in the hallway. Then he was forced to stand on his hands (upside down) against a wall for some time and detained in the detention cell.

He told the AF lawyer, "Just before you visited here on 14 July 2011 an unidentified policeman took me out of the cell and had hidden me in the arms storage room of police. After you went from here they detained me in the cell again. But today when AF lawyer visited detention, they didn't get the time to take me out from here. So, an unidentified policeman ordered me to hide myself in the corner of the detention cell when you visited." During the interview, he informed the AF lawyer that his friend beat a taxi helper but that he was not involved in the quarrel.

When AF representative was interviewing a woman detainee, Rajan called through a small hole from another room and said, "My name is Rajan Khatri. I am 13 years old and I have been detained here for 9 days. Please, call my name too for an interview." After AF's legal support and intervention, he was released into parental custody on 20 July 2011.

³ Children's Act May 1992, Article 15.

⁴ See <http://www.ekantipur.com/the-kathmandu-post/2010/05/30/nation/childreform-centres-to-open/208853/>

Women

Women are one of the vulnerable groups who are more likely to receive torture indiscriminately like male detainees. During this period, AF lawyers visited a total of 191 female detainees. Of them, 31 (16.2%) claimed that they were subjected to torture or ill-treatment. In comparison, during the period from January to June 2011 only 32 women (14.7%) had claimed they were tortured. In other words, there has been an increase of 1.5%.

Summary: Ms. Harkali Pun, 49, a permanent resident of Motipur VDC- 6, Mangalpur, Bardiya district was arrested by women staffs of Maiti Nepal, an NGO working against women trafficking and handed over to police at around 12 noon on 12 July 2011 on charge of human trafficking. She was given an arrest warrant and detention letter on 14 July 2011 effective from the previous day. She was, remanded for the second time on 18 July 2011 for 10 days.

Arrest details: According to the victim, on 12 July 2011 she was going to Rupaidiya, India for shopping. In



Kohalpur Bus Park she met two women who were from Sidhupalchowk district and were going to New Delhi, India for overseas job from there. They requested her to support them to reach India because they were new to that place. She promised them to help them. They reached Dhambojhi, Nepalgunj in a bus and hired a cart to travel to Rupaidiya, India. When they reached near to Jamunaha Police Office on the Nepal – India border, two women from Maiti Nepal stopped their cart. They

asked the two women from Sindhupalchowk where they were going. The two women told them that they were going to New Delhi for overseas job. When the Maiti Nepal staff asked them with whom they were going to India, they pointed at Ms. Pun. Then Maiti Nepal staff caught Ms. Pun and handed her over to Jamunaha Police Office, Banke district.

Torture Details: After 4, 5 hours of her arrest [on 12 July 2011] she was transferred to DPO, Banke in a police van and detained there in a detention cell. The same day at around 12 midnight a police woman took her to a room on the first floor where 3 policemen and 1 police woman were already sitting there. An unidentified police officer (who may have been a police inspector, according to victim) ordered the two policewomen to beat Ms. Pun and all the policemen went out of the room.

Then lady constables Bhagwati and Rajani (surnames not known) reportedly beat her in turn with a 3 inch thick and 1 meter long wooden stick on her palms, arms, back, bottom, thighs, legs, soles of her feet and other parts of her body. They said, "Give us your son and daughter's phone number. We will charge them too in this case. How many persons have you sold like this till date?" They reportedly tortured her for about two

hours. They allegedly ordered her to stretch her legs and one of them sat on her legs when another policewoman beat on the soles of her feet.

They took her to her house in a police van. They kept her in the police van when they talked to her daughter for a while and brought her back to DPO, Banke. In the DPO, the police didn't let her meet her children and the lawyer who had come with her children.

On 23 July 2011, she was taken to Bheri Zonal Hospital for a medical check-up. A doctor diagnosed that her right arm was broken and referred her to plaster it. The police asked her if she had money. She said that she has only NRs. 500/-.

Police took her for the x-ray of her broken hand and bought some pain killers with the money given by her. But her broken hand was not plastered. Instead the policewomen who had tortured her ordered her to tell others that her hand was broken by slipping from a staircase.

Effects of torture: During the observation her broken hand was seen swollen. Blue marks of torture on her left hand were visible and 3 fingers of her left hand were twisted and looked like broken. Her feet were swollen and she complained of pain all over her body.

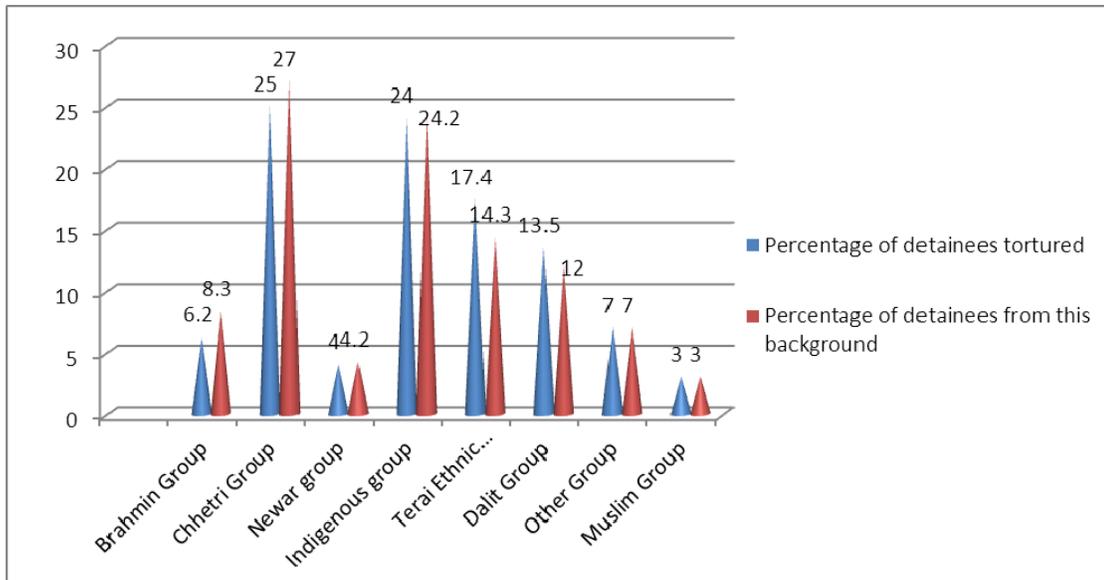
On 24 July 2011, AF assisted her daughter Ganga Budha Magar, on behalf of Harkali Pun, to file a physical and mental check-up application before the District Court, Banke under Torture and Compensation Act - 2053, Section 5, sub-section 3. The same day the court ordered the DPO, Banke to provide a medical check-up within 3 days and submit the case document including medical report.

As ordered by DC, Banke, police took her to a hospital on 25 July 2011 for the medical check-up but no medical treatment was provided to the victim.

Police response for treatment: SI Ramkaji K. C. said, "We don't have money for her treatment. We have told the detainee to ask her family to bring money for her treatment. But no one from her family has come to meet her."

Accusing police of beating and manhandling her during investigation Ms. Harkali Pun has filed a case under Torture Compensation Act (TCA) – 1996 on 24 August 2011 against SP Dinesh Amatya, Investigation Officer Harka Bahadur Rawal, women Constables Bhagwati Subedi and Rajani Malla before the District Court, Banke. The case remains *sub judice* at the district court.

Caste and ethnic background



Caste-wise torture infliction on adult detainees

AF is regularly analysing patterns of torture on the basis of caste and ethnic groupings. The graph above documents the percentage of torture of detainees according to their caste and ethnicity. As shown in Table 5 in Annex 1, people from the Terai ethnicity group though representing only 14.3% among detainees, make out 17.4% among the overall number of detainees claiming tortured. Similarly, detainees from the Dalit community are also over-represented among those detainees claiming they were tortured: Dalit community face 13.5% chance of being tortured while only representing 12% of detainees whereas detainees from the indigenous community faced 24% chance of torture while representing 24.2% of detainees. AF has observed a clear longer-term trend of detainees from the Terai ethnic groups being tortured more frequently than other detainees.

METHODS OF TORTURE

Generally, detainees report that they are tortured or ill-treated at the time of arrest, during transfer and during interrogation mainly in the period before their statements are recorded and before they are taken to court to be remanded.

The general patterns of torture in terms of methods of torture are as follows:

- Beating with plastic pipes, sticks on various parts of body such as sole, back, hip etc.
- Kicking with boots, punching with fists, beating with bamboo sticks on different parts of body
- Sitting on thigh and beating on sole with sticks.
- Making the victim lie on the ground and beating on soles with stick, plastic pipe, etc.
- Blindfolding.

Juveniles reported following methods of torture in police custody at the time of interrogation:

- Scolding with loud voice.
- Threatening to kill if they do not speak the truth.
- Beating with polythene pipe on back, chest and stomach.
- Punching with fists on stomach for 2-3 minutes.
- Verbal abuse.

SAFEGUARDS

The Interim Constitution, 2007 and the Torture Compensation Act provide some safeguards against torture at the hands of state actors like the Nepal Police and APF and Army. In general and by AF's observation, the Nepal Police and other state authorities are failing to systematically abide by these provisions, though there are some improvements in relation to certain safeguards such as judges asking about torture from detainees brought before them.

As is demonstrated by the figures in Table 7 of Annex 1, the police are not abiding by the requirement to inform people of the grounds for arrest at the time of arrest. Of 1919 detainees, 173 (9.0%) received charge/detention letter at the time of arrest; whereas 1342 (70.0%) received charge/detention letter after they were brought into detention. This compares to the previous period January to June 2011 where 383 (16.9%) received charge/detention at the time of arrest and 1346 (59.3%) received arrest letter only after they were brought into detention. A further analysis has shown that the police often provide the charge/detention letter only after two or three days of the arrest with a falsified date of arrest.

The police have also failed to take detainees to the court or to the District Administration Office for remand within 24 hours as provided for in Article 24 (3) of the Interim Constitution. During this period, 945 (55.4%) of detainees visited by AF had been taken to the courts for remand within 24 hours. Among the detainees who had been taken to court (whether within 24 hours or later), 268 (15.7%) detainees stated that they were asked by the judges about torture or other ill-treatment whereas 1437 (84.3%) stated that they were not asked by judges about torture or other ill-treatment. (See Annex 1: Table 13.) This represents a decrease by 3.7% compared to the previous period when 19.4% of detainees brought before the court said they were asked whether they had been tortured. However, it presents a considerable improvement in comparison to, for instance, April to June 2009, when only 6.3% of judges asked about torture.

Major problems remain with regard to the critical issue of health check-ups which according to the Torture Compensation Act have to be done at the time detainees are taken into custody and before they are released from custody. The percentage of detainees taken for check-up has increased compared to the previous quarter (see Table 9). During this period, 1814 detainees (94.5%) stated that they were provided with health check-ups in the early part of their detention whereas in the previous period from January to June 2011 (92.6%) said they were provided with a health check-up. However, according to the detainees, health check-ups are dealt with as a formality by police who routinely take detainees in groups to see a doctor; and doctors simply ask the detainees (often in the presence of the police) whether they have any injuries or internal wounds, but fail to physically examine them.

When victims claim before the court that they were tortured and when courts give orders to the police to take the victims for physical and mental check-up, it is noted that at that time too in many cases the doctor fails to conduct a proper examination. The doctors also often fail to give adequate description of any wounds

in the medical report to be submitted to the court, and to give adequate prescription of medicines for treatment of the wounds.

An additional challenge is posted by the role of Chief District Officers (CDOs) as highlighted in previous briefings. CDOs are the Home Ministry's main representatives at the district level and supervise the police. At the same time, they have wide judicial powers under several laws, amounting to a conflict of interest. AF filed the Petition of Public Interest Litigation (PIL) on 6 April 2010 (Writ No W 0043) to challenge the quasi-judicial powers of CDOs. The petition argued that provisions in no less than ten laws granting powers to CDOs are in breach of Nepal's commitments under international human rights law to which it is a party, more specifically in breach of Article 14 of the International Covenant on Civil and Political Rights, guaranteeing a right to a fair trial before an independent tribunal. On 22 September 2011, The Supreme Court ordered the government to look into the semi-judicial powers vested in Chief District Officers and other administrative officers. The court has ordered the government to study as to what kind of cases should be given to administrative officers and what cases should be given to specialised courts or tribunals. It also asked the government to set up criteria in line with the constitution to allow administrative officers to work freely. The court also ordered the formation of a study team that would recommend necessary changes in this regard within six months.⁵

STATE RESPONSES TO REPORTS OF TORTURE

Communications to concerned agencies (Human Rights Units of the Nepal Police and Armed Police Force, the NHRC and the Attorney General's Office)

AF for many years requested regular meetings with the Human Rights Unit of the Nepal Police, the NHRC and Attorney General's Office to update them the situation of torture in detention centres and share findings of its other activities. It has also raised numerous cases of torture with them; seeking their intervention to prevent further torture and investigate reports. However, during the last 2 years, none of these agencies have provided written responses to AF updating the progress made in their internal investigations.

In July 2011, AF contacted the HR Unit of the Nepal Police and received response that the Home Ministry has made an internal policy that information should be made public or processed through home ministry. Since then, the HR Unit of the Nepal Police has consistently responded that AF should approach the Home Ministry to get the responses to its complaints and that the Police have submitted their updates to the Home Ministry.

⁵ <http://www.ekantipur.com/the-kathmandu-post/2011/09/22/nation/apex-court-for-review-of-cdo-powers/226594.html>

In light of this, during the recent period, AF has reduced its communications at the national level; and has instead attempted to address concerns directly with the relevant DPO. For instance, during the month of August 2011, there were problems with access to the Metropolitan Police Range Kathmandu and Lalitpur and Metropolitan Police Circle Baneshwor. The in-charge of these detention places stopped providing access to AF lawyers saying that they had to obtain a permission letter from police headquarters. AF met with Deputy Inspector General (DIG) Binod Singh at Police Headquarter on 10 September 2011. During the meeting DIG Singh informed AF team that there was no problem with the detention visits by AF lawyers. He gave assurances that he would talk to the officers in charge of the Metropolitan Police Commissioner's Office and Metropolitan Police Range, Kathmandu and Lalitpur to resolve the problem. AF teams also visited to Metropolitan Police Range, Hamunadhoka and Lalitpur to discuss the issue. After that, the detention visits were allowed to resume.

During this period, AF submitted 6 cases to the Human Rights Unit of the Nepal Police, the NHRC and Attorney General's Office at the national level seeking an impartial investigation into the cases, protection for the victims from further torture in detention and action against the alleged perpetrators. No responses were received.

LITIGATION

During the armed conflict, many people were found tortured and ill-treated by state and non-state actors. But due to the uncertain environment and fear for their life, people did not file cases under the Torture Compensation Act (TCA) against perpetrators who tortured them. Many of these victims still suffer from the physical and mental impact. AF from its establishment has supported victims to file cases seeking compensation under the TCA. However, as the Act requires victims to file complaints within 35 days of the torture or of their release, many of the victims of torture during the conflict have not been able to file cases. They are also unable to file First Information Reports as torture is not listed as a crime in the annex to the State Cases Act and there is no other enabling legislation.

During this period, AF assisted 11 victims to file 6 cases under the TCA: two from Banke, two from Saptari, 1 from Kathmandu and 1 from Bardiya. Nowadays, it is difficult to convince victims of torture in detention to file cases against state authority. It seems detainees are increasingly insecure in detention and fear the possibility of being falsely charged with offences they have not committed because at the time of interrogation the police threatened to send them to prison on false charges. The other reason is that the judicial process under TCA is very lengthy; the victim has to face the perpetrators all the time in the court at the time of hearing. Furthermore, the government has not able to provide security to the victims and the victims' families which in turn have further increased the feeling of insecurity among victims.

During this period, there was 1 case under the TCA where compensation was awarded. This case belongs to AF Human Rights Defender who was beaten up while he was monitoring a demonstration in Dhanusha district.

Table 1: Numbers of detainees by sex

		Frequency	Percentage
Valid	Female	191	10.0
	Male	1728	90.0
	Total	1919	100.0

Table 2: Torture reported

		Frequency	Percentage
Valid	Female	191	10.0
	Male	1728	90.0
	Total	1919	100.0

Table 3: Gender and torture and CIDT reports

			Torture and CIDT information.		Total
			Yes.	No.	
Gender	Female	Number	31	160	191
		% within Gender	16.2%	83.8%	100.0%
	Male.	Number	433	1295	1728
		% within Gender	25.1%	74.9%	100.0%
Total		Number	464	1455	1919
		% within Gender	24.2%	75.8%	100.0%

Table 4: District-wise percentages of torture

District			July - Dec 2010	Jan - June 2011	July to Dec 2011
1.	Kathmandu	Number	168	156	85

		% within Detention Place	25.6%	24.6	24.1
2.	Rupandehi	Number	24	27	26
		% within Detention Place	15.3%	12.1	11.9
3.	Dhanusha	Number	33	25	13
		% within Detention Place	46.5%	37.9	25.0
4.	Baglung	Number	5	13	23
		% within Detention Place	6.6%	18.1	19.5
5.	Myagdi	Number	2	8	7
		% within Detention Place	9.5%	16.3	22.6
6.	Parbat	Number	3	1	17
		% within Detention Place	7.1%	5.3	29.3
7.	Bardiya	Number	17	29	28
		% within Detention Place	21.8%	38.2	35.9
8.	Morang	Number	37	19	10
		% within Detention Place	39.4%	19.2	11.8
9.	Ramechhap	Number	3	11	4
		% within Detention Place	14.3%	47.8	16.7
10.	Dolakha	Number	6	19	2
		% within Detention Place	14.3%	21.3	3.4
11.	Jhapa	Number	6	12	12
		% within Detention Place	23.1%	18.5	16.7
12.	Banke	Number	55	51	30
		% within Detention Place	37.7%	37.8	27.3
13.	Kaski	Number	46	89	99

		% within Detention Place	21.5%	35.3	51.6
14.	Kanchanpur	Number	4	3	0
		% within Detention Place	4.4%	4.4	.0
15.	Udayapur	Number	11	19	19
		% within Detention Place	16.7%	25.3	23.8
16.	Surkhet	Number	28	28	30
		% within Detention Place	26.4%	30.4	26.3
17.	Kapilbastu	Number	7	11	12
		% within Detention Place	9.5%	24.4	26.7
18.	Lalitpur	Number	7	4	8
		% within Detention Place	8.6%	6.3	21.1
19	Sunsari	Number	18	29	18
		% within Detention Place	30.0%	50.9	42.9
20	Siraha	Number	12	13	21
		% within Detention Place	20.0%	20.6	29.6
Total		Number	492	567	464
		% within Detention Place	22.5%	25.0%	24.2

Table 5: Torture in relation to caste group

Caste and Ethnicity	No. of detainees who were tortured	Percentage of detainees tortured	No. of detained from this background	Percentage of detainees from this background
Brahmin Group	29	6.2	160	8.3
Chhetri Group	116	25	515	27
Newar group	17	4	81	4.2

Indigenous group	112	24	466	24.2
Terai Ethnic group	81	17.4	276	14.3
Dalit Group	63	13.5	231	12
Other Group	32	7	140	7
Muslim Group	14	3	50	3
Total	464	1006	1919	100

Table 6: Torture inflicted in relation to charges

Charge. * Torture and CIDT information.

			July to Dec 2010	Jan to June 2011	July to Dec 2011
Charge.	Public Offence	Number	146	165	118
		% within Charge	22.4%	24.1%	22.3
	Attempted Murder	Number	21	28	29
		% within Charge	20.6%	24.8%	34.5
	No Charge	Number	55	75	64
		% within Charge	18.7%	24.1%	29.9
	Drug	Number	47	78	41
		% within Charge	23.7%	23.8%	12.9
	Rape	Number	13	15	26
		% within Charge	23.6%	24.6%	34.7
	Arms and Ammunition	Number	36	24	21
		% within Charge	46.8%	35.3%	46.7
	Theft	Number	87	80	77
		% within Charge	39.5%	40.4%	41.8
	Robbery	Number	8	10	3
		% within Charge	29.6%	43.5%	17.6
	Murder	Number	27	40	37
		% within Charge	14.8%	29.0%	33.6
	Attempt to Rape	Number	1	1	0
		% within Charge	50.0%	33.3%	.0
	Forest Offence	Number	6	6	4
		% within Charge	8.3%	10.9%	5.9
	Gambling	Number	0	0	15
		% within Charge	.0%	.0%	20.3
	Human Trafficking	Number	3	7	5
		% within Charge	8.8%	17.1%	25
	Forgery	Number	8	5	0
		% within Charge	19.0%	16.7%	.0
	Traffic Murder	Number	0	0	3
		% within Charge	.0%	.0%	5.8
	Kidnapping	Number	23	18	12
		% within Charge	41.1%	43.9%	46.2

	Polygamy	Number	2	3	0
		% within Charge	5.9%	13.0%	.0

Table 7 Detention Place * Reasons for arrest given.

			Reasons for arrest given.			Total
			Yes.	No.	Given but after bringing in detention.	
Detainee Place.	Kathmandu	Number	2	63	286	351
		% within Detainee Place	.6%	17.9%	81.5%	100.0%
	Morang	Number	15	10	60	85
		% within Detainee Place	17.6%	11.8%	70.6%	100.0%
	Banke	Number	6	17	87	110
		% within Detainee Place	5.5%	15.5%	79.1%	100.0%
	Kaski	Number	3	98	91	192
		% within Detainee Place	1.6%	51.0%	47.4%	100.0%
	Kanchanpur	Number	9	6	65	80
		% within Detainee Place	11.3%	7.5%	81.3%	100.0%
	Udhayapur	Number	9	28	43	80
		% within Detainee Place	11.3%	35.0%	53.8%	100.0%
	Surkhet	Number	13	7	94	114
		% within Detainee Place	11.4%	6.1%	82.5%	100.0%
	Kapilbastu	Number	8	14	23	45
		% within Detainee Place	17.8%	31.1%	51.1%	100.0%
	Lalitpur	Number	0	3	35	38
		% within Detainee Place.	.0%	7.9%	92.1%	100.0%
	Rupandehi.	Number	9	56	153	218
		% within Detainee Place	4.1%	25.7%	70.2%	100.0%
	Dhanusha.	Number	0	0	52	52
		% within Detainee Place	.0%	.0%	100.0%	100.0%
	Baglung	Number	9	6	103	118
		% within Detainee Place	7.6%	5.1%	87.3%	100.0%
	Myagdi	Number	0	1	30	31
		% within Detainee Place	.0%	3.2%	96.8%	100.0%
	Parbhat	Number	3	16	38	57
		% within Detainee Place	5.3%	28.1%	66.7%	100.0%
	Bardiya	Number	6	38	34	78
		% within Detainee Place	7.7%	48.7%	43.6%	100.0%
	Ramechhap	Number	20	1	3	24
		% within Detainee	83.3%	4.2%	12.5%	100.0%

	Place				
	Dolakha	Number	34	15	59
		% within Detainee Place	57.6%	25.4%	100.0%
	Jhapa	Number	5	11	72
		% within Detainee Place	6.9%	15.3%	100.0%
	Sunsari	Number	0	12	42
		% within Detainee Place	.0%	28.6%	100.0%
	Siraha	Number	22	0	71
		% within Detainee Place	31.0%	.0%	100.0%
Total		Number	173	402	1917
		% within Detainee Place	9.0%	21.0%	100.0%

Table 8: Taken before a judge within 24 hour?

			Were you brought before a judge/competent authority within 24 hours of detention?		Total
			Yes	No	
Detention Place	Kathmandu	Number	230	107	337
		% within Detainee Place.	68.2%	31.8%	100.0%
	Morang	Number	58	26	84
		% within Detainee Place.	69.0%	31.0%	100.0%
	Banke	Number	38	63	101
		% within Detainee Place.	37.6%	62.4%	100.0%
	Kaski	Number	68	52	120
		% within Detainee Place.	56.7%	43.3%	100.0%
	Kanchanpur	Number	56	23	79
		% within Detainee Place.	70.9%	29.1%	100.0%
	Udhayapur	Number	27	35	62
		% within Detainee Place.	43.5%	56.5%	100.0%
	Surkhet	Number	63	42	105
		% within Detainee Place.	60.0%	40.0%	100.0%
	Kapilbastu	Number	21	22	43
		% within Detainee Place.	48.8%	51.2%	100.0%
	Lalitpur	Number	29	9	38
		% within Detainee Place.	76.3%	23.7%	100.0%
	Rupandehi	Number	68	149	217
		% within Detainee Place.	31.3%	68.7%	100.0%

	Dhanusha	Number	20	31	51
		% within Detainee Place	39.2%	60.8%	100.0%
	Baglung	Number	58	60	118
		% within Detainee Place	49.2%	50.8%	100.0%
	Myagdi	Number	12	18	30
		% within Detainee Place	40.0%	60.0%	100.0%
	Parbhat	Number	32	20	52
		% within Detainee Place	61.5%	38.5%	100.0%
	Bardiya	Number	25	20	45
		% within Detainee Place	55.6%	44.4%	100.0%
	Ramechhap	Number	9	12	21
		% within Detainee Place	42.9%	57.1%	100.0%
	Dolakha.	Number	12	17	29
		% within Detainee Place	41.4%	58.6%	100.0%
	Jhapa.	Number	30	31	61
		% within Detainee Place	49.2%	50.8%	100.0%
	Sunsari	Number	31	10	41
		% within Detainee Place	75.6%	24.4%	100.0%
	Siraha	Number	58	13	71
		% within Detainee Place	81.7%	18.3%	100.0%
Total		Number	945	760	1705
		% within Detainee Place	55.4%	44.6%	100.0%

Table 9: Physical and Mental Check-up

			Did you have health check-up before keeping in detention?		Total
			Yes.	No.	
Detainee Place.	Kathmandu.	Number	350	2	352
		% within Detainee Place.	99.4%	.6%	100.0%
	Morang.	Number	85	0	85
		% within Detainee Place.	100.0%	.0%	100.0%
	Banke.	Number	106	4	110
		% within Detainee Place.	96.4%	3.6%	100.0%
	Kaski.	Number	179	13	192
		% within Detainee Place.	93.2%	6.8%	100.0%
	Kanchapur.	Number	71	9	80
		% within Detainee Place.	88.8%	11.3%	100.0%
	Udhayapur.	Number	79	1	80
		% within Detainee Place.	98.8%	1.3%	100.0%

	Surkhet.	Number	97	17	114
		% within Detainee Place.	85.1%	14.9%	100.0%
	Kapilbastu.	Number	44	1	45
		% within Detainee Place.	97.8%	2.2%	100.0%
	Lalitpur.	Number	38	0	38
		% within Detainee Place.	100.0%	.0%	100.0%
	Rupendhai.	Number	198	20	218
		% within Detainee Place.	90.8%	9.2%	100.0%
	Danusha.	Number	52	0	52
		% within Detainee Place.	100.0%	.0%	100.0%
	Baglung.	Number	118	0	118
		% within Detainee Place.	100.0%	.0%	100.0%
	Myagdi.	Number	31	0	31
		% within Detainee Place.	100.0%	.0%	100.0%
	Parbat.	Number	56	2	58
		% within Detainee Place.	96.6%	3.4%	100.0%
	Bardhiya.	Number	73	5	78
		% within Detainee Place.	93.6%	6.4%	100.0%
	Ramechhappe.	Number	24	0	24
		% within Detainee Place.	100.0%	.0%	100.0%
	Dolakha.	Number	40	19	59
		% within Detainee Place.	67.8%	32.2%	100.0%
	Jhapa.	Number	68	4	72
		% within Detainee Place.	94.4%	5.6%	100.0%
	Sunsari	Count	39	3	42
		% within Detainee Place.	92.9%	7.1%	100.0%
	Siraha	Number	66	5	71
		% within Detainee Place.	93.0%	7.0%	100.0%
Total		Number	1814	105	1919
		% within Detainee Place.	94.5%	5.5%	100.0%

Table 10: Total number of juveniles interviewed in detention

Sex

		Frequency	Percent
Valid	Female.	36	8.0
	Male.	416	92.0
	Total	452	100.0

Torture of juveniles by gender

			Torture and CIDT information.		Total
			Yes.	No.	
Gender.	Female.	Number	7	29	36
		% within Gender.	19.4%	80.6%	100.0%
	Male.	Number	156	260	416
		% within Gender.	37.5%	62.5%	100.0%
Total		Number	163	289	452
		% within Gender.	36.1%	63.9%	100.0%

Table 10b: Torture of juveniles by age

			Torture and CIDT information.		Total
			Yes.	No.	
Age.	9	Count	0	2	2
		% within Age.	.0%	100.0%	100.0%
	10	Count	0	3	3
		% within Age.	.0%	100.0%	100.0%
	11	Count	2	3	5
		% within Age.	40.0%	60.0%	100.0%
	12	Count	4	1	5
		% within Age.	80.0%	20.0%	100.0%
	13	Count	11	7	18
		% within Age.	61.1%	38.9%	100.0%
	14	Count	28	23	51
		% within Age.	54.9%	45.1%	100.0%
	15	Count	32	43	75
		% within Age.	42.7%	57.3%	100.0%
	16	Count	21	56	77
		% within Age.	27.3%	72.7%	100.0%
	17	Count	31	55	86
		% within Age.	36.0%	64.0%	100.0%
	18	Count	34	96	130
		% within Age.	26.2%	73.8%	100.0%
Total		Count	163	289	452
		% within Age.	36.1%	63.9%	100.0%

Table 11: Torture of juveniles according to caste/ethnicity

Caste and Ethnicity	No. of detainees who were tortured	Percentage of detainees tortured	No. of detained from this background	Percentage of detainees from this background
Brahmin Group	9	5.5	23	5
Chhetri Group	39	24	117	26
Newar group	5	3	16	3.5
Indigenous group	54	33	140	31
Terai Ethnic group	16	9	47	10.3
Dalit Group	25	15.3	64	14
Other Group	14	8.5	36	8
Muslim Group	1	0.6	9	2
Total	163	98.9	452	99.8

Table 12: Prevalence of torture of juveniles per district

			Torture and CIDT information.		Total
			Yes.	No.	
Detainee Place.	Kathmandu.	Number	36	67	103
		% within Detainee Place.	35.0%	65.0%	100.0%
	Morang.	Number	2	13	15
		% within Detainee Place.	13.3%	86.7%	100.0%
	Banke.	Number	6	10	16
		% within Detainee Place.	37.5%	62.5%	100.0%
	Kaski.	Number	60	32	92
		% within Detainee Place.	65.2%	34.8%	100.0%
	Kanchanpur	Number	0	19	19
		% within Detainee Place.	.0%	100.0%	100.0%
	Udhayapur	Number	5	7	12
		% within Detainee Place.	41.7%	58.3%	100.0%
	Surkhet	Number	3	14	17
		% within Detainee Place.	17.6%	82.4%	100.0%
	Kapilbastu	Number	0	2	2
		% within Detainee Place.	.0%	100.0%	100.0%
	Lalitpur	Number	3	4	7
		% within Detainee Place.	42.9%	57.1%	100.0%
	Rupendehi	Number	11	43	54
		% within Detainee Place.	20.4%	79.6%	100.0%
	Dhanusha	Number	4	10	14

		% within Detainee Place.	28.6%	71.4%	100.0%
	Baglung	Number	4	10	14
		% within Detainee Place.	28.6%	71.4%	100.0%
	Myagdi	Number	4	9	13
		% within Detainee Place.	30.8%	69.2%	100.0%
	Parbhat	Number	8	1	9
		% within Detainee Place.	88.9%	11.1%	100.0%
	Bardiya	Number	5	4	9
		% within Detainee Place.	55.6%	44.4%	100.0%
	Ramechhap	Count	0	3	3
		% within Detainee Place.	.0%	100.0%	100.0%
	Dolakha	Number	1	14	15
		% within Detainee Place.	6.7%	93.3%	100.0%
	Jhapa	Number	3	16	19
		% within Detainee Place.	15.8%	84.2%	100.0%
	Sunsari	Number	2	3	5
		% within Detainee Place.	40.0%	60.0%	100.0%
	Siraha	Number	6	8	14
		% within Detainee Place.	42.9%	57.1%	100.0%
Total		Number	163	289	452
		% within Detainee Place.	36.1%	63.9%	100.0%

Table 13: Did judge ask about torture?

If brought before court/other judicial authority for remand did judge/judicial officer ask whether T/CIDT had occurred?

If brought before court/other judicial authority for remand did judge/judicial officer ask whether T/CIDT had occurred?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes.	268	14.0	15.7	15.7
	No.	1437	74.9	84.3	100.0
	Total	1705	88.8	100.0	
	Not taken to court	214	11.2		
Total		1919	100.0		

Table 1: Numbers of detainees by sex

		Frequency	Percent
Valid	Female.	217	9.6
	Male.	2051	90.4
	Total	2268	100.0

Table 2: Torture and CIDT

		Frequency	Percent
Valid	Yes.	567	25.0
	No.	1701	75.0
	Total	2268	100.0

Table 3: Gender and Torture and CIDT

		Torture and CIDT information.		Total	
		Yes.	No.		
Gender.	Female.	Number	32	185	217
		% within Gender.	14.7%	85.3%	100.0%
	Male.	Number	535	1516	2051
		% within Gender.	26.1%	73.9%	100.0%
Total		Number	567	1701	2268
		% within Gender.	25.0%	75.0%	100.0%