



Breaking Barriers to Justice

Nepal's Long Struggle for Accountability, Truth and Reparations

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Printed in the United States of America

ISBN: 979-8-88708-119-9

Cover design by Rafael Jimenez

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MARCH 2024

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Summary

“As it embarks on the final stages of the peace process with transitional justice... the United Nations stands ready to support Nepal to develop a process that meets international standards, the Supreme Court’s rulings, and the needs of victims – and to put it into practice.”

– António Guterres, the United Nations Secretary-General, while on an official visit to Nepal in October 2023.

“Even though I’ve lost my husband, when I was registering the case, I felt that I was progressing. I felt a sense of peace almost, and growing confidence. At last, I was able to speak. Right now, there is no way for me even to get my husband’s pension. Either they have to tell me that my husband is no longer alive and give me the body. Or they should give me hope. The people who did this should be made to stand in a court of law.”

– Yog Maya Dahal whose husband was forcibly disappeared by security forces in 2002. Despite a court case and other promised investigations, she said that there is no apparent progress.

It has been almost two decades since the civil war in Nepal ended in 2006 with the Comprehensive Peace Agreement. The former Maoist insurgents have been demobilized and an elected assembly has adopted a federal, republican constitution. Conducting a transitional justice process remains the major outstanding commitment of the peace agreement. A moment of opportunity now exists to deliver a truth and justice process that is sought by victims, and one that would help protect the rights of all Nepalis in the future.

On his visit to Nepal in October 2023, UN Secretary-General António Guterres noted that Nepal is closer than it has ever been to beginning a meaningful transitional justice process. The government has pledged to enact a new law, with Prime Minister Pushpa Kamal Dahal saying in December 2023, “The victims want the speedy advancement of this process. The government too shares the same aspiration. There is no situation to remain in confusion and doubt.”

But the draft bill that is before parliament, while it contains some good provisions including for reparations, still needs significant amendments if it is to meet standards set

by Nepal’s Supreme Court, and clearly established in international law, as well as victims’ justice needs. Under the bill as it currently stands, some of the gross violations of human rights described in this report may be placed outside the scope of Nepal’s transitional justice process.

There is a risk that – if the law falls short – the process will unravel again, failing victims and everyone else with a stake in completing the peace process or strengthening the rule of law in Nepal.

This report by Human Rights Watch and Nepal-based Advocacy Forum-Nepal describes survivors and victims’ decades-long search for truth, accountability, and reparations. There has been little or no progress in the 62 cases of conflict-era extrajudicial killings filed before Nepali courts with the support of Advocacy Forum-Nepal (see appendix), which we have tracked through a series of five previous reports since 2008. In defiance of court orders to investigate these killings, successive governments instructed police not to act in these cases, claiming that all conflict-era violations must be handled by a transitional justice process that has never been in operation.

As the table in the appendix shows, these families of victims of extrajudicial killings have typically received “interim relief” payments, but recommendations by the National Human Rights Commission to pay them compensation have been inconsistent, and frequently such recommendations (when made) have not been implemented.

Victims of the armed conflict between Maoist insurgents and government forces from 1996 to 2006, which killed up to 17,000 people and left up to 3,288 “disappeared,” have long been denied justice and reparations. They have gone to Nepali courts, to transitional justice commissions established by government, to the United Nations, and foreign jurisdictions. But accountability efforts at the domestic level have repeatedly been stalled by authorities that remained committed to impunity.

In addition, many survivors of sexual violence, who have faced severe social stigma, were unable to register their cases when conflict-era human rights violations were being recorded by the government between 2016-2018. Unlike the victims of some other crimes, survivors of sexual violence and torture and ill treatment never received financial “interim relief,” although many suffer from lasting physical and psychological injuries.

In several of the cases described in this report, witnesses and relatives of the victims alleged that commanding officers were directly responsible or were present when violations occurred. Some of the worst, well documented, human rights violations occurred in Banke district and the adjoining Bardiya district, in southwest Nepal. Families said that they found no remedy after engaging with the dysfunctional transitional justice institutions that have existed to date, and that they are still struggling financially.

One of the alleged perpetrators of torture, sexual violence, enforced disappearances and extrajudicial killings at the Chisapani army camp in Banke district, identified by the United Nations Office of the High Commissioner for Human Rights (OHCHR) and Nepal's National Human Rights Commission, as well as by witnesses who spoke to Human Rights Watch and Advocacy Forum, is former army captain Ramesh Swar. His former commanding officer, then army major (later brigadier general) Ajit Thapa is also alleged by OHCHR and the National Human Rights Commission to be responsible for torture and enforced disappearances. Although several complaints have been filed against them the police have not acted. While Swar and Thapa are yet to be prosecuted and have the right to defend themselves in proceedings where they have the presumption of innocence, these are only two examples among many alleged perpetrators where the police have not acted to investigate allegations, while the victims and their families continue to wait for truth and justice.

Until Nepal implements a transitional justice process that meets international standards, foreign governments and the United Nations should tighten vetting measures to prevent alleged perpetrators of serious violations who continue to obstruct justice from receiving international appointments. Alleged perpetrators who do travel abroad should be investigated under the principle of universal jurisdiction, which enables national authorities to investigate and prosecute certain of the most serious crimes under international law no matter where they were committed, and regardless of the nationality of the suspects or their victims.

Accountability for serious crimes under international law is an essential component of any credible transitional justice process, but it is not the only element. The UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has identified five pillars of a transitional justice process. They are: truth, justice,

reparation, memorialization, and guarantees of non-recurrence. Nepal has so far failed to deliver any of these.

Many survivors and families of victims are in urgent need of relief and reparation for the harms they suffered and are living in difficult circumstances because of ongoing harms from the conflict, such as the loss of a wage-earner in their family, or injuries they sustained including psychosocial injuries. In numerous statements made during and after Secretary-General Guterres's October 2023 visit to Nepal, victims' groups called for a process that includes all the different elements of transitional justice, including accountability and reparations.

Nepal's Crisis of Impunity

In 2014 Nepal's legislature adopted the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act (TRC Act), which was struck down by the Supreme Court in 2015 because it failed to meet Nepali and international legal standards, especially by providing amnesties for serious crimes.

“Amnesties for these atrocities would convey to Nepalese society that some people are above the law,” UN experts had noted in July 2014, warning that, “Legislation which should enable the country to come to terms with its past, may further entrench impunity.”

It is now widely recognized by human rights defenders that a lack of accountability for conflict-era violations has led to a crisis of impunity in Nepal. The police and security forces are rarely, if ever, investigated for deaths in custody allegedly resulting from torture, or the killing of protesters. Nor are politicians and officials held accountable for widespread corruption that undermines public services and impinges economic and social rights.

Although the Supreme Court ruled against the TRC Act in 2015, two transitional justice bodies provided for in that law – the Truth and Reconciliation Commission (TRC) and the Commission of Inquiry on Enforced Disappearances (CIEDP) – were established that year. While the law has been suspended, the two commissions have continued to exist, although neither has completed a single investigation.

Advocacy Forum lawyers have consistently requested updates from police and prosecutors every three months on the 62 investigations tracked by Advocacy Forum and Human Rights Watch since 2006. They are repeatedly told that conflict-era cases are no longer being pursued because they will be processed by the two transitional justice mechanisms (the TRC and the CIEDP). In several of these cases, the Supreme Court itself has ordered a prompt investigation into killings. In acquiescing to government orders, the police ignored court directives. The fact that the police are choosing to obey executive orders over rulings by the judiciary exposes deeply rooted problems of the rule of law and political interference in the police.

This pattern of impunity is maintained in numerous cases of human rights violations committed since the conflict ended; there has been little or no attempt to hold alleged perpetrators to account, further eroding the rule of law. The government has failed to act on hundreds of recommendations by the National Human Rights Commission to prosecute alleged human rights abusers, or numerous recommendations of the UN Human Rights Committee.

The recommendations made in this report include measures that would help to prevent ongoing abuses by security forces and hold those responsible to account.

Legislation Before Parliament

On March 19, 2023, the newly elected coalition government led by Prime Minister Dahal tabled a bill in parliament titled A Bill Prepared for the Amendment of the Investigation of Enforced Disappeared Persons, Truth and Reconciliation Commission Act, 2071 (2014).

The bill includes several positive provisions. It guarantees the right to reparation, although it provides few details of how this will be done, as well as interim relief for some victims who were left out of earlier relief packages. It guarantees the right of the families of victims of enforced disappearance to their relatives' property. It also mandates the TRC to study the root causes and impact of the conflict and recommend institutional reforms.

Under the proposals, the TRC and CIEDP would investigate alleged crimes committed during the conflict. Cases classified as “serious violations of human rights” could be referred to and prosecuted in a special court. However, the bill’s definition of “serious

violations” – which includes rape and “serious sexual violence,” enforced disappearance, “cruel or inhuman torture,” and a definition of unlawful killing that remains to be finalized – excludes numerous serious crimes under international law including some acts of torture and some unlawful killings thus creating a significant accountability gap.

In a separate category from those crimes defined as “serious,” the bill defines “any acts against the domestic law, international human rights law or humanitarian law” as rights violations that cannot be referred to the special court. This language risks providing de facto amnesties to alleged perpetrators of some serious human rights violations and grave crimes under international law. Amnesties for serious crimes are contrary to international law and standards, and raise serious concerns for victims.

In particular, the definition of both “serious” violations and other violations of human rights stipulates that the offence was committed “in a targeted or planned manner against an unarmed individual or community.” This means that perpetrators of crimes committed against combatants, or in a non-targeted or planned manner, are excluded not only from any possibility of criminal accountability but also that the victims of these crimes are not eligible for consideration for other measures outlined in the bill, such as reparations.

In addition, the bill does not ensure the independent appointment of judges to the special court, nor the selection of qualified personnel to handle the complexities of serious crime investigations and prosecutions.

The government has come under pressure from victims’ groups, activists and international human rights organisations, the United Nations and others, to address the shortcomings of the bill including the critical issue of amnesties for serious crimes. On May 19, 2023, the Parliamentary Committee on Law, Justice, and Human Rights formed an 11-member sub-committee to propose amendments to the bill. The result of its deliberations became public in October 2023. Several of the sub-committee’s proposals, if they are adopted, would help to address some of the concerns that have been raised. However, the proposed amendments do not fully address several important shortcomings.

Under the proposed amendments, the requirement that any rights violation (whether defined as “serious” or not) must have been committed “in a targeted or planned manner against an unarmed individual or community” to fall within the scope of the process

remains, excluding many victims and their families. Only crimes defined as “serious human rights violations” may be prosecuted, and these continue to exclude some war crimes and crimes against humanity, which, contrary to international law, would therefore be subject to amnesties. The status of the crime of extrajudicial, summary or arbitrary killings was not settled by the sub-committee, but left open for further discussion.

Finally, the bill does not provide for the financial independence of the transitional justice bodies, and the sub-committee report does not address this. According to a recent report by the UN special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, transparent funding that provides sufficient material and human resources is key to guaranteeing the independence of transitional justice mechanisms.

While public debate and human rights activism have helped to introduce improvements to the bill, and there is important progress towards adopting a long overdue law on transitional justice, the draft law and proposed amendments do not currently comply with the rulings of the Supreme Court, international legal standards, or the demands of many victims. If it is passed without appropriate amendments, the law risks hindering the search for justice setting it back years once again. If it is appropriately amended, it can be the basis for a meaningful, nationally owned process that upholds the rights of victims by providing accountability and reparations, and benefit all Nepalis by strengthening institutions and the rule of law.

Recommendations

To the Government of Nepal

On Transitional Justice

- Amend the transitional justice bill to ensure that all conduct amounting to gross violations of human rights and grave international crimes, including summary and arbitrary killings, torture, all war crimes and crimes against humanity, and including violations committed against combatants, are brought to the jurisdiction of the Special Court and are not subject to amnesties.
- Amend the transitional justice bill to ensure that the definition of victims of any rights violation is not limited to “unarmed civilians,” but also includes combatants.
- Allow adequate time for those victims, including survivors of sexual violence, who have not filed a complaint to register their complaint once the commissions are set up under the new act and conduct a broad public awareness campaign to ensure that people across the country are aware of this process. The currently proposed window of three months to register sexual violence cases is not adequate.
- Create a specialist unit within the TRC to handle cases of sexual violence and other forms of gender-based violence. Ensure that it is staffed with people with training and skills in assisting survivors of gender-based violence, and has policies in place to protect survivors’ confidentiality and to support them in a respectful and victim-centered manner.
- Ensure the bill provides for financial and administrative independence from the government for the commissions, and that the commissions can access additional resources if and when required.
- Ensure that the bill provides for the independent appointment of judges to the Special Court, consistent with the standards in Nepal’s constitution.
- Having adopted the necessary amendments, present the bill for passage by parliament without further unnecessary delay.
- Establish the Special Court as soon as possible after the amended bill is passed, ensuring that the Special Court is adequately resourced, and that it is staffed with qualified personnel to handle the complexities of serious crime cases.

- Establish a dedicated unit within the Office of the Attorney General to handle the prosecution of cases before the Special Court, based on adequate criminal investigation of serious crimes.
- Appoint qualified and independent commissioners to the TRC and CIEPD through a credible, transparent, and consultative process.
- Develop a robust framework for reparations, based on recommendations from the TRC and the CIEPD through extensive consultations with victims, civil society, reparation experts, and other relevant stakeholders. This framework should:
 - Recognize that victims of gross human rights violations and serious international crimes have a right to reparations under international law.
 - Acknowledge the possibility of different forms of reparations based on victims' needs, encompassing restitution, compensation, rehabilitation such as access to health services including mental health services and access to good quality education for victims and their family members, satisfaction, and guarantee of nonrecurrence. These reparations can be collective or individual and should include assistance to the children of victims and survivors.
 - Extend to all victims of gross human rights violations and serious international crimes, including those previously excluded by the Interim Relief Program (i.e. survivors of torture, rape, and sexual violence).
 - Be gender-sensitive and inclusive.
 - Ensure that relief, service, and reparations are not one size fits all for all recipients, but are responsive to the specific needs of different recipients, including taking into account the specific needs of survivors of sexual violence and their families.

On the Criminal Justice System

- Improve training and equipment, including strengthening the crime-investigation curriculum at police academies and training low-ranking officers to assist in crime investigations.
- Enforce in practice section 9 of the Evidence Act, which excludes from court any evidence police obtain by using torture or cruel, inhuman, or degrading treatment in interrogations.
- Revise the Penal Code to abolish the statute of limitations for rape cases.

- Conduct training and adopt new policies to improve how police handle cases involving gender-based violence, and hold accountable any officers that fail to comply with these policies.
- Clearly and unequivocally signal, through statements and measures by state officials and the highest-ranking police, that the use of torture or other mistreatment in police custody is unacceptable and will not be tolerated. Explicitly define acceptable interrogation techniques in police rules and manuals.
- Ensure that police officers implicated in torture and other ill-treatment, regardless of rank, are disciplined or prosecuted as appropriate.
- Stop transferring police alleged to have committed abuses, which only endangers other citizens. Establish that if a police officer is being investigated for abusive conduct they will be assigned to desk duty or suspended with pay, depending on the allegation, until the incident is investigated and resolved.
- Bolster independent investigations into complaints of police abuse and misconduct through the national human rights commission and police complaints authorities. Prosecute accused officers where sufficient evidence exists.
- Reduce delays and malfeasance by requiring police to register a First Information Report (FIR) for any complaint, regardless of jurisdiction, before transferring a case to the appropriate police station. Where sufficient grounds exist, investigate suspected crimes when no FIR has been registered.
- Strengthen public prosecutors and develop a strong public legal defense system.
- Allow all detainees access to lawyers, with communication in confidence, without obstruction by the police.

To Foreign Governments Seeking to Support Transitional Justice in Nepal and the United Nations

- Help the government of Nepal to seize the current opportunity by urging it to amend the current bill to meet international standards, and then promptly pass it into law.
- Liaise directly and regularly with victim and survivor groups, including survivors of sexual violence, to ensure that international engagement with the government of Nepal is informed by their views.

- Provide financial support to victims' groups, to ensure that they have the means to conduct meetings, discussions, and awareness campaigns among their members.
- Offer technical and financial assistance for a process that complies with Nepal's obligations under international law.
- Ensure that any donor funding for Nepal's transitional justice process is delivered through a mechanism that ensures best practice, including transparency and independence from the government. Consider a structure to coordinate donor support that is under the auspices of the United Nations.
- Closely observe the process of appointment to help ensure that TRC and CIEDP commissioners are selected through a credible and independent process that has the confidence of stakeholders.
- Ensure that funds allocated for reparations to victims are administered in a transparent and accountable manner according to clearly articulated principles and procedures.
- Investigate and prosecute alleged serious crimes committed in Nepal using the principle of universal jurisdiction.

Methodology

Human Rights Watch and Advocacy Forum have tracked the status of 62 cases documented in 49 FIRs filed with police since June 2006. Of these, 46 relate to cases of alleged extrajudicial killings, enforced disappearances, torture, or rape committed by security forces in the period between 2002 and 2006. The remaining FIRs relate to cases of alleged killings by members of the Communist Party of Nepal-Maoist (CPN-M). Advocacy Forum lawyers assisted and continue to assist the families in seeking justice in all these cases. Advocacy Forum's lawyers based in seven provinces of Nepal monitor any progress in these cases quarterly.

In February 2023 Human Rights Watch visited Banke and Bardiya districts with Advocacy Forum to interview victim families, some of whom were involved in the cases mentioned above. In addition, a Human Rights Watch researcher conducted interviews in Kathmandu with survivors of sexual violence from various districts. All of the survivors, victims and families mentioned in this report consented for their cases to be included. No payments were made for the information included in this report. We also reviewed documents including draft legislation and analyses of the bill by various organizations, recommendations made by victims and civil society organizations, and communications from UN Special Procedures.

Human Rights Watch wrote to Ajit Thapa and Agni Sapkota asking for their response to the issues raised in this report. We were unable to identify an address at which to write to Ramesh Swar. Human Rights Watch also wrote to Prime Minister Pushpa Kamal Dahal asking for his response to the issues raised in relation to the transitional justice bill. We had not received a response at the time of publication.

On February 2, 2023, Advocacy Forum wrote to the human rights cells of the Nepal Police and Nepal Army requesting meetings and a response to the issues raised in this report, but received no response. On May 15, 2023, Advocacy Forum wrote to the office of the Attorney General about the issues raised in this report, but received no response. The National Human Rights Commission responded to Advocacy Forum's RTI application, providing their decisions on some of the cases mentioned in the report. Those updates are included in the table in the appendix.

I. Background, Nepal's Maoist Conflict 1996-2006

In 1996, the Communist Party of Nepal-Maoist (CPN-M) declared a “people’s war” to establish a communist republic. Nepal had been a constitutional monarchy and parliamentary democracy since a democratic street movement in 1990, which had forced an end to absolute monarchy. By 2001, the insurgents had established significant control in around 22 of Nepal’s 75 districts, attempting to assume the functions of a state.

During the early years of the conflict, the government relied on the ill-equipped and poorly trained Nepal Police to confront the Maoists. The Maoists attacked police stations, killing hundreds of police officers. By the end of the conflict in 2006, 1,271 out of 1,971 police posts across the country had stopped functioning after they were destroyed in attacks, or police personnel had been withdrawn for security reasons.¹ The Maoists also targeted and killed “class enemies” in rural areas, including members of the parliamentary parties and landowning families.

Peace talks between the government and the Maoists, which began in August 2001, broke down in November that year after the Maoists unilaterally withdrew and attacked police and army posts in 42 districts, killing around 80 members of the security forces.² The authorities responded by declaring a nationwide state of emergency and deploying the Royal Nepal Army (RNA, now Nepal Army, NA).³ The Nepal Police and the paramilitary Armed Police Force (APF) were placed under the “unified command” of the army.⁴

¹ Human Rights Watch and Advocacy Forum, *Waiting for Justice*, September 2008, <https://www.hrw.org/reports/nepalogo8web.pdf>, (accessed October 23, 2023).

² Amnesty International, “A spiraling human rights crisis,” April 2002, <https://www.amnesty.org/en/documents/asa31/016/2002/en/> (accessed July 4, 2020); “Nepal raiders 'kill dozens of police,’” CNN, November 24, 2001, <https://edition.cnn.com/2001/WORLD/asiapcf/south/11/23/nepal.truceends/>, (accessed November 6, 2023).

³ Historically, the army in Nepal was under the command and control of the king and was called the Royal Nepal Army. In September 2006, the Interim Legislature-Parliament approved a new Army Act changing the army’s name from Royal Nepal Army to Nepal Army and making the army accountable to an elected government. Nevertheless, the army has remained outside effective civilian control.

⁴ Members of each of these three forces often went out on joint patrols. In this report, the term “security forces” is meant to refer to forces under unified command of the army.

Following the deployment of the army the conflict escalated. In particular, the civilian death toll mounted. Over 8,000 mostly civilian deaths were recorded between November 2001 and the end of the war in 2006, out of a total death toll estimated by the UN in 2012 at over 13,000 people.⁵ Other widely cited estimates of the total death toll have later been revised upwards to around 17,000 people.⁶

In 2002, the government introduced the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO), granting wide powers to the security forces to arrest people involved in “terrorist” activities and declared the CPN-M a “terrorist organization.”⁷ In May that year parliament was dissolved, and in October, King Gyanendra fired the prime minister, Sher Bahadur Deuba. Over the following years, a series of prime ministers were appointed and dismissed by the king, while parliamentary parties protested the palace’s role in politics.

A second failed round of peace talks in 2003 broke down after the army massacred 17 Maoists and two civilians in custody at Doramba, in Ramechhap district, in August that year.⁸ While the Maoists had established control over much of the countryside, the security forces operated from heavily fortified bases in the district headquarters, launching search operations and patrols.

The international community acted on longstanding calls from national and international human rights groups to set up a monitoring mission of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in April 2005.⁹

⁵ OHCHR, *The Nepal Conflict Report*, October 1, 2012, <https://www.ohchr.org/en/documents/country-reports/nepal-conflict-report>, (accessed October 23, 2023).

⁶ After the end of the conflict the government revised the estimated death toll upwards more than once. See for example, “Nepal raises conflict death toll,” *BBC News*, November 22, 2009, <http://news.bbc.co.uk/1/hi/8268651.stm>, (accessed December 18, 2023). By the time OHCHR released its *Nepal Conflict Report* in 2012, including an estimate of 13,000 deaths, the government’s own estimate was 17,000. See “In report on Nepal conflict, UN human rights chief voices concern over pace and extent of justice efforts,” OHCHR, October 8, 2012, <https://news.un.org/en/story/2012/10/422982-report-nepal-conflict-un-human-rights-chief-voices-concern-over-pace-and-extent>, (accessed December 18, 2023).

⁷ The provisions of the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO) were adopted into law by parliament in 2002. After it lapsed, and in the absence of parliament, it was re-promulgated repeatedly by royal decree from October 2004. It was not renewed after it lapsed in September 2006 and is no longer in force.

⁸ National Human Rights Commission, “On the Spot Inspection and Report of the Investigation Committee: Doramba, Ramechhap Incident,” 2003, https://www.nhrcnepal.org/uploads/publication/Reprot_Doramba_R.pdf, (accessed December 8, 2023).

⁹ Office of the UN High Commissioner for Human Rights, OHCHR in Nepal (archived website), <https://nepal.ohchr.org/en/index.html>, (accessed December 8, 2023).

On February 1, 2005, King Gyanendra declared a state of emergency and – with the army’s backing – assumed direct executive authority, citing the inability of the civilian government to resolve the conflict.¹⁰ He ordered the detention of politicians, activists, journalists, and human rights defenders, and imposed severe restrictions on civil liberties.¹¹ Protests broke out, backed by the parliamentary parties and the Maoists.

The Maoists’ unilateral decision to begin a four-month ceasefire, from September 3, 2005, was not joined by the royal government. The parliamentary parties established a Seven-Party Alliance (SPA) and entered a dialogue with the Maoists, facilitated by the government of India.¹² On November 22, 2005, the SPA and the Maoists adopted a 12-point “Letter of Understanding,” which included a call for the election of a constituent assembly and committed the Maoists to multi-party democracy, respect for human rights, and the rule of law. The agreement, strongly criticized by the royal government, was welcomed by then UN Secretary-General, Kofi Annan.¹³

There were talks between representatives of the SPA and Maoists in New Delhi in March 2006, leading to a combined, peaceful street movement. Thousands of people took part in massive demonstrations across the country in defiance of curfew orders.

On April 24, 2006, the king announced the reinstatement of parliament.¹⁴ A government under Prime Minister Girija Prasad Koirala, leader of the Nepali Congress party, was formed. The government started negotiations with the CPN-M on the Comprehensive Peace Agreement, which was signed by Prime Minister Koirala and the Maoist leader Pushpa Kamal Dahal on November 21, 2006.

¹⁰ The earlier state of emergency declared in November 2001 had lapsed in August 2002.

¹¹ Randeep Ramesh, “King of Nepal seizes power,” *Guardian*, February 2, 2005, <https://www.theguardian.com/world/2005/feb/02/nepal>, (accessed December 8, 2023).

¹² The SPA members were the Nepali Congress (NC); Nepali Congress (Democratic) (NC(D)); Communist Party of Nepal (Unified Marxist-Leninist) (CPN-UML); Janamorcha Nepal; Nepal Workers and Peasants Party (NWPP); United Left Front (ULF); and Nepal Sadbhavana Party (Anandi Devi) (NSP(AD)). The NC(D) later re-merged with the Nepali Congress in late September 2007.

¹³ P.G. Rajamohan, “Crisis in Nepal,” Institute of Peace and Conflict Studies, May 2006, <https://www.files.ethz.ch/isn/95784/IPCS-Special-Report-22.pdf>, (accessed November 6, 2023).

¹⁴ “Nepal’s king restores parliament,” *Guardian*, April 24, 2006, <https://www.theguardian.com/world/2006/apr/24/nepal>, (accessed November 6, 2023).

II. Rights Violations in Southwest Nepal

Human rights abuses occurred across the country during the conflict. Security forces were accused of extrajudicial executions, enforced disappearances, torture, and arbitrary arrests. The Maoists abducted and executed “class enemies,” practiced widespread extortion, and forcibly recruited children – including into combat.¹⁵ Both sides stand accused of rape, although the majority of allegations are against the security forces.¹⁶

Many well documented violations occurred in Banke and Bardiya districts, in southwestern Nepal. OHCHR received reports of over 200 enforced disappearances in the custody of the security forces in Bardiya district alone between December 2001 and January 2003, as well as 14 similar cases in Maoist custody between November 2002 and October 2004.¹⁷

The marginalized Tharu Indigenous group then made-up 52 percent of Bardiya’s population and accounted for over 85 percent of the people forcibly disappeared by the state in cases documented by OHCHR. Most victims appear to have been civilians – among the “disappeared” just 23 were acknowledged by their families or by the CPN-M to have been members of the Maoist party at the time of their detention.

OHCHR found that three units of the RNA based in Bardiya District during this period were primarily responsible for enforced disappearances, as well as unlawful detentions, torture in custody and extrajudicial killings. Among them was Bhimkali Company, based at the Chisapani army camp on the border of Bardiya and Banke districts, which operated in both

¹⁵ Human Rights Watch, *Between a Rock and a Hard Place*, October 2004, <https://www.hrw.org/sites/default/files/reports/nepal1004.pdf>; *Children in the Ranks*, February 2007, <http://hrw.org/reports/2007/nepal0207/>, (accessed October 21, 2023).

¹⁶ Human Rights Watch, *Silenced and Forgotten*, September 2014, <https://www.hrw.org/report/2014/09/23/silenced-andforgotten/survivors-nepals-conflict-era-sexual-violence>, (accessed October 21, 2023).

¹⁷ United Nations Office of the High Commissioner for Human Rights, Conflict-Related Disappearances in Bardiya District, December 2008, https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf, (accessed October 8, 2023). See also, Human Rights Watch, CLEAR CULPABILITY “Disappearances” by Security Forces in Nepal, February 28, 2005, <https://www.hrw.org/report/2005/02/28/clear-culpability/disappearances-security-forces-nepal>, (accessed October 23, 2023).

districts.¹⁸ In several of the cases described in this report, witnesses and relatives of the victims alleged that commanding officers were directly responsible or were present when violations occurred.

The UN found that Bhimkali Company “was under the command of Major Ajit Thapa and Captain Ramesh Swar (second in command), during the period under investigation... Testimonies frequently cited the two commanding officers, Major Ajit Thapa and Captain Ramesh Swar, as being present and involved in interrogation and torture.”¹⁹

Several victims told OHCHR that torture took place in Major Thapa’s office. Major Thapa and Captain Swar were also named in a 2006 report by the UN special rapporteur on Torture, which included detailed testimony from a man who said he was tortured at Chisapani by both officers.²⁰ The OHCHR report, and a report by Amnesty International²¹ published in 2002, both contain allegations that Captain Swar raped female prisoners.²²

¹⁸ United Nations Office of the High Commissioner for Human Rights, *Conflict-Related Disappearances in Bardiya District*, December 2008, https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf, (accessed October 8, 2023).

¹⁹ United Nations Office of the High Commissioner for Human Rights, *Conflict-Related Disappearances in Bardiya District*, December 2008, https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf, (accessed October 8, 2023).

²⁰ Report by the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak MISSION TO NEPAL, E/CN.4/2006/6/Add.5, January 9, 2006, <https://www.refworld.org/docid/441181fbo.html>, (accessed October 18, 2023).

²¹ Amnesty International, *Nepal, A deepening human rights crisis*, December 2002, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa310722002en.pdf>, (accessed October 23, 2023).

²² According to the OHCHR report, a detainee told UN investigators: “One day [a woman] was brought into our room, she had been arrested along with her daughter who was put in another room. She was able to see her daughter the next morning when all the detainees were brought outside for food. She talked to her daughter for a while and when we were taken inside the detention room, she cried a lot. When we asked her what happened, she said that her daughter was raped by Captain Ramesh Swar the previous night. She cried for several weeks for her daughter.” Referring to a case that was documented in detail by Amnesty International, the OHCHR report reads, “In one well-documented case, two female cousins, aged 16 and 18, of Banke District were allegedly raped by RNA personnel, including at least one senior officer of Bhimkali Company, during their detention in Chisapani Barracks in April 2002... OHCHR was subsequently informed that Captain Ramesh Swar was court-martialed for this case, but only found guilty of illegal detention. His promotion was reportedly suspended for ten months as a result.” United Nations Office of the High Commissioner for Human Rights, *Conflict-Related Disappearances in Bardiya District*, December 2008, https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf, (accessed October 8, 2023). According to Amnesty International, the victims named Ramesh Swar as the perpetrator. Nepal: A deepening human rights crisis, Amnesty International, December 2002, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa310722002en.pdf>, (accessed October 8, 2023).

Several witnesses told Human Rights Watch and Advocacy Forum that Captain Swar was directly responsible for violations including extrajudicial killing. The National Human Rights Commission has alleged that Ramesh Swar was responsible in at least ten cases of enforced disappearance, and that Ajit Thapa was responsible for at least five, and recommended that they be prosecuted.²³

Families of the “Disappeared” and Victims of Extrajudicial Killings

According to the International Committee of the Red Cross, over 1,300 people remain victims of enforced disappearance since the end of the war.²⁴ The Commission of Investigation on Enforced Disappeared Persons (CIEDP) was formed in 2015 as part of the transitional justice process to investigate civil war abuses.²⁵ The CIEDP say they have received 3,288 cases of people allegedly forcibly disappeared, but is yet to complete an investigation into a single enforced disappearance, and to date no perpetrator has been held accountable.²⁶

Many victims and their families have struggled to learn the truth of what happened, to gain reparations and redress, including support for victims’ children and rights to the property of the “disappeared.” Several of the families whose interviews appear in this report filed criminal complaints before Nepali courts with support from Advocacy Forum. However, complainants found this route blocked by government directives to the police not to investigate conflict-related cases.

Some sought to advance accountability through international mechanisms. In 2011, the families of eight victims of enforced disappearance in Bardiya brought their cases to the UN Human Rights Committee, arguing that there were no effective domestic remedies

²³ National Human Rights Commission, आयोगको २० वर्ष आयोगका सिफारिशहरू र कार्यान्वयन अवस्था (२०५७ जेठ–२०७७ असार), October 15, 2020, https://www.nhrcnepal.org/uploads/publication/Inner_20_Years_Book_2077_Final_CTP_NHRC.pdf, (accessed December 8, 2023).

²⁴ “Nepal: Families have the right to know the fate of their missing loved ones,” ICRC, August 28, 2018, <https://www.icrc.org/en/document/nepals-missing-families-have-right-know-fate-their-missing-loved-ones>, (accessed October 23, 2023).

²⁵ Nepal Government, Commission of Investigation on Enforced Disappeared Persons, <https://ciedp.gov.np/en/home/>, (accessed November 1, 2023).

²⁶ “TRC and CIEDP remain without office-bearers for a year,” *Rupublica*, August 17, 2023, <https://myrepublica.nagariknetwork.com/news/trc-and-ciedp-remain-without-office-bearers-for-a-year/>, (accessed December 10, 2023).

available.²⁷ The Human Rights Committee has adopted views supporting the complainants in this and at least 20 other cases from Nepal, finding that victims have been denied redress for serious human rights violations.

The Enforced Disappearance of Kamal Dahal

Yog Maya Dahal has struggled for justice since her husband, Kamal Dahal, was taken by soldiers from the school where he taught on January 1, 2002.

On the day he was detained, Yog Maya says soldiers came to her house in Banke district, searched it, and demanded to be taken to the school, accusing her husband of being a Maoist.²⁸ “They took him out of the classroom and said, ‘This is the man who has widowed many wives.’” He was severely beaten before numerous witnesses and, unable to stand, thrown into the back of an army truck and driven away.

Yog Maya said that the soldiers had come from the nearby Chisapani army camp. The following day she went there to see her husband but was denied entry. The day after that news was broadcast on the radio that he had been killed in an “encounter” while trying to escape, but she was not informed or handed his body.

In the months following her husband’s abduction Yog Maya says soldiers from Chisapani including Major Ajit Thapa and Captain Ramesh Swar would visit her house at night. “I came to recognize them. They said, ‘Your husband has buried weapons here. You have to dig them up.’ I said, ‘The only weapons my husband used were chalk and a duster.’” The soldiers would point their guns through the (unglazed) windows of her house. “I would pretend that I was sleeping. ... I would gather the kids around me and sleep in the middle of the room.”

At first, she attached her hopes to finding Kamal’s body, but she never has, and her husband remains “disappeared.” “It feels like a nightmare,” she said.

²⁷ “Families of Bardiya disappeared victims appeal to the UN Human Rights Committee,” Redress, January 24, 2011, <https://redress.org/news/families-of-bardiya-disappeared-victims-appeal-to-the-un-human-rights-committee/>, (accessed October 24, 2023). In 2015 the committee adopted a view supporting the complaint, CCPR/C/114/D/2038/2011, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsukPtYsnxNH1DBeueuCbK4gu3OkNODY4lyv9rjCKZRxSzQowCdA24EoCbh%2FWPARRZzbpikL%2B6%2FIXizuxM8AEV4lJUoj2qagYilv3yhEiGKdx%2FvC4V7JmL3sz9CsnJnndIQ%3D%3D>, (accessed October 24, 2023).

²⁸ Human Rights Watch interview with Yog Maya Dahal, Banke district, February 5, 2023.

The police only registered her complaint after a court ordered them to do so. But the case has made little progress. Yog Maya wants a transitional justice process that gives her relief and reparation. She has raised four children on her own, and without a death certificate cannot receive her husband's pension. Besides reparations and access to her husband's estate, she wants the perpetrators brought to justice. She believes "the case is stuck because the police haven't been able to arrest [Major] Ajit [Thapa] and [Captain] Ramesh [Swar]. They didn't show up in court... They were the ones who beat him up [when he was arrested], Ramesh Swar especially. They kicked him with their boots."

"I would feel relief and peace if the case moved forward and I could confront them in the court," she said. "The only thing that can give me a sense of justice is to see them being punished."²⁹

Extrajudicial Killing of Kranti Abhilashi Devkota

Kranti Abhilashi Devkota of Banke district, who his family acknowledge was the district treasurer of a Maoist affiliated student organization, was shot dead by soldiers on December 30, 2001.³⁰ The family had a tradition of involvement in communist politics and several members had become involved in the Maoist party. According to information received by the family, Kranti was detained by an army patrol at a village in neighboring Bardiya district and summarily executed almost immediately, in front of witnesses, while he pleaded for his life.

In the aftermath of the killing soldiers repeatedly visited the family home at night and threatened them at gunpoint, inflicting "mental torture."

"Ten years ago, we thought there would be justice but now there is no hope," said Kranti's sister Shram Jyoti Devkota. "Those involved should be punished, but I don't think it's possible anymore."³¹

²⁹ Ibid.

³⁰ Human rights Watch interview with Shram Jyoti Devkota, Banke district, February 5, 2023.

³¹ Ibid.

Indiscriminate Killing of Dal Bahadur Thapa and Parbati Thapa

“We are still waiting for justice,” Bhumi Sara Thapa Chhetri, 80, told Human Rights Watch. “I walked to so many places, every place that you have to go for justice, and I cried so much. Now I’ve grown old. I would like to see them brought to court. It feels like it will never come.”³²

Her family was preparing to go to bed for the night, in Rajhena village in Banke district, on September 10, 2002, when members of the security forces, seemingly including police and soldiers, appeared outside and opened fire into the house through the windows. When the firing stopped, she saw that her youngest son Dal Bahadur was dead and his wife Parbati was fatally injured. The couple’s 10-month-old daughter, the youngest of their two children, had also been wounded.

The security forces appeared to leave, but returned within a few minutes and began asking questions about Bhumi’s other children, whom they suspected of being Maoists, but who were not at home. The family named Major Ajit Thapa and Captain Ramesh Swar among those they accused in a criminal complaint (see table in appendix, cases number 5 and 6).

The security forces removed the bodies of Dal Bahadur and Parbati, and also removed jewelry, a video camera and 11,000 rupees (then worth around US\$144). The surviving members of the family were locked inside the house. They were able to take the injured baby for medical treatment the following morning. That day a news item broadcast on the radio claimed that the security forces had killed two Maoists and recovered a video camera, 11,000 rupees and bomb making equipment.³³

“It was only after the peace agreement [in 2006] that we were able to register the case,” said Bhumi. Initially the police refused to register it, but with help from Advocacy Forum it was registered after a court gave an order to do so. However, there has been little if any discernable progress.

³² Human Rights Watch interview with Bhumi Sara Thapa Chhetri, Banke district, February 5, 2023.

³³ This incident was documented by Amnesty International in *Nepal, A deepening human rights crisis*, December 2002, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa310722002en.pdf>, (accessed October 23, 2023).

According to her youngest daughter, 38-year-old Lakshmi Thapa, “It was so difficult [to register and pursue the case], people wouldn’t listen, they wouldn’t follow orders. Two kids were orphaned that night. The state should take care of them. And the killers have to be punished for what they did.”³⁴

Torture of Prem Bahadur Thapa at Chisapani Army Camp

The Thapa family had had previous encounters with soldiers from the Chisapani army camp. One of Bhumi Sara’s other children, Prem Bahadur Thapa, said he had first been arrested about a year earlier. Accusing him and another villager of being Maoists, soldiers tied them to a stake and beat them. The soldiers also searched the family house, and then took Prem and the other villager in a truck to the Chisapani camp.

Prem Bahadur says he recognized several of the prisoners at Chisapani. “I saw many people from Kohalpur there,” he said. After his arrival, he was blindfolded, his hands were tied, and soldiers beat him in an open area inside the compound. “They probably broke four or five sticks beating me,” he said.³⁵

Prem Bahadur alleges that he was repeatedly tortured while held at Chisapani. One of the instruments of torture was a bamboo club wrapped in tires, which was known as the “Hanuman laathi” and left tire marks on the victims’ bodies. The soldiers based at Chisapani would conduct “raids” almost every day, Prem Bahadur said, and if they returned with new prisoners then the existing prisoners would be tortured less that day.³⁶ He also says that while at Chipasani, he witnessed an officer beat a young woman to death.

After his release he was ordered to report again to the camp, but instead he fled to India. It was following Prem’s flight to India that security forces attacked his family home, as described above.

³⁴ Human Rights Watch interview with Lakshmi Thapa, Banke district, February 5, 2023.

³⁵ Human Rights Watch interview with Prem Bahadur Thapa, Banke district, February 5, 2023.

³⁶ Ibid.

Enforced Disappearance of Shivacharan Tharu

“I’ve been to Kathmandu so many times staging protests,” said Mampti Tharu, describing her decades long search for justice.³⁷

Her husband, Shivacharan Tharu (also known as Shiv Charan Chaudhari) was arrested by police from his home in Bardiya district along with three other men on December 12, 2001. For over four months she was able to visit him in custody at a police station, and saw that he had been severely beaten. The last time she saw her husband was on April 29, 2002. The police told her that her husband had been transferred to the custody of the army at Thakurdwara. Since then, he remains a victim of enforced disappearance.

According to the United Nations’ 2008 report on enforced disappearances in Bardiya district, referring to Shivcharan and four other men who were detained in the same period, “OHCHR’s investigations suggest they were taken from the DPO [district police office] by a group of RNA, APF and NP [Nepal Police] personnel on 2/3 May [2002] and extrajudicially executed,” despite official claims that they were released.³⁸

Mampti registered the case with the CIEDP after they were established in 2015. “Until four or five years ago they [the CIEDP] would tell us ‘We will search for your husband.’ I don’t know what happened. The commission disappeared.”³⁹

ExtraJudicial Killing of Rupa Tharu

Rupa Tharu, also known as Rupa Chaudhary, was an 11-year-old primary school pupil when she was dragged from her bed and shot dead by soldiers during a night-raid on her village, Sorhawa, in Bardiya district, on July 21, 2002.

Her mother, Lakshmi Tharu, recalls that at around 10pm soldiers, who appeared to be drunk, broke the family’s door down and entered the house searching for an alleged Maoist named Rupa Tharu. They established that her daughter’s name was Rupa Tharu,

³⁷ Human Rights Watch interview with Mampti Tharu, Bardiya district, February 6, 2023.

³⁸ United Nations Office of the High Commissioner for Human Rights, *Conflict-Related Disappearances in Bardiya District*, December 2008, https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf, (accessed October 8, 2023).

³⁹ Human Rights Watch interview with Mampti Tharu, Bardiya district, February 6, 2023.

kicked and beat her and her father with their gun butts, then dragged the child outside and shot her dead.⁴⁰

After shooting Rupa, soldiers ordered four village men to carry her body to the village primary school, where they had parked their vehicles. Three of the men were then released but one, named Dinesh Tharu, aged around 17 or 18, was taken away. According to Dinesh's mother, Talukrani Tharu, he was held for around 15 days at Chisapani army camp, where he was continually blindfolded and repeatedly beaten before being released.⁴¹

According to the OHCHR investigation in Bardiya district, following the killing of Rupa Tharu the Ministry of Defence issued a press statement "claiming that a Maoist was 'killed in an encounter.'"⁴² Multiple witnesses told OHCHR that the security forces who raided the village were a joint team of soldiers from Bhimkali company (which was based at Chisapani army camp) and police from the Mainapokhar area police office.⁴³

Abuses Committed by the Maoists in Bardiya District

According to the OHCHR's report on enforced disappearances in Bardiya, the Communist Party of Nepal-Maoist (CPN-M) was responsible for at least 14 abductions in the period they documented, between 2002-2004.⁴⁴ In many cases the Maoists subsequently acknowledged that the victim had been killed, but did not reveal the location of their body.

For instance, on October 21, 2004, five Maoists abducted Anita Bishwakarma from her home, accusing her of extortion. She was breastfeeding her four-month-old son when the Maoists arrived. They handed her baby to a relative before blindfolding her and marching

⁴⁰ Human Rights Watch interview with Lakshmi Tharu, Bardiya district, February 6, 2023.

⁴¹ Human Rights Watch interview with Talukrani Tharu, Bardiya district, February 6, 2023.

⁴² United Nations Office of the High Commissioner for Human Rights, *Conflict-Related Disappearances in Bardiya District*, December 2008, https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf, (accessed October 8, 2023).

⁴³ United Nations Office of the High Commissioner for Human Rights, *Conflict-Related Disappearances in Bardiya District*, December 2008, https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf, (accessed October 8, 2023).

⁴⁴ United Nations Office of the High Commissioner for Human Rights, *Conflict-Related Disappearances in Bardiya District*, December 2008, https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf, (accessed October 8, 2023).

her away. In 2008, a CPN-M district representative acknowledged to OHCHR that Anita Bishwakarma had been killed as part of “party action.”⁴⁵

OHCHR also recorded that the Maoists were responsible for other abuses, including “recruit[ing] children under 18 into its ranks, several of whom were reportedly subsequently arrested and disappeared by the army.” Apart from killings, abductions and looting, the Maoists also carried out public executions, including by shooting and beheading. OHCHR concluded that “a significant number” of these actions “were clearly serious violations of IHL [international humanitarian law].”⁴⁶

CPN-M representatives informed OHCHR that all decisions on party “action,” including abductions and killings, were made by the party’s District Committee.⁴⁷ The UN report gives the pseudonyms of the two most senior Maoists in the district at the time as Amal (Bright) and Tufan (Storm).

Victims’ Representatives in Bardiya district

Yojana Chaudhary is the chairwoman of a victim/ survivor network in Badhaiyatal Rural Municipality, which includes Sorhawa where 11-year-old Rupa Tharu was killed. She says that within her area, one of eight such local units in Bardiya district, her committee is aware of 65 people who were either killed or “disappeared” and around 65 to 70 others who suffered torture or were otherwise injured during the conflict.

Torture survivors and other injured people, she said, have particularly struggled to support their families. The families are anxious to receive reparations and livelihoods for their children, torture survivors in particular want health insurance and free treatment, and there are also calls for memorialization of victims, such as naming roads or public places after them. They also demand that perpetrators are held accountable. “Many victim families want to see justice served. They want to see perpetrators in court in their lifetime,” she said.⁴⁸

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

The UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has identified five pillars of a transitional justice process.⁴⁹ They are: truth, justice, reparation, memorialization, and guarantees of non-recurrence. Nepal has so far failed to deliver any of these.

⁴⁹ “International legal standards underpinning the pillars of transitional justice,” Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli, A/HRC/54/24, July 10, 2023, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5424-international-legal-standards-underpinning-pillars-transitional>, (accessed January 17, 2024).

III. Survivors of Sexual Violence

Survivors of sexual violence committed during the conflict – the vast majority of whom are women – have faced even greater difficulty than others in demanding that the crimes committed against them should be acknowledged and that they should receive reparations and accountability. They are also at risk of being neglected by the transitional justice process.⁵⁰ Activists campaigning for justice for survivors of sexual violence state that the TRC has recorded 314 alleged cases of sexual violence but argue that the true number of such cases is far higher.

Many of these women are living in dire financial conditions and continue to experience physical and mental health problems linked to the violence they faced. Although some victims of conflict-era abuses, such as the families of victims of extrajudicial executions, had earlier received “interim relief,” survivors of sexual violence and other torture survivors did not.

Due to social stigma, many survivors of sexual violence did not come forward to record their cases when the TRC was registering complaints between 2016 and 2018. Others found that officials were unwilling to register cases as rape or sexual violence, instead for example recording cases as “torture” or simply “injured.”

A statute of limitations in Nepal’s Penal Code prevents the prosecution of rape if the case is registered more than two years after the alleged offence, or three years after the victim turns 18 if she was a minor at that time.

In 2021, a new organization of women survivors of sexual violence, the National Organization of Wartime Rape Victims (NOWRaV), was established by survivors to support one another and advocate for the transitional justice process to address their needs. Their demands include:⁵¹

⁵⁰ Human Rights Watch, *Silenced and Forgotten: Survivors of Nepal’s Conflict-Era Sexual Violence*, September 23, 2014, <https://www.hrw.org/report/2014/09/23/silenced-and-forgotten/survivors-nepals-conflict-era-sexual-violence>, (accessed October 23, 2023).

⁵¹ Letters expressing these demands were presented to Prime Minister Sher Bahadur Deuba on March 29, 2022, and Prime Minister Pushpa Kamal Dahal on February 22, 2023, as well as in a document of May 2023.

- To publicly acknowledge that rapes occurred widely during the conflict.
- To reopen the registration of cases with the transitional justice bodies to allow survivors who had not previously registered to do so.
- To immediately provide interim relief to survivors.
- To immediately make provision for physical and mental healthcare for survivors.
- To remove the statute of limitations for the prosecution of rape.
- To ensure reparation and rehabilitation to survivors.
- To make provision for the children of survivors, including for their education and healthcare. To officially recognize the experience and contribution of survivors.
- To establish a specialized, victim-centric unit within the transitional justice mechanism to meet the needs of survivors of sexual violence.

Devi Maya Nepal

Devi Maya, a member of the marginalized Tharu Indigenous community, said that when she attempted to register her case with the TRC through the local Peace Committee they refused to write that she had been gang raped by the army, and instead recorded only that she was “injured.”⁵² She recalled that the committee was conducting the registration process in an open setting. Both men and women were present, and people laughed at her. There was no privacy or provision of counsellors for survivors.

“Every step of the way, whether I went to the DPO [district police office] or the Supreme Court, they said it wouldn’t be possible to prosecute this case because there is no law,” Devi Maya said. She therefore took her case to the UN Human Rights Committee in Geneva in 2015, arguing that there was no domestic remedy for the violation of her rights.

In her submission to the Human Rights Committee, Devi Maya alleged that she had been gang raped and beaten unconscious by soldiers inside her house when the army raided her village on August 20, 2002.⁵³ She became pregnant as a result, and both she and her

⁵² Human Rights Watch interview with Devi Maya Nepal (pseudonym), Lalitpur, February 22, 2023.

⁵³ “Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2615/2015,” Human Rights Committee, June 14, 2022, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhstmolju%2F14z6o8l4G3YTJPTp15RMCh27zJ92vjCpsxtzaX%2F%2Foh8YUjG1b4pLsoLBqTzXs6q4DNz655rpDTB58UcP%2FgcejCRkNKknJeCoGe3tdHGmgELbEbRiXWohomogw%3D%3D>, (accessed October 11, 2023).

youngest daughter suffered stigma and discrimination. She “still suffers from severe physical and psychological consequences of the rape.”⁵⁴

In June 2022 the Committee published its finding that Devi Maya’s rights had been violated and she had been denied redress by Nepal’s legal system.

According to Devi Maya, following the outcome of her complaint in Geneva, local government and police officials in her district summoned her to a meeting. “Even when I came back, they threw down my file and made fun of me,” she said. The police have still not registered her complaint. Shortly after that meeting, in November 2022, unknown arsonists set fire to and destroyed the poultry farm where she lived.⁵⁵

Lakshmi N.

“I was too scared to register as a rape survivor, so I just say I am a conflict victim. That’s how I am registered in the TRC,” said Lakshmi Nepali, who was raped by Maoist fighters in Far West Nepal in September 2001.⁵⁶

Lakshmi had just had a baby and was washing clothes at the river near her parent’s house when a unit of six Maoists appeared. “One of them I recognized as a childhood friend. There was a forest near the river and the six of them dragged me there. There was nobody around and my screams were not heard. I was left naked by the riverbank.”

She says her father and older brother found her and took her to the health post, but they did not want to discuss the rape. “My brother and father knew that I was raped but they did not raise a voice for justice,” she said. “Instead, they sent me to my husband’s house. From that day on I have not returned to my parents. How could I? They have seen my naked body. I am so ashamed.”

⁵⁴ “Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2615/2015,” Human Rights Committee, June 14, 2022, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhstmolju%2F14z6o8l4G3YTJPTp15RMCh27zj92vjCpsxtzaX%2F%2Foh8YUjG1b4pLsoLBqTzXs6q4DNz655rpDTB58UcP%2FgcejCRkNKknjeCoGe3tdHGmgELbEbRiXWohomo9w%3D%3D>, (accessed October 11, 2023).

⁵⁵ Ibid.

⁵⁶ Ibid.

She never filed a police complaint. However, one of the rapists was later killed by security forces. “I saw the body of that rapist,” she said. “I felt a sense of justice that day.”⁵⁷

Lakshmi says she would like some form of acknowledgement and reparation for her pain. “I really need some support with health and treatments. My son has mental health issues. I need to get him treatment, but these things are beyond me.”⁵⁸

Sita N.

“What I need is interim relief so I can fight for justice and take the perpetrator to court,” Sita Nepali told Human Rights Watch.⁵⁹

When she registered her rape case with the Local Peace Committee in her district, she found the committee did not appear to follow any formal procedures or take any steps to ensure confidentiality. The TRC had mandated the Local Peace Committee to record conflict era complaints during 2016-2018. “The TRC is simply not capable of handling these cases,” she concluded.

On June 2, 2020, the National Human Rights Commission gave Sita a letter acknowledging that she had been arrested by the army and police on March 4, 2002, been subjected to sexual violence, and that she should receive Rupees 300,000 compensation (around US\$4,000). She said that she went from one government department to another, but never received any money. “I have been to every office at every level of government,” she said.

She was required to bring five witnesses to her local police station, and as a result her entire village knows about her complaint. “The NHRC is so insensitive that when I went back to say I couldn’t get my compensation they all laughed at me.”⁶⁰

⁵⁷ Ibid.

⁵⁸ Interview with Lakshmi Nepali (pseudonym) conducted on behalf of Human Rights Watch by The Undeclared, October 12, 2023.

⁵⁹ Human Rights Watch interview with Sita Nepali (pseudonym), Kathmandu, February 22, 2023.

⁶⁰ Ibid.

Gayatri N.

“I want to be able to sit in front of the perpetrators and confront them in the presence of lawyers. Even if it is the day before I die, I would like to see justice. Even if I can experience it for just one day,” said Gayatri.⁶¹

Gayatri N. had been a member of a Maoist Party committee representing farmers. On September 7, 2001, she was abducted by pro-government vigilantes. Her home was burnt, and her 12-year-old son became a victim of enforced disappearance. During her captivity she was subjected to extreme sexual violence. Two girls or young women who were abducted along with Gayatri, and who were also raped while held captive, were never seen again. Gayatri was freed after her husband signed over their family’s modest property to the abductors as a ransom for her release.

When she attempted to register her case with the district’s Local Peace Committee she requested a female interviewer, but the committee refused. She does not know whether rape and sexual violence was registered among the numerous violations committed against her.

She said that the men who allegedly “disappeared” her child, burnt her home, abducted and abused her, are currently active in politics.⁶²

Other Survivors Seeking Reparations and Justice

Many survivors emphasize other needs, besides criminal accountability. Many are unable to identify the perpetrators. Most still suffer physical or psychological pain and require medical treatment and counselling. Some have not disclosed to their own families what happened to them, and believe they never can. “There is no way we will ever get back the dignity we lost. What we need is health insurance in a good hospital, physical treatment and counselling,” said rape survivor Bhavani N.⁶³

⁶¹ Human Rights Watch interview with Gayatri Nepali (pseudonym), Kathmandu, February 22, 2023.

⁶² Ibid.

⁶³ Human Rights Watch interview with Bhavani Nepali (pseudonym), Kathmandu, February 22, 2022.

“We want scholarships for our children,” said another survivor, Gauri N., pointing out that under Nepal’s citizenship laws it is difficult for a child with an unknown father to obtain citizenship and therefore access to education and formal employment. “We want our children to be able to study without limitations, free of cost.”⁶⁴

⁶⁴ Human Rights Watch interview with Gauri Nepali (pseudonym), Kathmandu, February 22, 2022.

IV. The Long Struggle for Transitional Justice

The struggle to uphold the rule of law and achieve justice for crimes committed by both sides in Nepal’s conflict began before the conflict ended. At great personal risk, victims, witnesses and Nepali human rights defenders worked to expose abuses and to gather and preserve evidence.⁶⁵

Nepal’s courts intervened in numerous *habeas corpus* cases, ordering the release of prisoners held in illegal detention. International groups gathered and publicized evidence of abuses and called for accountability.⁶⁶ United Nations special procedures repeatedly intervened in individual cases and to document patterns of abuse.⁶⁷ In 2012 OHCHR published the comprehensive *Nepal Conflict Report* covering the entire decade-long conflict.⁶⁸

The 2006 Comprehensive Peace Agreement included a commitment “to investigate [the] truth about people seriously violating human rights and involved in crimes against

⁶⁵ See for example, Advocacy Forum, *Sharing Experiences of Torture Survivors*, June 26, 2006, <https://www.advocacyforum.org/downloads/pdf/sharing-experiences-of-torture-survivors.pdf>, (accessed November 20, 2023).

⁶⁶ See for example, Amnesty International, *NEPAL: Human rights at a turning point?*, March 1999, <https://www.amnesty.org/en/documents/asa31/001/1999/en/>, (accessed November 20, 2023); Amnesty International, *Nepal: A spiraling Human Rights Crisis*, April 2002, <https://www.amnesty.org/en/documents/asa31/016/2002/en/>, (accessed November 20, 2023); Amnesty International, *Nepal, A deepening human rights crisis*, December 2002, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa310722002en.pdf>, (accessed October 23, 2023); Human Rights Watch, *Clear Culpability: “Disappearances” by Security Forces in Nepal*, February 28, 2005, <https://www.hrw.org/report/2005/02/28/clear-culpability/disappearances-security-forces-nepal>, (accessed November 20, 2023); Human Rights Watch, *Between a Rock and a Hard Place: Civilians Struggle to Survive in Nepal’s Civil War*, October 6, 2004, <https://www.hrw.org/report/2004/10/06/between-rock-and-hard-place/civilians-struggle-survive-nepals-civil-war>, (accessed November 20, 2023).

⁶⁷ See for example, OHCHR press release, “UN COMMISSION ON HUMAN RIGHTS EXPERTS REITERATE GRAVE CONCERN OVER SITUATION IN NEPAL,” July 14, 2004, <https://www.ohchr.org/en/press-releases/2009/10/un-commission-human-rights-experts-reiterate-grave-concern-over-situation>, (accessed November 20, 2023); OHCHR press release, “UN RIGHTS EXPERTS DEEPLY CONCERNED OVER REPORTS OF SECRET DETENTION IN NEPAL,” November 13, 2003, <https://www.ohchr.org/en/press-releases/2009/10/un-rights-experts-deeply-concerned-over-reports-secret-detention-nepal>, (accessed November 20, 2023); Report by the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak MISSION TO NEPAL, E/CN.4/2006/6/Add.5, January 9, 2006, <https://www.refworld.org/docid/441181fbo.html>, (accessed November 20, 2023); Report of the Working Group on Enforced or Involuntary Disappearances Addendum MISSION TO NEPAL 6-14 December 2004, E/CN.4/2005/65/Add.1 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/105/23/PDF/G0510523.pdf?OpenElement>, (accessed November 20, 2013).

⁶⁸ OHCHR, *The Nepal Conflict Report*, October 1, 2012, <https://www.ohchr.org/en/documents/country-reports/nepal-conflict-report>, (accessed November 20, 2023).

humanity.”⁶⁹ Along with drafting a new constitution, and demobilizing and integrating Maoist former fighters, implementing a transitional justice process was recognized as a core pillar of the peace process.

However, while the integration of Maoist fighters was completed in around 2013, and a new constitution was promulgated in 2015, progress towards delivering justice has been stalled. Transitional justice is composed of five main pillars: providing accountability for perpetrators, reparations for victims, truth telling, memorialization, and guarantees of non-recurrence.⁷⁰ These components are necessarily linked. While accountability has been the most difficult issue for politicians in Nepal, they have been unable to proceed without addressing it.

In June 2007, the Supreme Court of Nepal issued a landmark decision in response to *habeas corpus* petitions in dozens of enforced disappearance cases.⁷¹ The ruling ordered the government to establish a commission of inquiry, enact a law to criminalize enforced disappearances in accordance with the International Convention for the Protection of All Persons from Enforced Disappearance, prosecute those responsible for disappearances, and provide compensation to victims’ families.

In February 2010 the government presented two bills to parliament, to establish a truth and reconciliation commission and a commission of inquiry into enforced disappearances. These bills, which ruled out amnesty for murder, enforced disappearances, torture, and rape, were not enacted.

In 2013, the government issued the Ordinance on Investigation of Disappeared Persons, Truth and Reconciliation Commission, based on the earlier bills, but removing the provisions that prevented the commissions from recommending amnesty, and

⁶⁹ The Comprehensive Peace Agreement, November 22, 2006, https://peacemaker.un.org/sites/peacemaker.un.org/files/NP_061122_Comprehensive%20Peace%20Agreement%20between%20the%20Government%20and%20the%20CPN%20%28Maoist%29.pdf, (accessed October 12, 2023).

⁷⁰ “International legal standards underpinning the pillars of transitional justice,” Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli, A/HRC/54/24, July 10, 2023, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5424-international-legal-standards-underpinning-pillars-transitional>, (accessed January 17, 2024).

⁷¹ Human Rights Watch, “Nepal: Supreme Court Orders Action on ‘Disappearances,’” June 15, 2007, <https://www.hrw.org/news/2007/06/15/nepal-supreme-court-orders-action-disappearances>, (accessed November 20, 2023).

incorporating mediation between victims and perpetrators irrespective of the nature of violations.⁷² The ordinance was successfully challenged in the Supreme Court, which ruled in January 2014 that any mechanism for transitional justice must conform to international legal standards, lead to accountability for serious human rights violations, and guarantee victims their right to remedy and reparation.⁷³ The Supreme Court also said that the government should enact laws that criminalize gross human rights violations, including enforced disappearances, torture, crimes against humanity, and war crimes.⁷⁴

On May 11, 2014, Nepal's Constituent Assembly ignored the Supreme Court ruling and enacted the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act 2014 (TRC Act).⁷⁵ The act retained the provision of amnesty and mediation, including for murder, enforced disappearances, torture, and rape. It provided for the creation of two commissions, the Commission of Investigation on Enforced Disappeared Persons (CIEDP) and the Truth and Reconciliation Commission (TRC), which were established in 2015.⁷⁶

In July 2014, UN experts warned that the recently adopted transitional justice law leaves mass violations unaddressed. “Amnesties for these atrocities would convey to Nepalese society that some people are above the law,” and “legislation which should enable the country to come to terms with its past, may further entrench impunity.”⁷⁷ OHCHR provided a detailed analysis of how Nepal's transitional justice legislation failed to meet basic international human rights standards.⁷⁸ In February 2015 the Supreme Court

⁷² Commission on Investigation of Disappeared Persons, Truth and Reconciliation Ordinance 2069 (2012), <https://reparations.qub.ac.uk/assets/uploads/Nepal-TRC-Ordinance.pdf>, (accessed November 20, 2023).

⁷³ *Madhav Kumar Basnet v. the Government of Nepal and Ram Kumar Bhandari and Others v. Government of Nepal*, decisions of January 2, 2014.

⁷⁴ International Commission of Jurists, “Justice Denied: the 2014 Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act,” May 2014, <https://www.icj.org/wp-content/uploads/2014/05/Nepal-TRC-Act-Briefing-Paper.pdf>, (accessed November 6, 2023).

⁷⁵ Human Rights Watch, “Nepal: Fix Flawed Truth, Reconciliation Act,” July 8, 2014, <https://www.hrw.org/news/2014/07/08/nepal-fix-flawed-truth-reconciliation-act>, (accessed November 20, 2023).

⁷⁶ See Truth and Reconciliation Commission (TRC), Nepal, <http://trc.gov.np/>, (accessed July 4, 2020); Commission of Investigation on Enforced Disappeared Persons (CIEDP), Nepal, <https://ciedp.gov.np/content.php?id=15>, (accessed November 20, 2022).

⁷⁷ “Nepal: Truth-seeking legislation risks further entrenching impunity, alert UN rights experts,” OHCHR press release, July 4, 2014, <https://www.ohchr.org/en/press-releases/2014/07/nepal-truth-seeking-legislation-risks-further-entrenching-impunity-alert-un>, (accessed October 24, 2023).

⁷⁸ Office of the UN High Commissioner for Human Rights, “OHCHR Technical Note The Nepal Act on the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, 2071 (2014) – as Gazetted 21 May 2014,”

ruled that the TRC Act was unlawful, especially provisions that shield those responsible for the most serious abuses from prosecution.⁷⁹ The government filed a petition seeking to overturn the judgment. On April 27, 2020, the government's petition was rejected by the Supreme Court.⁸⁰

Interim Relief

Between 2008-2012 the government implemented an Interim Relief Programme (IRP) to help meet the immediate needs of conflict victims. Local Peace Committees (LPCs), formed from members of political parties at the district level, recorded cases and distributed one-time cash payments to some victims or their families.⁸¹

Families of the deceased and disappeared were given NPR 100,000 (then around US\$ 1,300), and scholarships ranging from NPR 10,000-16,000 (around US\$ 130-210) were offered to children of the deceased, and these payments were later increased. Payments of up to NPR 200,000 (US\$ 2,600) were offered to people who had suffered disabilities, and compensation was also offered to people whose property was damaged or destroyed during the conflict. Benefits were provided to over 30,000 people who were categorized as "conflict victims" and approximately 80,000 internally displaced people.⁸² Funding for the program was largely met through international aid.⁸³

https://www.ohchr.org/Documents/Countries/NP/OHCHRTechnical_Note_Nepal_CIDP_TRC_Act2014.pdf, (accessed November 20, 2023).

⁷⁹ Ross Adkin, "Nepal Supreme Court rejects amnesty for war crimes," Reuters, February 27, 2015, <https://www.reuters.com/article/us-nepal-rights/nepal-supreme-court-rejects-amnesty-for-war-crimesidUSKBNOLVoCG20150227>, (accessed November 20, 2023).

⁸⁰ Human Rights Watch, Nepal: Supreme Court's Decision Reaffirms the Need to Amend Transitional Justice Law, May 1, 2020, <https://www.hrw.org/news/2020/05/01/nepal-supreme-courts-decision-reaffirms-need-amend-transitional-justice-law>, (accessed November 2, 2023).

⁸¹ Advocacy Forum, *Discrimination and Irregularities: The Painful Tale of Interim Relief in Nepal*, 2010, chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://www.advocacyforum.org/downloads/pdf/publications/Discriminations_and_Irregularities_A_painful_tale_of_Interim_Relief_in_Nepal.pdf, (accessed December 10, 2023); IOM and OHCR, *Report on Mapping Exercise and Preliminary Gap Analysis of the Interim Relief and Rehabilitation Programme, Interim Relief and Rehabilitation to the Victims of Nepal's Armed Conflict*, December 2010, https://www.iom.int/sites/g/files/tmzbdl486/files/migrated_files/What-We-Do/docs/Mapping-Excercise-of-Interim-Relief-and-Rehabilitation-to-the-Victims-of-Nepals-Armed-Conflict.pdf, (accessed October 25, 2023).

⁸² Ruben Carranza, Relief, *Reparations, and the Root Causes of Conflict in Nepal*, International Centre for Transitional Justice, October 2012, <https://www.ictj.org/sites/default/files/ICTJ-Nepal-Reparations-2012-English.pdf>, (accessed October 24, 2023).

⁸³ Ruben Carranza, Relief, *Reparations, and the Root Causes of Conflict in Nepal*, International Centre for Transitional Justice, October 2012, <https://www.ictj.org/sites/default/files/ICTJ-Nepal-Reparations-2012-English.pdf>, (accessed October 24, 2023).

However, some categories of victims and survivors, notably those who had suffered sexual violence or torture, were excluded from the program. The LPCs were widely seen to act in an arbitrary and politicized way, for example giving preferential treatment to the supporters of the political parties represented on the committee.⁸⁴

The Commission of Investigation on Enforced Disappeared Persons (CIEDP) and the Truth and Reconciliation Commission (TRC)

The Commission of Investigation on Enforced Disappeared Persons (CIEDP) and the Truth and Reconciliation Commission (TRC) were established on February 10, 2015, under the 2014 act. Commissioners were selected through a flawed process led by political parties and without the involvement of victims' groups.

In April 2016 the two commissions began registering cases, largely delegating the task to the Local Peace Committees already established in the districts.⁸⁵ The committees, which did not have specialized skills or training, were inconsistent and arbitrary. For example, as several survivors of sexual violence told Human Rights Watch, the committees sometimes refused to register rape allegations or ensure confidentiality for women making complaints.

In their initial two-year term, the commissions could barely begin work as they lacked sufficient human and financial resources, fell prey to in-fighting among members, and were hampered by political interference.⁸⁶ After the two-year mandates of the commissions expired in February 2017, the government extended them for one year.⁸⁷ In January 2018 they were again extended by a year.⁸⁸ By 2018, when there was a deadline for filing cases,

⁸⁴ "LOCAL PEACE COMMITTEE FUNCTIONING HAS IMPROVED, BUT OVERALL EFFECTIVENESS REMAINS UNCLEAR," The Carter Center, May 10, 2011, <https://www.cartercenter.org/resources/pdfs/news/pr/nepal-localpeacecommittees-update-051011-eng.pdf>, (accessed October 24, 2023).

⁸⁵ Binod Ghimire, "Transitional justice: Now TRC starts registering cases," *The Kathmandu Post*, April 16, 2016, <https://kathmandupost.com/miscellaneous/2016/04/18/transitional-justice-now-trc-starts-registering-cases>, (accessed October 24, 2023).

⁸⁶ Om Astha Rai, "The real truth about the Truth Commission," *Nepali Times*, 24 Feb-2 March, 2017, <https://archive.nepalitimes.com/article/nation/truth-about-truth-commission,3565>, (accessed November 20, 2023).

⁸⁷ Human Rights Watch, "Nepal: Key Moment for Justice," February 3, 2017, <https://www.hrw.org/news/2017/02/04/nepal-key-moment-justice>, (accessed November 20, 2023).

⁸⁸ Kosh Raj Koirala, "New ordinance to extend term of TRC, CIEDP by a year," *MyRepublica*, January 4, 2018, <https://myrepublica.nagariknetwork.com/news/33741/?categoryId=81>, (assessed November 20, 2022); Amnesty International, International Commission of Jurists, and Human Rights Watch, "Nepal: Transitional Justice Proving Elusive," February 13, 2018, <https://www.hrw.org/news/2018/02/13/nepal-transitional-justice-proving-elusive>, (accessed November 20, 2023).

the TRC had received 60,298 complaints of human rights violations, and the CIEDP had received 3,093 complaints of enforced disappearance.⁸⁹

In June 2018, the then attorney general invited national and international human rights organizations including Human Rights Watch to discuss a proposed bill amending the 2014 law. While some of the proposed amendments were a welcome step forward, the law needed further strengthening to comply with international standards. The government later shelved the proposal.

On March 25, 2019, the government appointed a committee chaired by a former chief justice to recommend new TRC and CIEDP commissioners, as their terms were once again expiring.⁹⁰ Advocacy Forum found that by the end their tenure in 2019 the commissions were still in the preliminary phase of their work:

The TRC had completed preliminary investigations in less than 10 percent of the complaints and the CIEDP had commenced preliminary investigation in 75 percent of complaints... Neither had resolved even one case out of the more than 60,000 complaints lodged by victims.⁹¹

Hoping that the process to appoint new commissioners would provide an opportunity to bring the transitional justice process on track, rights groups helped victims' associations hold consultations in 20 districts to solicit preliminary recommendations.⁹² They called on the government to proceed systematically by first holding wider consultations, then amending the transitional justice law incorporating directives of the Supreme Court and

⁸⁹ Some additional complaints have also been accepted since the deadline to register cases passed in 2018.

⁹⁰ Office of the UN High Commissioner for Human Rights, "Joint Communication from Special Procedures," April 12, 2019, https://www.ohchr.org/Documents/Issues/Truth/OL_NPL_1_2019.pdf, (accessed November 20, 2023).

⁹¹ Advocacy Forum, "Fake Transitional Justice Consultations: How Long Can the Government Fool Victims?" February 2020 <http://advocacyforum.org/downloads/pdf/publications/tj/briefing-paper-on-tj-consultation-february-2020.pdf>, (accessed November 20, 2023).

⁹² See "Preliminary review and recommendations by civil society organizations on the draft bill on Transitional Justice," https://www.international-alert.org/app/uploads/2021/10/Nepal_CivilSocietyReviewTransitionalJusticeBill_20July2018.pdf, (accessed November 20, 2023).

Nepal's international human rights obligations, and finally appointing new commissioners after the act had been amended.⁹³

Instead, the government held rushed consultations in January 2020 in all seven provincial headquarters with only three days' notice, a process that "victims and civil society perceived as window dressing."⁹⁴ The appointments were made without amending the legal framework.⁹⁵ The new commissioners took their oath of office on January 23, 2020.⁹⁶ After being extended in July 2022 the commissioners' terms expired on October 17, 2022, and their posts are currently vacant.⁹⁷

⁹³ "Rights groups and CSOs demand a credible transitional justice process in Nepal," February 6, 2019, <http://advocacyforum.org/downloads/pdf/press-statement/2019/cso-position-on-tj-english-6-feb-2019.pdf>, (accessed November 20, 2023).

⁹⁴ Advocacy Forum, "Fake Transitional Justice Consultations: How Long Can the Government Fool Victims?" February 2020, <http://advocacyforum.org/downloads/pdf/publications/tj/briefing-paper-on-tj-consultation-february-2020.pdf>, (accessed November 20, 2023); Sewa Bhattarai, "Victims unhappy as Nepal revives transitional justice process," January 13, 2020, <https://www.aljazeera.com/news/2020/1/13/victims-unhappy-as-nepal-revives-transitional-justice-process#:~:text=Victims%20of%20decade%2Dlong%20civil,process%20without%20considering%20their%20voices.&text=Kathmandu%2C%20Nepal%20%E2%80%93%20Nepal's%20transitional%20justice,consultations%20with%20victims%20and%20stakeholders>, (accessed November 20, 2023).

⁹⁵ Human Rights Watch, International Commission of Jurists, Amnesty International, and TRIAL International, "Nepal: Recent Steps Undermine Transitional Justice," January 25, 2020, <https://www.hrw.org/news/2020/01/25/nepal-recent-steps-undermine-transitional-justice>, (accessed November 20, 2023).

⁹⁶ "TRC and CIEDP officers administered oath of office and secrecy," MyRepublica, January 23, 2020, <https://myrepublica.nagariknetwork.com/news/trc-and-ciedp-officers-administered-oath-of-office-and-secrecy/>, (accessed November 20, 2023); Mandates of the special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Working Group on Enforced or Involuntary Disappearances; the special rapporteur on extrajudicial, summary or arbitrary executions; the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the special rapporteur on violence against women, its causes and consequences, AL NPL 1/2020, March 16, 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25109>, (accessed November 20, 2023).

⁹⁷ Binod Ghimire, "Renewed push for transitional justice Act amendment," *The Kathmandu Post*, February 8, 2023, <https://kathmandupost.com/national/2023/02/08/renewed-push-for-transitional-justice-act-amendment>, (accessed November 20, 2023).

V. Searching for Justice Through the Courts

Since 2008 Human Rights Watch and Advocacy Forum have published six reports tracking 62 cases of extrajudicial killing in which victims' families, supported by Advocacy Forum, have sought justice through the ordinary Nepali courts.⁹⁸ In some of these cases, after the police refused to register complaints known as First Information Reports (FIRs) the courts ordered them to register cases and carry out investigations. In others, there were interventions by the National Human Rights Commission.

While successive governments failed to establish a credible transitional justice process, they also sought to block conflict-related cases in the ordinary courts. There has been hardly any progress toward prosecution since 2011 in any of the 62 cases.

When Advocacy Forum lawyers reached out to the police seeking information on investigations of these complaints, they were repeatedly told that conflict-era cases were no longer being pursued because they will be processed by the transitional justice process.

The government has also ignored the United Nations Human Rights Committee (HRC) when it repeatedly called on Nepal to thoroughly investigate, prosecute, and punish those responsible in at least 21 cases brought to it under the Optional Protocol to the International Covenant on Civil and Political Rights.⁹⁹ The HRC rejected the argument of the government that local remedies have not yet been exhausted (a requirement under the

⁹⁸ Besides the current report, see Human Rights Watch and Advocacy Forum, *Waiting for Justice: Unpunished Crimes from Nepal's Armed Conflict*, September 11, 2008, <https://www.hrw.org/report/2008/09/11/waiting-justice/unpunished-crimes-nepals-armed-conflict>, (accessed October 24, 2023); *Still Waiting for Justice: No End to Impunity in Nepal*, October 16, 2009, <https://www.hrw.org/report/2009/10/16/still-waiting-justice/no-end-impunity-nepal>, (accessed October 24, 2023); *Indifference to Duty: Impunity for Crimes Committed in Nepal*, December 14, 2012, <https://www.hrw.org/report/2010/12/14/indifference-duty/impunity-crimes-committed-nepal>, (accessed October 24, 2023); *Adding Insult to Injury: Continued Impunity for Wartime Abuses in Nepal*, December 1, 2011, <https://www.hrw.org/report/2011/12/01/adding-insult-injury/continued-impunity-wartime-abuses-nepal>, (accessed October 24, 2023); *No Law, No Justice, No State for Victims, The Culture of Impunity in Post-Conflict Nepal*, November 20, 2020, <https://www.hrw.org/report/2020/11/20/no-law-no-justice-no-state-victims/culture-impunity-post-conflict-nepal>, (accessed October 24, 2023).

⁹⁹ For details of all cases, see OHCHR Database at <https://juris.ohchr.org>, (accessed November 20, 2023). This includes two cases where AF had earlier assisted families to file FIRs, which were among the 62 cases highlighted in this and previous reports. They are: Hari Prasad Bolakhe (see Hari Prasad Bolakhe v Nepal, UN Communication No. 2658/2015, CCPR/C/123/D/2658/2015, <https://juris.ohchr.org/Search/Details/2530>, (accessed November 20, 2023); and Subhadra Chaulagain (see Subhadra Chaulagain v Nepal, UN Communication No. 2018/2010, CCPR/C/112/D/2018/2010, <https://juris.ohchr.org/Search/Details/1899>, (accessed November 20, 2023).

HRC rules), emphasizing that pending commission investigations and proceedings are not sufficient and cannot be a substitute for criminal investigations and prosecutions of serious abuses.

In acquiescing to government orders, the police ignored court directives. In several cases, the Supreme Court itself has ordered a prompt investigation into killings. For example, in the case related to the 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.”¹⁰⁰ It further said that “such an indifference to the duty to investigate and prosecute severely undermines the public’s confidence in the rule of law.”¹⁰¹

On April 16, 2017, the Kavre district court sentenced three officers to life imprisonment for the murder of Maina Sunuwar, a 15-year-old girl who was tortured to death in army custody in February 2004. An arrest warrant issued in 2008 was never enforced, with the police telling the court they were unable to trace the accused despite the fact that some of them were still serving in the army.¹⁰²

On September 1, 2017, the Office of the Judge Advocate General of the Nepal Army filed a writ of certiorari in the Supreme Court seeking annulment of the convictions ordered by the district court. The army claimed that the incident cannot come under the jurisdiction of the regular court because it happened during a military operation, and therefore military rules should apply.¹⁰³ The Nepal Army also said that the officers concerned had already been tried by court martial, and were therefore placed in double jeopardy, and that the case should thus be handled by the TRC.¹⁰⁴

¹⁰⁰ Nandakali Budhamagar et al. v. Madhav Prasad Ojha, Chief District Officer, Kanchanpur et al., 066-CR-0058, April 23, 2017.

¹⁰¹ Ibid.

¹⁰² Amnesty International, Human Rights Watch, and International Commission of Jurists, “Nepal: Need Effective Steps to Enforce Court Verdicts,” April 20, 2017, <https://www.amnesty.org/en/latest/news/2017/04/nepal-need-effective-steps-to-enforce-court-verdicts/>, (accessed November 20, 2023).

¹⁰³ “Legal Briefing on the Nepal Army’s Petition to Overturn Convictions for Maina Sunuwar Killing,” *International Commission of Jurists*, November 2018, <https://www.icj.org/nepal-army-efforts-to-frustrate-justice-in-case-of-maina-sunuwar-killing-lack-legal-foundation/>, (accessed December 10, 2023).

¹⁰⁴ On September 1, 2017, the Office of Prad Vivak of Nepal Army filed a writ of certiorari along with prohibition in the Supreme Court. Rule 2(c) of Court Martial Rules, 2064 (2008) defines the Office of Prad Vivak as the “office of military

Another emblematic case is the 2005 abduction and killing by Maoist party members of Arjun Lama, a 46-year-old school official in Kavre district. Among the six accused is Agni Sapkota, a senior member of the party.¹⁰⁵ In 2008 the Supreme Court ordered Kavre police to register a case against the accused. In 2009 Kavre police told Advocacy Forum that they were unable to locate and arrest Sapkota in the district. He was a member of Nepal's Constituent Assembly at the time. He later became speaker of the House of Representatives from 2020-2022.

Numerous cases under terrorism-related laws have been withdrawn.¹⁰⁶ Since these were largely lodged against Maoist fighters and alleged supporters, after they joined mainstream politics, the Maoists campaigned to have such cases dropped.¹⁰⁷ The Maoist-led government, in October 2008, announced a blanket withdrawal of 349 cases. On November 17, 2009, the Madhav Kumar Nepal's UML-led government retracted 282 cases.¹⁰⁸

In January 2020, the Maoist leader Pushpa Kamal Dahal, who is prime minister at the time of writing, said of the deaths caused by the war, "The then state killed 12,000 people. If you hold me responsible for the killing of 5,000 persons, I am ready to accept it."¹⁰⁹ The Maoists have appointed individuals accused of serious crimes to office.¹¹⁰ However, pending cases have caused worry among Maoist leaders over the risk that they might face prosecution abroad under universal jurisdiction.¹¹¹

headquarters where the Chief of the Prad Viwak has been based, and the term shall also indicate the battalion Prad Viwak branch and Brigade Prad Viwak branch."

¹⁰⁵ "Arjun Bahadur Lama," Advocacy Forum-Nepal, 2011, <https://www.advocacyforum.org/emblematic-cases/2011/01/arjun-bahadur-lama.php>, (accessed December 18, 2023).

¹⁰⁶ Copy of order on file with Advocacy Forum.

¹⁰⁷ Asian Human Rights Commission, NEPAL: Mass withdrawal of cases violates Nepal's international human rights obligations and promotes impunity, May 24, 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-063-2011/>, (accessed November 2, 2023).

¹⁰⁸ Advocacy Forum, Occasional Brief, yr. 2, vol. 1, "Evading Accountability by Hook or by Crook," June 2011, <http://advocacyforum.org/downloads/pdf/publications/evading-accountability-by-hook-or-by-crook.pdf>, (accessed November 20, 2023).

¹⁰⁹ "Dahal ready to own up 5,000 deaths during insurgency," *The Himalayan Times*, January 16, 2020, <https://thehimalayantimes.com/kathmandu/dahal-ready-to-own-up-5000-deaths-during-insurgency>, (accessed December 10, 2023).

¹¹⁰ Mohan Guragain, "What is the controversy over Agni Sapkota as Speaker all about?," *Kathmandu Post*, January 30, 2020, <https://kathmandupost.com/politics/2020/01/30/what-is-the-controversy-over-agni-sapkota-as-speaker-all-about>, (accessed November 2, 2023).

¹¹¹ Fearing arrest, Prachanda cancels Australia visit, IANS, June 24, 2016, https://zeenews.india.com/news/south-asia/fearing-arrest-prachanda-cancels-australia-visit_1899652.html, (accessed November 2, 2023).

Universal Jurisdiction

National judicial officials around the world can investigate and prosecute those implicated in serious international crimes, under the principle of “universal jurisdiction.” This principle allows authorities in a third country to prosecute individuals believed to be responsible for certain grave international crimes even though they were committed abroad and neither the accused nor the victims are nationals of that country.

Col. Kumar Lama was arrested in the United Kingdom in 2013 and prosecuted for crimes of torture which allegedly occurred in Nepal during the conflict.¹¹² Nepal refused to cooperate with the UK investigation. Although Lama was acquitted of the charges against him, with the jury failing to reach a verdict on one count, the UK proceedings had an impact in Nepal, giving fresh impetus to victims’ demands for justice and making clear to the authorities that international justice is a realistic prospect.

¹¹² Kumar Lama was accused under section 134 of the UK Criminal Justice Act which provides universal jurisdiction for torture. The UK also has the Geneva Convention Act 1957 allowing universal jurisdiction for war crimes, and the International Criminal Court Act 2001 providing universal jurisdiction for war crimes, genocide, and crimes against humanity (section 51). See Ingrid Massagé and Mandira Sharma, “*Regina v. Lama: Lessons Learned in Preparing a Universal Jurisdiction Case,*” *Journal of Human Rights Practice*, vol. 10, no. 2 (2018): pp. 327-345, <https://doi.org/10.1093/jhuman/huy020> (accessed November 20, 2023); *Reflection on Two Decades of Advocacy Forum’s Work*, Advocacy Forum-Nepal, 2021, [reflection-on-two-decades-of-advocacy-forum-work.pdf](https://www.advocacyforum.org/reflection-on-two-decades-of-advocacy-forum-work.pdf) (advocacyforum.org), (accessed January 17, 2024); 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, February 6, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3105720, (accessed January 17, 2024).

VI. The Latest Transitional Justice Bill

On July 15, 2022, a coalition government led by Prime Minister Sher Bahadur Deuba presented a Bill for the Amendment of the Investigation of Enforced Disappeared Persons, Truth and Reconciliation Commission Act, 2071 (2014) to parliament. The bill was drafted in belated response to the Supreme Court’s 2015 ruling (upheld in 2020) that the transitional justice act should be amended. The bill contained several provisions that were welcomed by victims’ groups and human rights activists, but still required significant amendments to comply with the Supreme Court’s ruling and international legal obligations.¹¹³ It was not adopted before parliament was dissolved ahead of elections later that year.

On March 19, 2023, the newly elected coalition government led by Prime Minister Pushpa Kamal Dahal tabled a nearly identical bill in parliament, which addressed some of the weaknesses that had been identified in the earlier version. At the time of writing that bill remains before parliament.

The bill includes several positive provisions. It guarantees the right to reparation (although it does not detail the reparation process), as well as interim relief for some victims who were left out of earlier relief packages. It also guarantees the right of the families of victims of enforced disappearance to their relative’s property. It mandates the TRC to study the root causes and impact of the conflict and recommend institutional reforms.

However, the bill still includes numerous provisions that would prevent accountability for serious crimes under international law. Under the proposals, the TRC and CIEDP would act as the sole investigation bodies in conflict-era crimes, and cases classified as “serious violations of human rights” could be referred to and prosecuted in a special court. However, the definition of “serious violations of human rights” – which includes rape and “serious sexual violence,” enforced disappearance, “cruel or inhuman torture,” and a definition of unlawful killings which is yet to be agreed by politicians, provided that the

¹¹³ “Nepal: Amend Transitional Justice Bill,” Amnesty International, Human Rights Watch, the International Commission of Jurists, and TRIAL, July 25, 2022, <https://www.hrw.org/news/2022/07/25/nepal-amend-transitional-justice-bill>, (accessed October 22, 2023); “Nepal: Amendment bill to Transitional Justice Act needs revision,” International Commission of Jurists, July 29, 2022, <https://www.icj.org/nepal-amendment-bill-to-transitional-justice-act-needs-revision/>, (accessed October 22, 2023).

offence was committed “in a targeted or planned manner against an unarmed individual or community” – excludes numerous serious crimes under international law, including crimes against combatants, some instances of torture, arbitrary killings which may be war crimes, and some systematic violations which may amount to crimes against humanity, creating a significant accountability gap. Crimes against combatants are excluded.

The bill in its current form defines “violations of human rights” (other than those it terms “serious”) as “acts against the domestic law, international human rights law or humanitarian law, committed during the armed conflict in a targeted or planned manner against an unarmed individual or community.” Because this category of crimes is excluded from prosecution, this means that alleged perpetrators of some serious human rights violations and grave crimes under international law, including some crimes against humanity or war crimes, would receive de facto amnesties. Amnesties for serious crimes are contrary to international law and standards, and raise serious concerns for victims.¹¹⁴ Once again, crimes in this category must be committed “in a targeted or planned manner against an unarmed individual or community”, meaning non-targeted or unplanned actions and crimes against combatants would fall outside the scope of the entire process, including for the purpose of reparations and guarantees of non-recurrence.

There are other shortcomings in the bill, including:

- It fails to clarify how the principle of non-retroactivity of criminal law would apply in a manner consistent with international law. International law requires the prosecution of certain serious crimes, such as torture and enforced disappearance, if warranted by evidence, irrespective of whether they were crimes under domestic law when they were committed, given they have long been recognized as crimes under international law.¹¹⁵ Prosecuting war crimes and crimes against humanity for

¹¹⁴ “Nepal: Transitional Justice Bill Needs to Protect Victims, not Abusers,” Amnesty International, Human Rights Watch, and the International Commission of Jurists, March 23, 2023, <https://www.hrw.org/news/2023/03/23/nepal-transitional-justice-bill-needs-protect-victims-not-abusers>, (accessed October 25, 2023).

¹¹⁵ The European Court of Human Rights has repeatedly held that the principle of non-retroactivity does not prevent the prosecution of serious crimes under international law even if at the time they were committed they were not codified under domestic law. See, for example, *European Court of Human Rights, Papon v. France*, (Application No. 54210/00), ECHR 2001-XII, and *Touvier v. France*, Commission decision of 13 January 1997, Decisions and Reports 88-B, p. 161; *Kolk and Kislyiy*, No. 23052/04 and 24018/04, Decision of January 17, 2006, all available at <https://www.echr.coe.int/home> (February 4, 2024). Consistent with this approach, international and hybrid criminal tribunals have allowed prosecution of war crimes and crimes against humanity for conduct prior to the creation of the applicable statutes, and several domestic jurisdictions have done the same. See, for example, *Prosecutor v. Norman*, Special Court for Sierra Leone (SCSL), Case No. SCSL-2004-14-AR72, Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment) (Appeals Chamber), May 31, 2004; and

conduct prior to their codification as crimes in domestic law does not violate the principle of non-retroactivity when these were already crimes under international law. As Article 15 of the International Covenant on Civil and Political Rights (ICCPR) states: No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.... *[However, n]othing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.*¹¹⁶

- It fails to clarify which “applicable law” would be used to prosecute those involved in serious crimes. The Penal Code, which came into force in 2018, prevents retroactive applicability of its provisions. Moreover, the Penal Code includes statutory limitations for the crimes of rape, torture, and enforced disappearances.
- It empowers the government to appoint judges on the special court “in consultation with the Judicial Council”, not through the independent process required by Nepal’s Constitution.
- It does not provide any mechanism to ensure the financial independence of the transitional justice bodies.

In a 13-page communication sent to the government of Nepal on June 9, 2023, four UN human rights experts welcomed “some positive aspects introduced by the Bill, such as ... examin[ing] the root causes of the conflict and recommending institutional reform, as well as guaranteeing victims’ right to reparation.”¹¹⁷ But they warned adopting it would “place Nepal in contravention of its international human rights obligation to investigate and punish serious human rights violations, as well as the ruling of the Supreme Court.”

Prosecutor v. Hadzihasanovic (Trial Chamber), Decision on Joint Challenge to Jurisdiction, International Criminal Tribunal for the former Yugoslavia (ICTY), Case No. IT-01-47-PT, November 12, 2002, reversed in part by Interlocutory Appeal (Appeals Chamber), November 27, 2002. See also Supreme Court of Canada, Regina v. Finta, March 24, 1994.

¹¹⁶ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res.2200A (XXI), 21 U.N. GAOR Supp. (No 16) at 52, U.N. Doc A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, arts. 15(1) and 15(2)(emphasis added). Nepal acceded to the ICCPR on May 14, 1991.

¹¹⁷ Mandates of the special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Working Group on Enforced or Involuntary Disappearances; the special rapporteur on extrajudicial, summary or arbitrary executions and the special rapporteur on violence against women and girls, its causes and consequences, AL NPL 1/2023, June 9, 2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28079>, (accessed October 25, 2023).

Proposed Amendments to the Bill

The government, under pressure to address the shortcomings of the bill, established a parliamentary sub-committee on May 19, 2023. The result of its deliberations became public in October 2023.

Several of the sub-committee's proposals – if they are adopted – would help to partially address some of the concerns that had been raised. For example, it proposed:

- To include “serious” forms of sexual violence under the category of serious violations requiring prosecution.
- To make it possible for victims not satisfied with the reparation awarded to appeal in the Special Court.
- To extend the tenure of the commissions from two years to four years.
- To establish specialized units within the TRC to investigate cases involving sexual violence.
- To provide an extra three-month window for sexual violence survivors to register cases, and to remedy the problem of statutory limitations in rape cases.

However, the proposed amendments do not fully address several important shortcomings, including those described above. It would remain the case that only crimes defined as “serious human rights violations” may be prosecuted, despite the fact that the current definition excludes some war crimes and crimes against humanity which, contrary to international law, would therefore be subject to amnesties. Crimes committed against combatants are excluded from both categories of violations. This means that they would not only be excluded from accountability, but also reparations or any other consideration by the TRC.

For violations not defined as “serious,” amnesties would be granted. The bill includes a provision requiring those receiving an amnesty to fulfil certain conditions, such as disclosing the truth, making an apology to victims, or paying compensation, and amnesty can be granted only with the consent of the victims. However, no provision exists to prosecute those cases not defined as “serious” where victims do not give consent, or the perpetrator fails to fulfil the conditions. In effect, alleged perpetrators of abduction, mutilations, beatings, and other crimes would be granted an automatic amnesty, although

such violations could amount to crimes against humanity or war crimes. Amnesties for serious crimes are contrary to international law and standards, raising serious concerns for victims.

The status under the bill of the crime of extrajudicial, summary or arbitrary killings was not settled by the sub-committee but left open for further discussion.

The proposed amendments offer a three-month window for survivors of sexual violence who have not registered their case to do so, but this period is far too short.

The sub-committee does not call to ensure the financial independence of the transitional justice bodies. According to a recent report by the special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, transparent funding that provides sufficient material and human resources, is key to guaranteeing the independence of transitional justice mechanisms.¹¹⁸

Important issues where the sub-committee attempted to but was not able to make a recommendation to address acknowledged weaknesses in the bill include:

- The definition of unlawful killings to be included under the category of “serious human rights violations” that cannot receive amnesties.
- Mechanisms for redress and reparations.
- The system to handle cases where victims and perpetrators do not agree to be reconciled.
- The method of calculating leniency in sentencing.

While public debate and human rights activism have helped to introduce improvements to the bill, and there is important progress towards adopting a long overdue law on transitional justice, the draft law and amendment process do not currently comply with the rulings of the Supreme Court, international legal standards, or the demands of many victims. If it is passed without necessary strengthening, the law would risk hindering the

¹¹⁸ “International legal standards underpinning the pillars of transitional justice,” Report of the special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence Fabián Salvioli, A/HRC/54/24, July 10, 2023, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F54%2F24&Language=E&DeviceType=Desktop&LangRequested=False>, para 28, (accessed October 22, 2023).

search for justice in Nepal, unravelling in the Supreme Court, and once again setting the process back by years.

To uphold the rights of victims, and to protect all Nepalis by strengthening the rule of law and adopting measures to ensure the non-recurrence of violations, the transitional justice bill should be appropriately amended and then passed into law.

Acknowledgements

This report was written by a researcher for the Asia division at Human Rights Watch with research support from Basanta Gautam and Bikash Basnet at Advocacy Forum-Nepal. Amisha Adhikary and Kumar Prasad Thapalia at Advocacy Forum prepared the table in the appendix. Interviews with survivors of sexual violence were arranged with support from Devi Khadka and Asmita Khadka Chaudhary of the National Organization of Wartime Rape Victims. Interpretation of interviews from Nepali to English was provided by Nikita Tripathi. Meenakshi Ganguly, deputy director for the Asia Division, edited and provided divisional review. Maria Elena Vignoli, senior counsel, provided specialist review for the International Justice division and Heather Barr, associate director, provided specialist review for the women's rights division. External reviews were provided by Ingrid Massage and Mandira Sharma. Clive Baldwin, senior legal advisor, provided legal review; and Tom Porteous, deputy program director, provided program review. Editorial and production assistance was provided by Audrey Gregg, associate for the Asia Division; and Travis Carr, publications officer. The report was prepared for publication by Jose Martinez, senior coordinator, and Fitzroy Hepkins, administrative manager. Human Rights Watch and Advocacy Forum wish to thank partners and all of those in Nepal who agreed to be interviewed.

Appendix: Case Update and Follow-Up

Case No.	Name	District	Case Summary	FIR Submitted	FIR Registered	Progress so far in investigation
1	Raju Bishwakarma	Baglung	<p>Extrajudicial killing.</p> <p>Raju Bishwakarma was arrested on March 1, 2002, by a group of RNA soldiers.¹¹⁹ On March 4, his family was informed that he had been killed while trying to escape. The family was pressured to cremate the body immediately, and soldiers were also present at the funeral.</p>	March 18, 2007	Yes	<p>There was no investigation, even after registering the FIR.</p> <p>A writ of mandamus petition was filed on June 18, 2009, seeking an order against the Police to investigate and the prosecutor to prosecute.</p> <p>On November 11, 2009, the Baglung Appellate Court issued an order to the Police to initiate an investigation without delay. Despite the Court order, AF's lawyers have not been able to find any evidence of progress in police files.</p> <p>Police informed AF's lawyer that the police received a letter on June 12, 2006, from the Ministry of Home Affairs with instructions not to proceed with conflict-related cases, which resulted in the Police halting any investigation on conflict-related cases.</p> <p>In May 2014, the police told AF lawyers that after the Supreme Court direction to resume conflict-related cases, the police sent a letter to Surya Dal battalion, which was by then posted at the concerned army camp on May 18, 2014, requesting it to send all documents relating to the case, but they have not responded yet.</p> <p>The family has also lodged the case at the TRC, but there is no progress recorded at the TRC.</p> <p>The family had earlier appealed to the NHRC. On July 15, 2011, the NHRC investigation concluded that Raju</p>

¹¹⁹ The name of the Royal Nepal Army (RNA) was later changed to Nepal Army (NA) after the end of constitutional monarchy.

						<p>Bishwakarma was a victim of an extrajudicial killing. It recommended that the Government identify the commander and security personnel involved in the incident and take legal action against them under the prevailing law. It also recommended that the Government provide compensation of NRs 300,000 Nepali rupees to the victim's family and arrange free education for the victim's children. However, although education was provided this compensation has not been paid.</p> <p>The relief and rehabilitation unit of the Ministry of Home Affairs stated that the family had been provided with the recommended interim relief of NRs 10,00,000 that was provided to families of those who lost their lives.</p> <p>As of March 2023, no progress has been made in the investigation and prosecution of the case.</p>
2, 3	Ganga Gauchan and Pahalbir Bishwakarma (alias Pahal Singh)	Baglung	<p>Extrajudicial killings.</p> <p>On July 11, 2004, four soldiers from Khadgadal Barracks tortured Ganga Gauchan and Pahalbir Bishwakarma. According to several witnesses, the soldiers then shot and killed them. Families of the two victims were threatened by members of the army and forced to dispose of the bodies immediately.</p>	February 15, 2007	Yes	<p>There was no investigation, even after registering the FIR. On June 18, 2009, the families filed separate petitions of mandamus at the Appellate Court, Baglung. On November 11, 2009, the Appellate court, Baglung issued an order to the police to initiate an investigation without delay. Despite this order, no investigation was done.</p> <p>A general circular was issued by the Ministry of Home Affairs on June 12, 2006 stating that the Government had decided to withdraw cases filed under the Terrorist and Disruptive Activities Ordinance (TADO) and the Terrorist and the Disruptive Activities (Control and Punishment Act 2002) (TADA).¹²⁰ Although these two cases were not under TADO or TADA, the Baglung District Police appears to have interpreted this order as a political decision not to investigate and</p>

¹²⁰ Copy on file with Advocacy Forum.

						<p>prosecute any cases from the conflict period.¹²¹</p> <p>The family has also filed a case in the TRC, but the TRC has not made public any developments in the investigation.</p>
4	Dilli Prasad Sapkota	Baglung	<p>Extrajudicial killing (after torture).</p> <p>A large group of security personnel arrested Dili Prasad Sapkota on February 8, 2005. According to eyewitnesses, Dilli was tied to a tree, severely tortured, and finally shot dead.</p>	Feb. 2008	No	<p>The victim's family tried to register an FIR at the Baglung DPO, but instead of registering the complaint, police officers and members of the Nepal Army (Khadgadal Battalion) allegedly threatened to kill the family.</p> <p>The family has filed the case in the TRC via the Local Peace Committee, but no progress is reported in the TRC's investigation.</p> <p>The family's complaint to the NHRC has resulted in the NHRC doing an investigation. It has concluded that Sapkota was a victim of an extrajudicial killing. It recommended that the Government identify and prosecute security personnel, provide NRs 300,000 in compensation to the victim's families, and ensure free education for the victim's children. The name of the alleged perpetrator (Shiva Poudel) is made public in the NHRC's 20 years report.</p> <p>The relief and rehabilitation unit of the Ministry of Home Affairs stated that the family had been provided with the recommended interim relief of NRs 10,00,000 that was provided to families of those who lost their lives.</p>
5, 6	Dal Bahadur Thapa and Parbati Thapa	Banke	<p>Extrajudicial killings.</p> <p>On September 10, 2002, at around 8:40 p.m., Dal Bahadur's family was woken by the sound of gunshots fired by a large group of security forces who had surrounded their house. The security forces fired persistently for 15</p>	July 15, 2007	Yes	<p>The FIR was filed on July 15, 2007. An investigation began in May 2008.</p> <p>On June 18, 2009, Dal's mother filed a petition of mandamus at the Nepalgunj Appellate Court. On February 24, 2010, the Nepalgunj Appellate Court ordered the authorities to proceed with the investigations. The District Public Prosecutor's Office on August 29, 2010, directed the Area Police Office,</p>

¹²¹ This pattern appears in several cases below.

			<p>minutes, apparently suspecting that Maoists were hidden inside the building. Dal Bahadur and his wife Parbati Thapa were shot dead. The dead bodies were removed by the security forces and have not been returned to the family.</p>			<p>Kohalpur, Banke to proceed with the investigation within the time specified by law.</p> <p>The Area Police Office, Kohalpur responding to a letter sent by AF on July 28, 2022, forwarded the case to the DPO. The district police responded that the case was under investigation, and no suspects had been arrested to date.</p> <p>The District Public Prosecutor Office, Banke, replied that the office had not prosecuted the accused since the responsible investigative agencies had not submitted their investigation report.</p> <p>Similarly, no progress has been made in the TRC's investigation despite the family filing a case.</p> <p>The NHRC recommended that the Government identify the security personnel involved in the incident and press criminal charges against them. It also recommended the Government provide compensation of NRs 200,000 to the victims' families, as well as arrange free education for a minor (aged 9) injured in the incident.</p> <p>No progress has been made in the investigation and prosecution of perpetrators. The family received 1,000,000.00 as interim relief but has not received 200,000 as recommended by the NHRC.</p>
7, 8	Dhaniram Chaudhari and Jorilal Chaudhari	Banke	<p>Extrajudicial killings.</p> <p>On September 29, 2004, during Armed Police Force (APF) operations in Premnagar village of Khaskusma VDC Ward No. 4, security personnel detained brothers Dhaniram and Jorilal Chaudhari working in the field, questioned them and then shot them. When the victims' wives tried to recover their bodies,</p>	October 29, 2007	Yes	<p>There was no investigation, even after registering the FIR.</p> <p>On June 18, 2009, the family filed a writ petition at the Nepalgunj Appellate Court. However, no progress has been recorded in the case despite the court order.</p> <p>June 19, 2009, the court issued a decision against the defendant demanding a written response. The office of the district attorney (January 20, 2010) and the district police office, Banke (November 10, 2009) submitted</p>

			security personnel threatened them and sent them away.			<p>a written response stating they were actively conducting an investigation into the matter. Therefore, it was argued that the mandamus order is not to be issued. The Appellate Court issued a mandamus order dated February 24, 2010, to promptly conclude the investigation within three months. Since then, no progress has been recorded in the case.</p> <p>The NHRC investigated the case and concluded that the two victims were killed while working in a field. The NHRC established that Dhaniram Tharu and Jorilal Tharu were victims of extrajudicial killing. It recommended that the Government identify the security personnel involved in the incident and take legal action against them.</p> <p>The Office of the Prime Minister and the Council of Ministers communicated to the Ministry of Home Affairs and the Ministry of Defence concerning the implementation of the recommendations. However, there has been no investigation or prosecution initiated as prescribed by the NHRC.</p>
9	Keshar Bahadur Basnet	Bardiya	<p>Enforced disappearance and extrajudicial killing.¹²²</p> <p>On March 11, 2002, Keshar Bahadur Basnet was beaten by soldiers at his office and then arrested and allegedly taken to the Thakurdhwara Army Barracks. His family was refused access to him. Another detainee told Basnet's relatives that he saw Basnet being driven away after over a month in illegal detention on April 16, 2002. He remains disappeared and is presumed dead.</p>	February 14, 2007	Yes	<p>There was no investigation, even after registering the FIR.</p> <p>On June 18, 2009, the victim's family filed a writ petition at the Nepalgunj Appellate Court. On November 18, 2009, the court issued a mandamus order to the police and other authorities to promptly proceed with the investigation.</p> <p>The plaintiff applied to the DPO, Bardiya on June 26, 2010, requesting to proceed with the investigation in view of the court order.</p> <p>The public prosecutor in Bardiya informed AF that no files were received from the Police.</p>

¹²² Although presumed dead, the remains have not been handed over to the family.

						<p>The NHRC recommended that the Government identify and prosecute security personnel and provide NRs 300,000 in compensation to the victim's families.</p> <p>The relief and rehabilitation unit stated that the family received recommended interim relief. However, the family has received only NRs 10,0000. A TRC complaint has been filed by the family with no recorded progress. No progress has been made in the police investigation and prosecution.</p> <p>The name of the alleged perpetrator (Lawa Rayamajhi) is also made public in the NHRC's 20 years report.</p>
10	Bhauna Tharu (Bhauna Chaudhary)	Bardiya	<p>Extrajudicial killing.</p> <p>On May 30, 2002, two soldiers shot Bhauna Tharu dead at his home, accusing him of being a Maoist.</p>	July 24, 2006	Yes	<p>There has been no investigation, even after registering the FIR.</p> <p>On June 18, 2009, a petition of mandamus was filed at the Nepalgunj Appellate Court by the victim's family. On November 18, 2009, the Court issued a mandamus order against the respondents to promptly proceed with the investigations.</p> <p>The NHRC recommended that the Government identify and prosecute (i) the commander in charge of the patrol on that specific day from Barakhdal Battalion, (ii) the security personnel responsible for giving orders to shoot and provide NRs 300,000 in compensation to the victim's family.</p> <p>This has only been partially Implemented. The Ministry of Home Affairs decided to provide the recommended compensation to the victim's family.</p> <p>An investigation officer has been appointed for the case, but no progress has been made in initiating the investigation.</p>

						<p>A TRC complaint has also been filed by the family but there has been no recorded development.</p> <p>The name of the alleged perpetrator (Parshuram Kumal) is also made public in the NHRC's 20 years report.</p>
11	Jaya Lal Dhami	Dadel-dhura	<p>Extrajudicial killing.</p> <p>On February 12, 2005, security forces killed Jaya Lal Dhami. Villagers reported that soldiers marched Jaya Lal and three others away from their village and executed them. Jaya Lal's uncle contacted the Bhagatpur army barracks, which told him that Jaya Lal had been "accidentally" killed in a confrontation with alleged terrorists.</p>	September 10, 2007	Yes	<p>There has been no investigation, even after registering the FIR.</p> <p>On June 18, 2009, the family filed a petition of mandamus at the Mahendranagar Appellate Court, seeking an order for the Police to conduct an investigation. On August 23, 2009, the Court quashed the petition on the basis of police information that the FIR had already been filed and the investigation was ongoing.</p> <p>On January 19, 2010, a case was filed in the Supreme Court, challenging the decision of the Mahendranagar Appellate Court because, despite police claims, there was no investigation of the case. After hearing all parties, in February 2015, the Supreme Court ordered the Kanchanpur DPO to carry out an investigation.</p> <p>A TRC complaint has been filed by the victim's wife with no recorded development.</p> <p>As of March 2023, there has been no progress in the case other than the preparation of a preliminary report by the police.</p>
12, 13	Nar Bahadur Budhamagar and Ratan Bahadur Budhamagar	Dadel-dhura	<p>Extrajudicial killings.</p> <p>On August 17, 2004, soldiers picked up brothers Nar Bahadur and Ratan Bahadur Budhamagar from their house, and shot them dead not far away. Two of the soldiers took Ratan's wife to a nearby cowshed and raped her repeatedly. They also detained another brother, Man Bahadur</p>	June 18, 2007	Yes	<p>There has been no investigation, even after an FIR was registered following a successful mandamus petition.</p> <p>On June 5, 2008, the relatives of the victims filed a second mandamus petition, as well as a contempt of court petition, to force the authorities to proceed with the investigations. On February 8, 2009, the contempt of court petition was rejected after the Police informed the court that a preliminary report had been forwarded to the public prosecutor's office.</p>

			Budhamagar, keeping him in illegal custody and torturing him for 17 days until he signed a statement saying that the soldiers did not rape his sister-in-law.			<p>On August 18, 2009, a case was filed at the Supreme Court, challenging the decision of the Mahendranagar Appellate Court to reject the contempt of court petition.</p> <p>After hearing both sides, the Supreme Court issued a directive order on April 23, 2017, for the police to expedite the investigation with due diligence. In December 2019, AF requested information from the Kanchanpur DPO for details on the case. According to Sub-Inspector Narendra Bhandari, there are roughly 26 First Information Reports (FIRs) relating to the conflict period filed with the DPO that have a 20-year time limit. He added that the investigations into these FIRs has not yet started.</p> <p>After hearing both sides, the Supreme Court issued a directive order on April 23, 2017, for the police to expedite the investigation with due diligence.</p> <p>The District Attorney's Office said that until the police send the file to the prosecutor, the case remains under the control of the police.</p> <p>The family has also lodged the case at the TRC, but there is no known progress.</p>
14	Sarala Sapkota	Dhading	<p>Extrajudicial execution</p> <p>Soldiers arrested 15-year-old Sarala Sapkota on July 15, 2004, from her grandfather's house. However, when her relatives went to Baireni Barracks and the Dhading DPO the officers denied that the arrest had taken place. On January 11, 2006, an NHRC team exhumed her remains near her village.</p>	June 28, 2006	Yes	<p>In June 2006, Sarala's father filed an FIR at the Dhading DPO. There was no investigation, even after registering the FIR.</p> <p>In November 2007, her father filed a mandamus petition at the Supreme Court. On May 31, 2010, the Court issued an order of mandamus to the DPO to promptly proceed with the investigation into the case.</p> <p>On December 2022, AF inquired about the status of the FIR from Superintendent of Police (SP) Rakesh Singh. He stated that as the case was very old, and he was unable to provide</p>

						<p>an update. DPO Inspector Ramesh Thapa informed AF that they searched for the case but couldn't even locate the number.</p> <p>The family also lodged a case at the TRC, but there is no progress recorded.</p> <p>On January 11, 2006, Sarala's body was exhumed from Dhading Kewalpur VDC Ward No 8 Maidan Chautaro by the investigating team of the NHRC. Her remains have since been kept at the Teaching Hospital in Kathmandu.</p> <p>The NHRC on 14 July 2008, recommended that the Government gives the necessary order to the Dhading DPO to expedite legal proceedings and Nepal police to complete necessary investigation of Sapkota's remains so they can be returned to her family.</p> <p>The NHRC also recommended providing compensation of NRs 300,000 to the victim's family. The Ministry of Home Affairs has provided interim relief to the victim's family, but no one has been prosecuted as of the end of May 2023.</p>
15, 16, 17, 18, 19	Sanjeev Kumar Karna, Durgesh Kumar Labh, Jitendra Jha, Shailendra Yadav, and Pramod Narayan Mandal	Dhanu sha	<p>Enforced disappearances and Extrajudicial Killings</p> <p>These five students were among 11 people arrested by the security forces on October 8, 2003. They were taken to the Regional Police Office in Janakpur. The next day, their families complained to the NHRC, which initiated an investigation. Two years later, the NHRC received a letter from the Nepal Army Human Rights Cell stating that the five men had been killed in a "police operation."</p>	Feb. 2009	Yes (following a Supreme Court order)	<p>In July 2006, the victims' families and human rights defenders showed the police the site where the bodies of the five men were believed to be buried.</p> <p>The Supreme Court, in February 2009, issued an order to the police to proceed with investigations.</p> <p>Bodies of four victims were exhumed in mid-September 2010, and the fifth body in February 2011. The bodies, identified through forensic tests, were handed over to the victims' relatives on July 23, 2014, and were cremated the following day.</p> <p>One of the accused perpetrators (Kuber Singh Rana) was promoted to the position of Assistant Inspector General of Police in June 2011. The appointment was challenged in the Supreme Court on June 27, 2011. In an interim ruling on</p>

					<p>July 13, 2011, the court stated that the NHRC's recommendation alone was insufficient to suspend Rana's promotion. The court directed the government, Prime Minister's Office, Home Ministry, and Police Headquarters to progress with the investigation and provide monthly progress reports to both the Court and the NHRC. Although a Deputy Superintendent of Police was assigned to lead the investigation, no progress reports have been submitted to the court as required.</p> <p>Following the establishment of the TRC, the police declined to proceed with the investigation, citing the Commission's jurisdiction over the matter. Victims' families also lodged a case at the TRC, but there is no progress recorded.</p> <p>In 2015, the NHRC also warned that the perpetrators' names would be made public, potentially affecting future appointments to public positions.¹²³ The NHRC, in its case investigation report of October 2020 identified individuals involved in the case and recommended that the Government conduct an investigation and take legal action against them. Additionally, the NHRC suggested providing compensation of NRs 300,000 to each victim's family.</p>
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¹²³ Section 7 of the NHRC ACT 2012 To Make Names Public and Keep their Record: “(1) The Commission may make public names of officials, persons or agencies that do not knowingly implement or observe the recommendations or orders or directives made by the Commission with regard to violations of human rights as Human Rights Violators; (2) Prior to making public the names pursuant to Sub-section (1), the Commission shall have to write to officials, persons or agencies stating that they did not observe or implement the Commission's recommendations, orders or directives, giving a Fifteen-day timeline to such officials, persons or agencies to submit clarifications; (3) In case such officials, persons or agencies do not submit clarifications within the stipulated timeline after receiving in writing pursuant to Sub-section (2) or in case the clarifications do not seem to be reasonable, the Commission may make public the names of such officials, persons or agencies as referred to in Subsection (1); (4) The Commission shall keep the records of the names of such officials, persons or agencies whose names have been made public pursuant to Sub-section (1); (5) While recommending a person whose name has been made public pursuant to Sub-section (1) for appointment, promotion and career development in any public post, the concerned agency may take the records maintained pursuant to Sub-section (4) as a basis; (6) While assigning new responsibility to an official whose name has been made public pursuant to Sub-section (1), the concerned agency may take the records maintained pursuant to Subsection (4) as a basis in relation to his/her capability (competence).”

						The relief and rehabilitation unit paid interim relief to the victims' family, but no one has been prosecuted so far.
20, 21	Ram Chandra Lal Karna and Manoj Kumar Dutta	Dhanusha	<p>Enforced disappearances and extrajudicial killings.</p> <p>Security forces arrested Ram Chandra Lal Karna and Manoj Kumar Dutta on October 12, 2003, and beat Manoj severely. Both were taken to the Dhanusha DPO. Relatives went to several police stations but did not receive responses to their complaints. On June 7, 2005, the Human Rights Cell of the Nepal Army informed the NHRC that the two men had been killed in an "armed encounter."</p>	October 19, 2006	Yes	<p>In January 2008, the Dhanusha DPO informed AF that it would not act on any conflict-related FIRs.</p> <p>There has been no investigation even after registering the FIRs. The FIR was also not recorded in the regular registry known as 10 number diary.</p> <p>On June 18, 2009, the relatives of the victims filed separate writ petitions at the Appellate Court, Janakpur. On December 1, 2009, the Janakpur Appellate Court issued an order for the DPO, Dhanusha to register the FIR correctly by filing the case in the correct diary. The Court additionally ordered the DPO to launch an investigation promptly. According to information available to AF, no action has been taken.</p> <p>A complaint has been filed at the TRC, but there is no recorded progress.</p>
22, 23, 24, 25, 26	Lapten Yadav, Ram Nath Yadav, Shatru-ghan Yadav, Rajgir Yadav, and Ram Pukar Yadav	Dhanusha	<p>Extrajudicial killings.</p> <p>On October 1, 2004, security personnel arrested these five men from their homes. According to eyewitnesses, they were first beaten, and then around 5 a.m. security forces shot and killed them. People dressed in civilian clothing, but claiming to be members of the security forces, later informed the families that the men had been killed because of false information identifying them as Maoists.</p>	October 2007	Yes	<p>After a great deal of effort, the FIR was registered.</p> <p>In December 2010, the families of the victims filed a writ of mandamus at the Janakpur Appellate Court, requesting an order to the Dhanusha DPO to initiate a prompt and effective investigation. On May 10, 2011, the Court ordered the Dhanusha DPO to carry out a prompt and effective investigation.</p> <p>Although an FIR was registered, no successful prosecution has been recorded. Ramesh Basnet, a police officer from the Dhanusha DPO informed AF lawyers on May 3, 2020, that unless national policies are made to deal with conflict cases nothing can be done.</p> <p>A complaint has been filed at the TRC, but there is no recorded progress.</p>

						<p>The NHRC report uses the alternative name Wiltu Yadav to refer to Laptan Yadav. It recommended that the government prosecute the involved security personnel and provide compensation of NRs 150,000 to each victim's family, but this has not been paid.</p> <p>According to a communication the NHRC received from the Government, the victims' families received NRs 100,000 compensation.</p> <p>Krishna Kumar Yadav, also known as Birenchi Yadav, was another the victim of the incident but his family did not file an FIR. However, the name Wiltu Yadav is not mentioned in the correspondence regarding compensation.</p>
27	Ramadevi Adhikari	Jhapa	<p>Extrajudicial killing.</p> <p>On July 3, 2005, security forces arrested Ramadevi Adhikari and her husband from their home. Later, Ramadevi was shot and killed. The security forces did not allow the body to be sent for an autopsy.</p>	November 9, 2006	No	<p>The family tried to register an FIR, but the Police refused. The Supreme Court issued a mandamus order on June 16, 2014, saying that the Police should register an FIR and promptly investigate the case.</p> <p>The Police claim no orders have been received from higher authorities to initiate the investigation of the case. The case dossier remains at the DPO Jhapa, with no further progress or procedures being carried out.</p> <p>A complaint has been filed at the TRC, but there is no recorded progress.</p> <p>The NHRC recommended that the Government prosecute the involved security officers under the applicable law and provide the victim's family compensation of NRs 100,000. The NHRC received confirmation of the release of that money to the victim's family.</p> <p>The Nepal Army <i>junggi adda</i>²⁴ found a second lieutenant guilty of employing excessive force in the incident. The</p>

²⁴ *Junggi adda* can mean either "army headquarters" or "court martial."

						punishment included a three-month jail term, a one-year promotion ban, and compensation of NRs 25,000 to be paid to the victim's family.
28	Hari Prasad Bolakhe	Kavre	<p>Extrajudicial killing.</p> <p>On December 27, 2003, police arrested Hari Prasad at a bus stop. When his father went to the DPO to complain the police denied having arrested him. After searching for months, his father complained to the NHRC. According to the NHRC's findings, Hari Prasad had been killed. The investigation led to the exhumation of Hari Prasad's body, and a post-mortem revealed the cause of death to be a "gunfire injury."</p>	November 7, 2006	Yes (following a Supreme Court order)	<p>The Police refused to register an FIR. On November 8, 2006, Hari's father lodged a petition before the Supreme Court to order the DPO in Kavre to register the FIR. The Supreme Court ordered the DPO to register the FIR. The DPO then informed the Supreme Court that the FIR had already been registered on November 7, 2006. Although letters were exchanged between the authorities, no substantial investigation has been conducted since.</p> <p>The family has presented the case to the TRC but has not received any updates.</p> <p>The case was communicated to the UN Human Rights Committee on November 14, 2014. The UN Committee adopted its views on September 4, 2018, finding violations and recommending investigation and prosecution.</p> <p>The NHRC established that Bolakhe was subjected to an extrajudicial killing, and recommended that the Government prosecute the security officers implicated and provide compensation. The names of the alleged perpetrators (Baburam Thapa, Krishna Dwoj Thapa, Khadga Raj Lama) were made public in the NHRC's 20 years report.</p> <p>The Office of the Prime Minister and the Council of Ministers stated that the Ministry of Home Affairs decided to provide compensation of NRs 100,000 Nepali rupees to the family, but no investigation has been done so far respecting the court orders and recommendation of the NHRC.</p>

29	Reena Rasaili	Kavre	<p>Rape and extrajudicial killing.</p> <p>On February 12, 2004, armed soldiers raped and killed 17-year-old Reena Rasaili at her family's home. The family heard three gunshots and found her body lying near the house with bullet injuries in the head and chest.</p>	May 25, 2006	Yes	<p>There was progress in the investigation after registering the FIR.</p> <p>On December 14, 2009, the Supreme Court ordered the Kavre DPO and the public prosecutor to investigate a case based on a writ of mandamus.</p> <p>Kaji Bahadur Karki was arrested by the Kaski DPO on September 9, 2010, and the Kavre District Court ordered Karki to be detained awaiting trial on September 19, 2010, on the charge of murder. Lieutenant Saroj Basnet was also charged with murder in absentia. Karki was acquitted in December 2013 due to a lack of evidence.</p> <p>A complaint was registered at the TRC but no progress has been recorded.</p> <p>In December 2015, the family presented the case to the UN Human Rights Committee. On May 23, 2022, the Committee held Nepal responsible for the arbitrary arrest, torture (including rape), and execution of Reena. It emphasized violations of her rights as a child and against gender discrimination. The committee criticized the inadequate remedies for Reena's parents and called for a thorough investigation into her detention, torture, and extrajudicial killing to ensure accountability for those involved. To date, Nepal has not implemented the recommendations of the HRC.</p> <p>The NHRC recommended that the Government prosecute the involved security officers under the applicable law and provide the victim's family compensation of NRs 150,000, although this money had not been received by the family as of July 2023.</p> <p>The Nepal Army responded to the NHRC that the victim's death resulted from excessive use of force. Officers were court-martialed: a major had his promotion suspended for a year, and a</p>
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						<p>lieutenant had his promotion suspended for three years.</p> <p>The Office of the Prime Minister and the Council of Ministers stated that the compensation of NRs 100,000 was sent to the district for the victim's family.</p>
30	Subhadra Chaulagain	Kavre	<p>Extrajudicial killing.</p> <p>On February 13, 2004, soldiers shot and killed 17-year-old Subhadra Chaulagain at her house, accusing her of being a Maoist. They beat her father severely.</p>	June 6, 2006	Yes	<p>There was no investigation, even after registering the FIR.</p> <p>In October 2007, the family filed a case in the Supreme Court seeking an order for the authorities in Kavre to proceed with the investigation. On December 14, 2009, the Supreme Court issued an order to the Police and public prosecutor to promptly proceed with the investigation of the case. Although the police dossier contains many letters submitted to different agencies, no other progress in the investigation was noted.</p> <p>A complaint was registered at the TRC but no progress has been recorded.</p> <p>On December 7, 2010, the family presented the case to the UN Human Rights Committee. The Committee adopted its views on the case on December 15, 2014. It recommended that the Government provide an effective remedy, including a thorough investigation, prosecution, and punishment of those responsible, as well as reparations and appropriate measures of satisfaction. To date, Nepal has not implemented the recommendations of the HRC.</p> <p>The NHRC recommended that the Government prosecute the involved security officers under the applicable law and provide the victim's family compensation of NRs 150,000. The Nepal Army reports to the NHRC that the victim's death resulted from excessive use of force. Officers were court-martialed: a major had his promotion suspended for a year, and a lieutenant had his promotion suspended for three years. The Office of</p>

						the Prime Minister and the Council of Ministers stated that the compensation of NRs 100,000 was sent to the district for the victim's family.
31	Maina Sunuwar	Kavre	<p>Extrajudicial killing.</p> <p>On the morning of February 17, 2004, Soldiers picked up 15-year-old Maina Sunuwar from her home. When her friends and relatives went to the Panchkal barracks the following day and demanded her release, the army denied having arrested her. In April 2004, the army told Maina's mother, Devi Sunwar, that her daughter had been killed. Maina's body was exhumed from inside the Panchkal Army Barracks in March 2007.</p> <p>Under pressure, the army prosecuted three of the perpetrators in a military court. Although convicted, they were sentenced to only six months in prison which they did not serve as they were judged to have already spent that time confined to barracks during the investigation.</p> <p>On January 10, 2007, the family lodged a writ at the Supreme Court to force the police to proceed with the investigation. On September 18, 2007, the Supreme Court ordered the Kavre DPO to complete the investigation within three months.</p>	November 13, 2005	Yes (following a Supreme Court order)	<p>On February 3, 2008, murder charges were filed in the Kavre District Court, and summons for the arrest of the four accused were issued.</p> <p>Between March and July 2008, subpoenas were served at the defendants' addresses requiring them to appear in Court. In February 2009, the Court re-issued the subpoena to Niranjana Basnet, which was duly served on April 27, 2009. He was the only accused who was still in the army, while others were said to be absconding.</p> <p>On September 13, 2009, the District Court ordered the Nepal Army Headquarters to immediately proceed with the automatic suspension of Major Niranjana Basnet and for all files containing the statements of people interviewed by the Military Court of Inquiry to be produced. NA refused to respect the court order.</p> <p>On April 16, 2017, Kavre District Court convicted three army officers, namely Bobi Khatri, Sunil Prasad Adhikari, and Amit Pun, of the murder of Maina Sunuwar. Niranjana Basnet, the only officer still serving in the Nepal Army, was acquitted.</p> <p>The NA and the Attorney General's Office swiftly decided not to appeal the acquittal despite the request of Maina Sunuwar's mother to appeal the case to a higher Court as she was not happy with the decision to acquit Niranjana Basnet.</p> <p>On September 1, 2017, the Office of the Judge Advocate General of the Nepal Army filed writs of certiorari and prohibition at the Supreme Court, seeking annulment of the decision of the district court convicting the three</p>

						<p>officers. Hearings have been postponed 23 times (as of June 2023). The next hearing is scheduled for August 20, 2023.</p> <p>NA maintains that three security personnel were found guilty, and Court martialled for improper investigation procedures and mishandling the body. The major received a two-year promotion halt, six months imprisonment, and a NRs 50,000 fine. Two captains had their promotions halted for a year, faced six months' imprisonment, and were fined NRs 25,000 each.</p> <p>The NHRC recommended that the accused face trial in ordinary court and recommended compensation for the victim's family of NRs 300,000.</p> <p>The name of the alleged perpetrator (Nirajan Basnet) is made public in the NHRC's 20 years report.</p> <p>The Office of the Prime Minister and the Council of Ministers stated that the Ministry of Home Affairs decided to provide compensation of NRs 300,000 to the victim's family. However, three convicted criminals continue to stay large.</p>
32	Arjun Bahadur Lama	Kavre	<p>Abduction and extrajudicial killing (by CPN-M).</p> <p>Maoists abducted Arjun Bahadur, a secondary school management committee president, on April 19, 2005, from his school. According to witnesses, the abductors marched Arjun Bahadur through several villages before killing him. Following protests by his wife, the CPN-M claimed that Arjun was killed during a Nepal Army aerial strike.</p>	August 11, 2008	Yes	<p>The family first tried to file an FIR in June 2007, but the Police refused. Following a Supreme Court order, the FIR was finally registered in August 2008 against five Maoist members and Maoist Central Committee member Agni Sapkota.</p> <p>On January 22, 2010, Kavre DPO sent a letter to the Foksingtar Area Police Office with orders to carry out an investigation, if necessary, and to protect the site where Arjun Bahadur Lama is thought to have been illegally buried. In May 2010, the Kavre DPO sent letters to the Shyampati Deupur police post and Sindhupalchowk DPO, asking them to arrest the defendants.</p>

						<p>However, one of the suspects in the case, Agni Sapkota, was appointed Information and Communication Minister in 2011. A public interest litigation (PIL) was filed in the Supreme Court by a group of human rights defenders on May 27, 2011, challenging Sapkota's appointment and requesting an interim order to suspend him from the post. On April 4, 2016, the Court decided to assign the case to a constitutional bench for adjudication. The hearing was repeatedly postponed.</p> <p>On July 27, 2012, the Council of Ministers decided to cancel the FIR lodged against Agni Sapkota and Suryaman Dong, who had both become Maoist members of parliament. This decision prompted Purnimaya Lama, the wife of the victim, to file a writ at the Supreme Court on November 22, 2012, seeking to overturn the Government's decision. The court, in response, issued a stay order on November 26, 2012, preventing the execution of the Government's decision. There have been no significant developments recorded since.</p> <p>The NHRC investigation concluded that Arjun was abducted, kept in the custody of the Maoists, and deliberately killed, which violated the Geneva Convention. The NHRC recommended that the Government pursue criminal proceedings against the perpetrator/s and provide compensation to Arjun's family. However, no prosecution has been pursued.</p>
33, 34	Chot Nath Ghimire and Shekhar Nath Ghimire	Lamjung	<p>Extrajudicial killing.</p> <p>Soldiers detained Chot Nath Ghimire, on February 2, 2002, at Borletar Unified Command Base Camp. His cousin, Shekhar Nath, was summoned to the Camp on February 7, 2002, and also detained. Acting on information from</p>	November 19, 2006	Yes	<p>There was no investigation, even after registering the FIR.</p> <p>On June 18, 2009, the families filed separate petitions of mandamus at the Appellate Court Kaski seeking orders for the DPO and Public Prosecutor's Office to promptly investigate the case. The writ petition was rejected on October 28, 2009, by the Appellate Court. Then the case was taken to the Supreme</p>

			<p>other detainees, Chot Nath's family discovered that he had been detained at Borletar army camp. On 4 November 2006, the DPO exhumed the bodies of both men from a jungle at Saurabas, Hansapur VDC-9, in the presence of NHRC officials. No forensic experts were present.</p>			<p>Court. On August 23, 2012, the Supreme Court issued a mandamus order and directed the Kaski DPO to promptly initiate the investigation.</p> <p>The Investigation Officer of DPO Kaski, Gyan Bahadur Khadka, in 2022, stated that they received a letter from the Office of the Attorney General instructing them not to pursue criminal proceedings in all TJ-related cases. As a result, no action has been taken in this particular case. However, AF was not shown such a letter.</p> <p>The NHRC recommended legal proceedings against those implicated. The NHRC also recommended providing compensation of NRs 300,000 to the victim's family and free education for their children, however this was not paid. The Ministry of Home Affairs decided to provide interim relief to the victim's family but has not proceeded with investigation and prosecution.</p>
35	Prem Bahadur Susling Magar	Morang	<p>Extrajudicial killing.</p> <p>Security forces arrested Prem Bahadur Susling Magar, an affiliate of the CPN-M, on June 29, 2002, and allegedly killed him the next day. His family learned of his death via radio reports and located his decomposing body on the streets after a few days.</p>	July 6, 2007	No	<p>According to officials in the district administration office, the copy of the FIR which was submitted to the CDO has gone missing. No further action has been taken to advance the case.</p> <p>The family has also lodged a complaint at the TRC, but there is no progress recorded.</p>
36	Data Ram Timsina	Morang	<p>Extrajudicial killing.</p> <p>On September 28, 2003, officers of the Eastern Regional Army Headquarters in Itahari, and security personnel from Morang DPO, arrested schoolteacher Data Ram Timsina. An eyewitness saw him being beaten and removed from the headquarters and heard</p>	June 7, 2007	No	<p>After both the DPO and CDO refused to register the FIR, the family appealed to the Biratnagar Appellate Court in August 2007. The Court rejected the petition, accepting arguments by the DPO and other authorities that incidents such as the killing of Data Ram will be addressed by the TRC.</p> <p>The family subsequently filed an appeal to the Supreme Court against the decision of Biratnagar Appellate Court. On October 28, 2010, the Supreme</p>

			<p>that he was to be killed. The Human Rights Cell of the Nepal Army later confirmed that Data Ram was "killed in a security operation at Kerabari VDC-5, in Morang District, on October 14, 2003." However, the family did not receive his body for the last rituals.</p>			<p>Court issued an order to the Morang DPO to register the FIR and to promptly proceed with the investigation. There have been no efforts made to advance the case despite the court order.</p> <p>The victim's family also complained to TRC via Local Peace Committee, but they have not received any updates or information regarding the status of their case.</p>
37, 38, 39	Bishwanath Parajuli, Tom Nath Poudel, and Dhan Bahadur Tamang	Morang	<p>Torture and extrajudicial killing.</p> <p>A group of 50 security personnel arrested Tom Nath Poudel, Bishwanath Parajuli, and Dhan Bahadur Tamang at Bhategauda, on September 27, 2004. They detained them overnight at a nearby school. Other individuals detained at the school later reported hearing gunshots at around 4:45 a.m. that night. The victims' families visited the school and found that the men had been shot and killed.</p> <p>An NHRC investigation found they had been extrajudicially executed.</p>	November 1, 2004	No (2) Yes (1)	<p>On October 15, 2008, all of three victims' families attempted to file FIRs, but only the FIR relating to the killing of Dhan Bahadur Tamang was accepted and filed that day.</p> <p>On June 18, 2009, Dhan Bahadur Tamang's family filed a petition of mandamus at the Biratnagar Appellate Court. On October 26, 2009, the Biratnagar Appellate Court issued a mandamus ordering the Morang DPO to promptly start an investigation into the FIR, yet the investigation in the case remains stagnant.</p> <p>The family of Tom Nath Poudel and Biswanath Parajuli (also known as Nagendra Prajuli in the NHRC's report) did not file the FIR, having no hope that the case would be investigated. They registered the complaint at the TRC, but there is no progress recorded at the TRC.</p> <p>The NHRC recommended legal proceedings against the security personnel implicated and compensation of NRs 150,000 to each of the victim's families.</p> <p>The Ministry of Home Affairs decided to provide the recommended compensation to the victim's families and has issued directives to take legal action against the implicated security personnel. However, no investigation has been done and no action taken against those responsible.</p>

40, 41, 42, 43	Jag Prasad Rai, Dhananjaya Giri, Madhuram Gautam, and Ratna Bahadur Karki	Morang	<p>Extrajudicial killings.</p> <p>According to witnesses, on December 18, 2004, security forces arrested and killed these four men in four separate incidents in Morang District. The Area Police Office in Urlabari notified the victims' families of their deaths. Relatives found evidence of beatings and torture on the bodies. Their belongings were missing.</p>	June 5, 2007 (Ratna Bahadur Karki)	No (2) Yes (2) (following a court order)	<p>The relatives of all four victims appealed to the Biratnagar Appellate Court individually, but only in Madhuram Gautam's case did the court order the Police to register an FIR. The writ petitions filed by the relatives of the other three men were rejected on the basis that these cases would be investigated by the TRC.</p> <p>The FIR relating to Madhuram Gautam was accepted on October 15, 2008, following the Court's order. In June 2009, his family filed another petition to obtain an order for the Police to proceed with the investigation.</p> <p>The family of Dhananjaya Giri appealed to the Supreme Court on March 31, 2008, against the decision of the Appellate Court (October 1, 2007). The Appellate Court quashed the appeal petition on the grounds that this is a conflict-era case with the TRC having jurisdiction, the appeal petition is subject to being quashed. The case was taken to the Supreme Court. The SC issued an order on April 22, 2010, against DPO Morang and others, overturning the decision of the Appellate Court. Since 2010, no progress has been recorded in the case.</p> <p>In Ratna Bahadur Karki's case, the victim's family filed an FIR on June 5, 2007, at Morang DPO.</p> <p>The family of Jag Prasad Rai gave up and did not want to file any petition as they saw no action in any other cases.</p> <p>The family members have registered cases at the TRC, but they have not received any updates regarding their cases.</p>
44	Chandra Bahadur Basnet ("Manoj Basnet")	Morang	<p>Extrajudicial killing.</p> <p>On August 24, 2005, a group of APF personnel arrested Chandra Bahadur Basnet at Dhankute Hotel. The next day, the Morang</p>	August 30, 2005	Yes	<p>An FIR was registered on August 30, 2005. Although the victim's father, Govinda Bahadur Basnet, filed an FIR at DPO Morang against APF Inspector Nardip Basnet and 12 other police personnel, the Police did not start any investigation. The Police had made the</p>

			<p>DPO informed Manoj's family that he had been killed while trying to run away from a "security cordon." His body, with all valuables removed, was handed over to his family the next day. A post-mortem revealed that he had been shot in the chest and neck.</p>		<p>father sign a new FIR without letting him read it. The case was referred to the public prosecutor on September 20, 2006. In the court, the police claimed that the killing was an accident.</p> <p>On September 22, 2006, Morang District Court decided that the killing was accidental.</p> <p>On May 10, 2007, Govinda Basnet appealed to the Supreme Court against the decision of the Morang District Court by filing a petition to quash the investigation and order the Police to re-investigate the case and prosecute Nardip Basnet on charges of homicide.</p> <p>However, the family was put under pressure by politicians and police, urging them to drop the case. In exchange for dropping the case, the Police offered Manoj's widow a position within the Police and the opportunity to enroll her two children in a boarding school. The police also offered Govinda NRs 250,000 and forced him to withdraw the case, claiming that AF had coerced him to file the case.</p> <p>On November 30, 2007, Govinda requested the Court to withdraw the case in response to this pressure, and the case was put on hold.</p> <p>AF petitioned the SC seeking for it to be allowed local standi to proceed as a public interest case. However, the Supreme Court rejected AF's petition on May 4, 2009.</p> <p>The family filed a complaint at the TRC through the Local Peace Committee, but no information was provided regarding any progress in the case.</p> <p>Likewise, the NHRC recommended legal proceedings against those implicated and compensation of NRs 100,000 to the victim's family.</p>
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45, 46	Purna Shrestha and Bidur Bhattarai	Morang	<p>Torture and extrajudicial killings.</p> <p>On October 15, 2005, army personnel tricked Purna Shrestha and Bidur Bhattarai into meeting with them and arrested them. They then tortured them and shot them dead at around 9:30 a.m. The army then informed family members that the men had been killed during an army operation. The families and other villagers found torture-related wounds on the bodies. They were not able to obtain copies of the post-mortem reports.</p>	June and July 2007	Yes (following a court order)	<p>In mid-2007, the Biratnagar Appellate Court ordered the DPO to register an FIR in the case of Shrestha but refused a petition on behalf of Bhattarai. However, the Police initially refused to register the FIR, even in Shrestha's case.</p> <p>On October 15, 2008, the victims' families once again attempted to file FIRs. The Police only accepted the FIR relating to Shrestha. On June 18, 2009, Shrestha's family filed a petition of mandamus at the Biratnagar Appellate Court, seeking an order to the Police to promptly start an investigation into the FIR.</p> <p>The family of Bidur Bhattarai has appealed to the Supreme Court against the decision of the Appellate Court. On February 15, 2012, the Supreme Court issued its verdict and directed the DPO Morang to promptly register the FIR and carry out an investigation into the case. No investigation has been carried out so far.</p> <p>Both families have registered their cases at the TRC but have not received any updates.</p> <p>The NHRC has recommended legal proceedings against the suspects and compensation of NRs 150,000 to each of the victim's families. The Office of the Prime Minister and Council of Ministers stated that the families had been provided with the recommended interim relief. No action is known to have been taken against the suspects.</p>
47	Sapana Gurung	Morang	<p>Rape and murder.</p> <p>Fifteen security personnel under the command of army Captain Prahlad Thapa Magar arrested 22-</p>	May 15, 2006	Yes	The Government provided NRs 10,00,000 [USD 7,600] in interim relief to the family prior to the probe committee's decision.

			<p>year-old Sapana Gurung at her home on April 25, 2006. The men took her to a nearby Nepal Telecommunications Office and raped her. About an hour after the arrest, villagers heard a gunshot. Sapana was later found dead. A medical report stated that she had been raped and killed. The case was investigated by a Parliamentary Probe Committee, which recommended that criminal investigations be initiated. It also awarded Nepali rupees 1,000,000 [USD 7618.39] compensation to her family.</p>			<p>The family has registered the cases at the TRC but has not received any updates.</p> <p>The NHRC has recommended legal proceedings against the accused. The Office of the Prime Minister and Council of Ministers stated that the families have been provided with the recommended compensation. No action is known to have been taken against the suspects.</p>
48, 49, 50, 51, 52, 53	Chhatra Bahadur Pariyar, Phurwa Sherpa, Prabhunath Bhattarai, Prasad Gurung, Tanka Lal Chaudhari and Sunita Risidev	Morang	<p>Extrajudicial killings.</p> <p>On April 26, 2006, a group of security personnel at Belbari in Morang district opened fire on people demonstrating against the killing of Sapana Gurung (described above). These six people were killed, and dozens were injured.</p> <p>These killings were also investigated by the Parliamentary Probe Committee (see above, Sapana Gurung), which recommended action against 28 security forces personnel and the CDO. It also awarded 1,000,000 Nepali rupees [USD 7618.39] in compensation to each family.</p>	May 2006	Yes	<p>There has been no further progress in the case. In May 2010, the Police claimed that the file submitted to the Parliamentary Probe Committee had not yet been returned.</p> <p>The families have registered cases at the TRC but have not received any updates.</p> <p>The name of Dhana Bahadur Pariyar is given as Chhatra Bahadur Pariyar in the NHRC's report. The NHRC recommended the Government identify the perpetrator(s) and initiate criminal proceedings against them. Additionally, it recommended providing compensation of NRs 300,000 to the victims' families. The amount recommended by the NHRC has yet not been received by the families of the victims. The Office of the Prime Minister and Council of Ministers stated that the families had been provided with compensation of 100,000 Nepali rupees and that the procedure to provide the remaining amount was ongoing.</p>

54	Khagendra Buddhathoki	Myagdi	<p>Extrajudicial killing.</p> <p>A team of patrolling soldiers arrested Khagendra Buddhathoki on the Tatopani Jalkuni Bridge on January 6, 2002. According to villagers, they took him to a temporary army camp at Alkachaur and shot him dead the following day. When family members approached the Myagdi DPO, they refused to investigate. Once the Battalion moved from the temporary Camp, Khagendra's family tried to excavate the area where they thought the dead body was buried. The Police stopped them from doing so. The body is yet to be exhumed.</p>	April 12, 2007	Yes	<p>Police told AF that they had corresponded with the Ministry of Defence regarding the deployment of Raju Nepali, who was in charge of the brigade stationed in Myagdi at the time. The Ministry has reportedly confirmed his deployment.</p> <p>The family filed a writ petition on June 18, 2009, at the Baglung Appellate Court. In its response, the DPO argued that it was not bound to investigate as the FIR had not been properly filed. It also argued that the civilian court had no jurisdiction over such killings from the conflict period.</p> <p>On November 11, 2009, the Baglung Appellate Court issued an order of mandamus for the Police to promptly investigate the FIR. Even after the order of the Court, no effective investigation has been undertaken.</p> <p>The family has registered the cases at the TRC but has not received any updates. The NHRC recommended the Government identify the perpetrator(s) and initiate criminal proceedings against them. Additionally, it recommended providing compensation of NRs 300,000 to the victim's family.</p> <p>The Ministry of Defence stated that the Human Rights Cell of the Nepal Army confirmed that the victim's wife was provided with the recommended compensation. However, no progress has been made in implementing the recommendation relating to investigation and prosecution.</p>
55	Chandra Bahadur Bishwakarma	Myagdi	<p>Possible torture and extrajudicial killing.</p> <p>Soldiers arrested 17-year-old Chandra Bahadur Bishwakarma at his home on January 8, 2003. Three days later, Radio Nepal reported that Chandra had been killed in an</p>	April 12, 2007	Yes	<p>The family filed a writ petition on June 18, 2009. The DPO provided the same response as in Case 54, claiming that the case was improperly filed and asserting that the civilian Court lacked jurisdiction.</p> <p>On November 11, 2009, the Baglung Appellate Court issued an order of mandamus to promptly investigate the</p>

			"encounter". His family was allowed to recover his body from within the army base, but they were compelled to bury him within the camp premises.			<p>FIR. Even after the order of the court, no effective investigation has been undertaken.</p> <p>The family has registered the cases at the TRC but has not received any updates.</p> <p>The NHRC recommended the Government identify the perpetrator(s) and initiate criminal proceedings against them. Additionally, it recommended providing compensation of NRs 300,000 to the victim's family. The relief and rehabilitation unit stated that the victim's family had been provided with the recommended interim relief. However, no progress has been made in the investigation and prosecution.</p>
56, 57, 58	Dal Bahadur Darlami, Narayan Prasad Kanuje, and Tek Bahadur Gaha	Palpa	<p>Extrajudicial killings.</p> <p>According to eyewitnesses, on February 20, 2005, soldiers indiscriminately fired upon and killed the three boys, aged 15, 16, and 15, respectively.</p>	December 31, 2006	Yes	<p>After the DPO had repeatedly refused to register an FIR, suggesting the killings had been an accident, in late 2006, the public prosecutor ordered the DPO to proceed with a murder investigation. On February 7, 2009, Butwal Appellate Court reminded the Palpa DPO, Palpa District Administration Office, and the District Office of the Government Attorney to complete the investigation within one month and decide whether to prosecute or not.</p> <p>The relatives filed a writ petition in June 2009 seeking a court order for the Police to proceed with the investigations. On October 7, 2009, the Butwal Appellate Court issued an order of mandamus to investigate the FIR within three months. Despite the court order, no effective investigation was undertaken.</p> <p>Families have registered the cases at the TRC but have not received any updates. The NHRC recommended (on May 11, 2005) that the Government initiate criminal proceedings against the accused, and provide adequate compensation.</p>

59	Man Bahadur Karki	Surkhet	<p>Abduction, torture and extrajudicial killing (by CPN-M).</p> <p>Two Maoists, named Lal Bahadur Ramjali and Dilip, abducted Karki from his house, on June 10, 2006. The next day, his body was found hanging outside the house of another villager, Ratan Bahadur Gautam. The Maoists claimed that he had committed suicide. Reports in the media and information from two witnesses suggested that Kul Bahadur Sijali, another resident, had a feud with Karki and had participated in his beating and killing. Witnesses stated that Karki had actually been beaten to death by Kul Bahadur, Ratan Bahadur, Meghraj Gautam, and Yam Bahadur Gharti.</p>	Sept. 2006	No	Investigations started in May 2008. The family of the victim no longer wants to continue with the case because they felt intimidated by the suspects, who are now local leaders in the Maoist party. After the family's decision not to proceed, the Local Peace Committee recommended interim relief.
60, 61	Ganga Bahadur Nepali and Shyam Sundar Kaini	Tanahun	<p>Extrajudicial killings.</p> <p>Army personnel arrested Ganga Bahadur Nepali and Shyam Sundar Kaini from their homes on April 29, 2002. The next morning, Radio Nepal reported that the two men were terrorists who had been planning to ambush security forces and had been killed as they were attempting to execute this plan. Army Major Baburam Shrestha initially refused to hand over the bodies, only doing so after being pressured by the CPN-UML general secretary. The general secretary released a statement indicating that he had heard testimony from soldiers at the barracks to the effect that</p>	April 6, 2007	Yes	<p>There was no investigation, even after registering the FIR.</p> <p>On June 18, 2009, both families lodged writ petitions at Pokhara Appellate Court to seek an order for the DPO and Public Prosecutor's Office to investigate the killings. On December 23, 2009, the Pokhara Appellate Court quashed the writ petition. On March 28, 2010, an appeal was filed at the Supreme Court as there was no progress in the investigation despite registering the FIR.</p> <p>The Supreme Court issued a writ of mandamus in 2011, instructing the Tanahun DPO to conclude the investigation within three months and file the charge sheet at the district court. A progress report was sent by the DPO to the Attorney General's Office on June 1, 2013, mentioning the formation of an investigation board. However,</p>

			the two men were arrested and executed.			<p>there has been no known progress in the case since then.</p> <p>Families have registered the cases at the TRC but have not received any updates.</p> <p>The NHRC advised the Government to bring Jamdar Damodar Adhikari before the Commission, as he commanded the team involved in the incident. Additionally, it recommended providing NRs 300,000 to the victims' families in compensation. The Office of the Prime Minister and Council of Ministers stated that each victim's family had been provided with interim relief of NRs 10,000,000. However, no investigation and prosecution has been done so far.</p>
62	Dhan Kumari Tumbahamphe	Udayapur	<p>Rape and extrajudicial killing.</p> <p>Security personnel arrested Dhan Kumari Tumbahamphe after she attempted to escape an army cordon on April 24, 2005. The soldiers found CPN-M documents in her bag. According to witnesses, the following morning, a group of soldiers marched her out to a hill, possibly raped her, mutilated her, and killed her.</p>	August 27, 2009	Yes (after a court order)	<p>The family tried to file an FIR in April 2005.</p> <p>Though the Police conducted some investigations, they refused to register an FIR until 2009. The Police registered the FIR on August 27, 2009, following an order issued by the Rajbiraj Appellate Court.</p> <p>Currently, both the police and the government attorney assert that they lack an order for the inquiry into the case. Thus far, no developments have been documented in the case.</p> <p>The family has registered the cases at the TRC via the Local Peace Committee but has not received any updates.</p>