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Promoting Access to Justice for the Victims of Sexual Violence requires a Real Commitment from the Government!

PRESS STATEMENT

In its newly-released brief entitled 'Challenges to Redress Victims of SGBV in Nepal' Advocacy Forum (AF) has exposed the magnitude of sexual and gender-based violence perpetrated during the conflict period and has shown how women and girls continue to suffer the scourge of the conflict in its aftermath.. The brief released to mark the **102nd International Women's Day** also stresses that the acquiescence of the successive governments allowing continued impunity for sexual violence has not only legitimized the crime but has also encouraged the further perpetration of sexual violence in peace time.

Notwithstanding widespread perpetration of sexual violence during the conflict by both state and non-state actors, individual cases are rarely documented and nor even acknowledged by the state. Poor documentation of the cases of sexual violence largely accounts for a culture of silence and social taboos pervasive in Nepalese society vis-à-vis to the issues of sexual violence. In all cases of sexual violence, both throughout the conflict and otherwise, women are at a risk of being 'doubly-victimized', if they reported their cases. Not only are they forced to face sexual violence initially, but the shame and stigmatization of having lost their honor and social prestige make them remain silent after the incident. It is therefore not surprising that only a few number of women come forward with their cases for legal redress.

AF's research findings have revealed some facts about the patterns of sexual violence during the conflict. It's found that women and girls were particularly targeted, both by the security forces and the Maoists for rape and other sexual abuses. Findings also indicate that the reduced presence of male members of households during the conflict was taken advantage of by the security forces, Maoists and private individuals as it was easier to target women and girls.

It is highly objectionable that out of the 128 cases of sexual violence documented by AF in its various working districts a majority (73%) are found to have been perpetrated by the state actors. Among this more than half of the cases (56%) involved multiple perpetrators. Alarming, it indicates a systematic culture of impunity where committing sexual violence during conflict periods is considered 'acceptable', and perpetrators are not ashamed to act in groups.



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The brief also highlights some key obstacles faced by victims in their quest for justice. The definition of rape in Nepali law falls short of the international standards. Nepali laws have, by and large, narrowly confined rape within the ambience of bodily assault and have overlooked the magnitude of the crime, such as a violation of bodily integrity, and discrimination against women. Similarly, lack of confidentiality, thirty-five day statute of limitation, lack of unified system for reporting the cases of sexual and gender-based violence and lack of trained medical professionals to deal with the victims are the other stumbling blocks persistently faced by the victims. to justice.

The adoption of the National Plan of Action (NPA) on Women, Peace and Security by the government following the UN Security Council Resolution 1325 and 1820 was a welcome move, however, any real progress towards ending impunity for conflict-era sexual violence has so far not been extended beyond rhetoric. Furthermore, there have been recent developments in the transitional justice process which actually signify a step backwards in terms of the implementation of SCR 1325 and 1820. Of many acts of the government further institutionalizing the endemic impunity in Nepal is the recent government ordinance which proposes to establish a transitional justice mechanism. The ordinance confers wide powers to provide amnesties to perpetrators, including those who have committed gross human rights violations, including sexual violence. Hence, in the face of such pervasive impunity in Nepal, AF makes following recommendation to the government and calls on to immediately address the problem and provide the victim of sexual violence with justice and reparations :

- *Legal Reform:* Legislative reforms that criminalize all sexual and gender-based violence, amend the rape law to remove the time-limit on filing complaints, establish a victim and witness protection system, and ensure that legal aid is available and accessible.
- *Reforms of investigation and prosecutorial system:* Investigation and prosecution of crimes committed against women, including crimes of sexual violence, and ensuring that all actors cooperate in investigations. The establishment of gender-sensitive structures in the criminal justice system, including gender focal points in police stations, special units to investigate cases of gender-based violence, training of police and prosecutors on how to address sexual violence cases and increasing effective recruitment of trained female personnel for service in the different sectors of criminal justice.
- *Ensure confidentiality:* Protections of confidentiality during investigations, trials or other legal proceedings and protection of confidentiality against public access through the media.
- *Allocation of resources:* A specific focus, including allocation of resources, on ensuring gender-sensitive policies and procedures are included in the substantive work as well as staffing and practice of all active commissions, as well as future commissions, such as the Truth and Reconciliation Commission and Disappearances Commission. Equal representation of women must be ensured in all echelons of state mechanisms.



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- *Improving medical examination system:* Improving access to health care, particularly the community level, through free, or at least affordable services, specific to the needs of female conflict victims.
- *TRC:* The government should withdraw the current ordinance and start the public consultation process to let victims and civil society organisations participate in the process. The mandate of the truth commission must include a separate provision to carry out investigations into incidents of human rights violations against women. Wider consultations must be initiated with victims and relevant stakeholders and issues raised in such discussions must be incorporated before finalizing the legislation. Equal representation of women and men must be ensured while appointing commissioners and recruiting staff members. Adequate measures must be taken to ensure security and confidentiality of women victims and witnesses. *In camera* hearings must be conducted to record the personal experiences of women victims. The commission's final report must contain recommendations addressing the human rights violations suffered by women and girls and seeking to improve the place of women in society. It should be disseminated in a way that pays attention to the low rate of literacy among Nepali women. Moreover, all relevant actors should be trained in gender sensitive investigations, legal frameworks and standards on Gender based violence. Amnesty for gross violations like rape must be prohibited.
- *Interim Relief/ Reparation:* The current interim relief measures must include victims of rape, torture and other forms of sexual violence. Given the gravity of the crime, the relief amount should be proportional to other gross crimes like extrajudicial executions and disappearances.

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Chairperson

Advocacy Forum