

UN BODY URGES NEPAL TO INVESTIGATE, PROSECUTE AND AFFORD REDRESS TO VICTIM OF RAPE IN LANDMARK RULING REGARDING SEXUAL VIOLENCE IN CONFLICT

For immediate release

26 July 2017 — The United Nations Human Rights Committee has urged Nepal to investigate, prosecute and punish the men who raped a woman during the decade-long armed conflict, and to provide her with full reparation, in a landmark decision that could have repercussions for many other victims of sexual violence during the conflict. The Committee also urged Nepal to take steps to prevent similar violations, including concrete measures to ensure access to justice for victims of rape.

The Committee issued its decision after a case was brought before it by a victim of multiple rapes by Nepali soldiers in 2012. Purna Maya (name changed to protect her privacy), from the Dailekh district, brought the case after she failed to obtain justice in Nepal. She was represented by human rights organisations Advocacy Forum-Nepal and REDRESS.

Purna Maya was dragged from her home to army barracks and raped by four soldiers in 2004, before being dumped on the street. She suffered grave injuries, including a severe haemorrhage that required her to undergo surgery to have her uterus removed. She also suffered from severe depression and post-traumatic stress disorder. After the attack, she and her daughter had to move to another district, she lost her small tea business, and they became internally displaced.

Despite notifying officials about the crime and identifying one of the alleged perpetrators in 2006, an investigation has never been opened into her case more than ten years on. In 2011, her lawyers and several Nepali women's rights organisations were barred from lodging a complaint with the police because of the Nepali law which at that time stated that complaints in rape cases must be brought to the police within 35 days of the rape. An appeal to the Supreme Court calling for the registration of the case failed, leaving her without any avenues to seek justice in Nepal.

In 2012, Advocacy Forum-Nepal and REDRESS brought a complaint before the Committee, alleging that Nepal was responsible for serious violations of the victim's human rights. The complaint examined the position of women in Nepalese society, and the complete inaction of the government regarding cases of sexual violence committed during the conflict.

Advocacy Forum-Nepal and REDRESS argued that Purna Maya was a victim of torture, arbitrary detention, inhuman treatment and discrimination, contrary to the International Covenant on Civil and Political Rights, which Nepal ratified in 1991. In particular, the complaint examined the nature of rape as a form of torture, and the obligation that states have to respond to it, and argued that the limitation period for filing rape complaints was discriminatory and contrary to Nepal's obligations under the Covenant.

In November 2015, the statute of limitations on reporting of rape cases was extended from 35 to 180 days in Nepal, following several Supreme Court decisions, but victims cannot file first information reports about cases that occurred during the armed conflict.

In its decision, made public recently, the Committee agreed that Purna Maya was subjected to torture, arbitrary detention, inhuman treatment and discrimination. It urged Nepal to conduct an investigation

into the facts; to prosecute, try and punish those responsible, and to provide her with full reparation, including reimbursement for the medical expenses incurred.

The Committee also urged Nepal to adopt legislation to make torture a crime in its domestic law and to remove other barriers to justice for rape victims. The Committee urged Nepal to take some concrete measures, among others, ensuring the confidentiality and protection of victims during the filing of a complaint, the investigation and the proceedings and to provide training and conduct awareness-raising campaigns on violence against women and provide adequate protection to victims.

The Committee noted in its decision that the previous 35-day limitation period for filing complaints of rape was “*unreasonably short*” and “*flagrantly inconsistent with the gravity and nature of the crime and that it has a disproportionately negative effect on women, who are predominantly the victims of rape.*”

“Nepal’s failure to act on conflict-era sexual violence has contributed to the prevailing climate of impunity for perpetrators and the high levels of stigma and insecurity felt by victims. We welcome the findings of the UN Human Rights Committee and call on Nepal to amend the law without delay,” said Carla Fertsman, Director of REDRESS.

“This is yet another call for the Government of Nepal to deliver justice to victims and to take all the necessary steps to remove the barriers that stand in their way,” said Om Prakash Sen Thakuri, Director of Advocacy Forum-Nepal.

“The State must act as a matter of urgency to remove any restrictions on access to a judicial remedy by victims of serious violations including rape, so the fundamental right to access justice is realized in compliance with the international human rights standards and relevant jurisprudence,” said Raju Prasad Chapagai, Chairperson JuRI-Nepal.

Therefore, our organisations urge the Government of Nepal to:

1. Immediately implement the decision of the UN Human Rights Committee by investigating the facts, and prosecuting and punishing the perpetrators;
2. Ensure that the victim has access to all the necessary rehabilitation and medical treatment;
3. Provide effective and full reparation to the victim;
4. Ensure the confidentiality and protection of the victim and her family;
5. Adopt legislation criminalizing torture and disappearances and permitting investigation and prosecution of conflict-era crimes;
6. Lift any time limitations on prosecutions for rape;
7. Take all the other steps identified by the Committee to prevent future violations and remove barriers to justice to victims of rape.

Om Prakash Sen Thakuri, Director, Advocacy Forum-Nepal

Carla Ferstman, Director, of REDRESS

Phillip Grant, Director, TRIAL International

Raju Prasad Chapagain, Chairperson, JURI-Nepal

The decision of the UN Human Rights Committee can be found here: <http://www.redress.org/downloads/hrc-views-17-march-2017.pdf>

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Background information

Nepal was locked in an internal conflict between government forces and Maoist rebels from 1996 to 2006. Although many violations of humanitarian law and human rights were recorded by United Nations agencies and NGOs, data regarding sexual violence is scarce. Available evidence suggests, however, that there are a very large number of women victims.

In 2009 the International Centre for Transitional Justice (ICTJ) and Advocacy Forum Nepal carried out a one-year study which indicated a high prevalence of such crimes, [*Across the Lines*](#).

Women have suffered unwanted pregnancies, gynaecological and psychosocial problems. The grave consequences for women have been exacerbated by their difficulties in accessing health care. Many women have also faced huge social, cultural and economic pressures, and they have also often been ostracised from their families and communities.

Despite the widespread use of rape and other forms of sexual violence during the conflict, a previously existing 35-day statute of limitation on the crime prevented victims from filing complaints.

In November 2015, the statute of limitation was extended from 35 to 180 days, following several Supreme Court decisions, including *Sapana Pradhan Malla v. Government of Nepal* and *Mandamus order vs. Government of Nepal and others*.

See also: [*NEPAL. Paying Lip Service to Justice. The Newly Adopted TRC Act Breaches International Law and Flouts the Decision of the Supreme Court of Nepal*](#) (2014) in English, and [*Held to Account: Making the Law Work to Fight Impunity in Nepal*](#)(2011) in [English](#) and [Nepali](#).

Advocacy Forum-Nepal is a leading NGO working to promote the rule of law and uphold international human rights standards in Nepal. Since its establishment in 2001, AF has been at the forefront of human rights advocacy and confronted the entrenched culture of impunity in Nepal.

REDRESS is a NGO based in London and The Hague which seeks justice and reparation for survivors of torture and related international crimes. It fulfils its mandate through a variety of means, including casework, law reform, research and advocacy.

TRIAL International provides legal assistance to victims, litigates cases, develops local capacity and pushes the human rights agenda forward.

Juri-Nepal is a non-governmental, apolitical and non-profit organization working in the field of protection and promotion of human rights and strengthening social justice and rule of law in Nepal.