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WATCH

# SILENCED AND FORGOTTEN

Survivors of Nepal's Conflict-Era Sexual Violence



# **Silenced and Forgotten**

Survivors of Nepal's Conflict-Era Sexual Violence

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# Silenced and Forgotten

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# Map of Nepal





## Summary

Nepal's decade-long civil war between government forces and the Communist Party of Nepal (Maoist) (CPN-M) claimed more than 13,000 lives and left at least 1,300 people missing. Until the 2006 peace agreement both government security forces and the Maoists were responsible for grave human rights abuses, including unlawful killings, torture, and enforced disappearances.

What has remained largely undisclosed is the sexual violence that occurred during the conflict. With the assistance of Advocacy Forum, a Kathmandu-based human rights group, Human Rights Watch researchers met with dozens of women, a few of whom described rape and sexual assault that occurred when they were still children, including one who was 12-years-old at the time.

Both security forces and Maoist combatants committed physical, verbal, and sexual violence. Members of the security forces raped and sexually abused female combatants after arrest, and targeted female relatives of Maoist suspects, or those they believed to be Maoist supporters because they provided food and shelter. Maoist combatants raped women who stood up to them and refused to support their party's activities. In some cases we documented, women were targeted if they were found alone; in other instances, male relatives were nearby and could not or did not intervene.

Nepal's government has acknowledged that women suffered rape during these years. Yet it has failed to deliver on its promise to end impunity for abusers, or to seek justice and reparations for victims of human rights violations. These include victims of sexual violence who are excluded from the Interim Relief Program (IRP) that compensates individuals whose family members were killed or disappeared during the war.

Furthermore, the government has yet to introduce comprehensive medical or psycho-social programs to benefit survivors of sexual violence from the conflict-era and help them to cope with the long-term consequences of violence. These could include physical ailments such as chronic pelvic pain, gynecological and pregnancy complications, back pain, migraines, premenstrual syndrome, and gastrointestinal disorders. Many women also

spoke of ongoing emotional and mental distress, sometimes fueled by rejection or ridicule by husbands, family, or the community.

“[S]ometimes when he gets very angry he brings it [the rape by Maoists] up and says I am a loose woman and I should get out of the house,” Santoshi, who was raped by two men in 2006, said of her husband. “His behavior towards me changed after this happened. We were happy before this.... I feel worthless.”

To this day, fear of stigma and abuse means that many women have never told their families, or even their husbands, about the abuse they suffered.

In March 2013, the government passed a Truth and Reconciliation Commission ordinance that called for a high-level commission to investigate serious human rights violations committed during the 1996-2006 armed conflict. Troublingly, however, it granted the commission discretion to recommend amnesty for perpetrators. In January 2014, Nepal’s Supreme Court struck down the ordinance, and directed the government to produce a bill consistent with Nepal’s obligations under international law, including the Convention on the Rights of the Child which prohibits sexual violence.

The following month, in February, Sushil Koirala of the Nepali Congress Party was nominated prime minister of Nepal. The new Constituent Assembly is expected to draft a constitution to make good on the peace agreement, which includes among other things, the promise of justice and accountability for the conflict’s victims. However, one of the first actions of the new government was to enact a law establishing the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, which falls short of the January Supreme Court directive. It has been challenged through public interest litigation before the Supreme Court. The case has been heard, and a verdict is pending.

However, renewed momentum around a Truth and Reconciliation Commission (TRC), and the drafting of a new constitution, means there is now an opportunity to rectify these historical injustices and ensure accountability for conflict-era rape and other forms of sexual violence.

The new government should take immediate steps to investigate sexual violence during the conflict, hold those responsible to account, and ensure that victims receive effective

remedies including medico-psychological counseling and reparations. It should also remove significant barriers to justice, including a 35-day reporting limitation from the date of a rape, and amend the rape laws to include other forms of sexual assault.

## Physical, Verbal, and Sexual Assault

Women and girls interviewed by Human Rights Watch described being verbally, physically, and sexually assaulted by both sides in the conflict, although there were fewer accounts of sexual violence by Maoists.

Sometimes the rapes were carried out by a single assailant; in other cases, women described being gang-raped. In some instances, the women said they had lost consciousness during the attack and did not know for sure how many men had raped them. Human Rights Watch documented at least four instances where sexual assault by the security forces included insertion of objects inside women's vaginas, forced oral or anal sex, or forced masturbation. In one case, a woman said that police had rubbed salt and chili powder into her vagina.

Some women, including Nandita, described being raped as their children looked on, and of being wrested from infants that they were holding. "He was crying a lot, and had been slapped a few times by the men," Nandita said of her son, who witnessed her assault. Manorama was raped in 2002 just 11 days after giving birth, while she was at home recovering from childbirth. In a few cases, women had children because of the rapes, or suspected the children they subsequently bore were the result of their attacks.

In most cases, the sexual assaults were accompanied by verbal attacks that included calling the women derogatory names, such as *randi* (whore), and dire warnings not to tell anyone about the incident.

A few women also described horrifying physical attacks, often preceding the rape. When Rekha resisted her attacker, a Maoist combatant, in 2003, he hit her so hard that the skin from her skull and forehead came off, and hung "like a curtain" in front of her face. She received 36 stitches.

Human Rights Watch researchers documented cases where women or girls who were Maoist combatants or relatives of Maoist combatants were illegally detained, tortured, and raped in custody. Gayatri, a minor at the time, was a secondary school student when Maoists forcibly recruited her. Government forces captured her in 2001, and, she says, raped her while she was illegally detained at an army camp, leading to severe vaginal bleeding:

The rapes would start only at night and continued for many days. I was blindfolded throughout. My hands were untied after the first few days. There were around five or six officers every night.

Security forces also raped women during search operations, often in their own homes, particularly if they were relatives of Maoists. Women said they were punished for providing food and shelter to the Maoists whose demands, they said, they could not refuse.

Human Rights Watch researchers also documented a few cases of rape in Maoist custody, although far less than by security forces.

Meena angered the Maoists because she refused to join their indoctrination programs. She was abducted in April 2004 while gathering wood in the jungle. She spent about four months with the Maoists, moving from place to place with them, and said she was repeatedly raped, including gang-raped, before she escaped.

The first time I was raped was the day after my capture, in one of the goatherd huts....Three of them came into the hut, and immediately one of them told me to take my clothes off....They all three took turns raping me. Afterwards, they told me that I'd be killed if I dared tell anyone....

## **Lack of Psycho-Social Support**

Even a decade after the conflict, many of the women interviewed by Human Rights Watch continue to display signs of trauma, underlining the need for immediate assistance.

The government still does not have a standard protocol for the treatment and medico-legal examination of rape survivors to provide therapeutic care and secure any likely medical

evidence in a timely manner. There are also insufficient training programs for doctors on the therapeutic and medico-legal aspects of sexual assault.

Access to psycho-social support services are not just important for those who have been raped, but also their immediate family and community. In some cases, women interviewed censored themselves because they were afraid of being mistreated or rejected by their husbands and in-laws. Sita, who was raped by security forces in September 2002, says her husband often becomes enraged and subjects her to physical violence because of the attack, even though more than 10 years have passed.

Advocacy Forum has facilitated some medical support when possible by connecting victims to mental health experts in the capital. But unless the Nepal government ensures that survivors of sexual assault and their families can seek counseling through government health services to cope with sexual assault and its fallout, it will be difficult for individual nongovernmental efforts to reach out to women systematically and help them to overcome stigma or prevent domestic violence.

More importantly, the government has an obligation to provide such services for survivors of sexual assault and their families, especially where the psycho-social impact deters them from seeking justice. The government should also expand its efforts to provide interventions to curb domestic violence, which will also assist rape survivors who experience domestic violence as a consequence of the rape.

## **Lack of Medical Treatment and Documentation**

The lack of medical and psycho-social services during the conflict made it all the more difficult for survivors of rape to secure any possible medical evidence. For example, one survivor who was raped in February 2003 went to a doctor and reported the rape because she was anxious about HIV transmission. But the doctor, a private practitioner, did not have the training to provide her any information about medico-legal evidence, nor did he attempt to gather such evidence.

Madhavi, who was raped in her village by security forces, says that initially she was too distressed to look after her injuries and also had no money. “The soldiers took all the money. How could I go to the hospital? I also did not want to live,” she said.

While most of the women did not seek medical care, those that needed treatment for injuries usually did not tell the doctor they were raped because of fear or stigma. Bipasha's husband told Human Rights Watch how terrified they were to report how security forces raped his wife. "There was so much fear. We did not dare say anything to anyone, police, doctors, no one....," he said.

Even in cases where women and girls had medical examinations soon after the sexual assault, they did not have access to the records, or they destroyed the file for fear of being caught with it. After the end of the conflict, it was impossible for women to secure any likely medical evidence of the sexual assault because of the time that had elapsed.

## **Barriers to Justice**

Even though most women we spoke with described incidents of sexual violence which occurred at least 10 years ago, survivors told us that they continue to feel a deep sense of injustice at being left out of reparation and justice mechanisms.

In their interviews, the women told Human Rights Watch that a combination of social stigma and the fear of retaliation by the perpetrators prevented them from reporting these crimes soon after they occurred. Only after peace was restored did they feel emboldened to come forward and speak about their experience. It is possible that many others continue to suffer the consequence of sexual abuse in silence, fearing social stigma or because they lack faith in the criminal justice system.

Most of the women who spoke to Human Rights Watch said that it was inconceivable to them to report sexual assault to the police during the conflict, especially when the combatants were themselves the perpetrators. "They threatened to kill me if I spoke about the rapes," said Nirmala, who was raped by Maoists.

Threats of violence and even death also deterred women from speaking at the time, and continue to haunt them years later. Radhika, who was repeatedly raped after she was taken into police custody and illegally detained for many days, said, "I remember the DSP [District Superintendent of Police] telling me before release that I wouldn't live if I dared talk about what had happened."

For victims who dare to report the abuse, Nepal’s criminal justice system also acts as a barrier by imposing a 35-day reporting limitation rule from the date of the rape. Acknowledging that such a rule hampers access to justice, the Supreme Court of Nepal ordered the government to revise the rule, but there has been no progress to date.

## **The Road Ahead: Justice and Reparations**

The time that has passed since the attacks, and the fact that most women could not lodge complaints at the time, means that the Nepal government will have to take the initiative, investigate the allegations, and identify perpetrators to the best of their abilities.

The army, police, and armed police—which shared a joint command system during “the Emergency,” as the civil war 2001-2005 period is widely known—should cooperate with such an investigation instead of protecting abusers. Maoists have also been reluctant to hold perpetrators of human rights violations to account. In two cases that Human Rights Watch documented, local Maoist leadership did accept the rape allegations and punished the perpetrators by publicly beating them and forcing them out of the village. Perpetrators should instead face trial under Nepali law. The Maoist system of “people’s courts” that prevailed during the conflict did not provide fair or adequate redress for such crimes.

The procedures adopted by the proposed Truth and Reconciliation Commission and any investigations and trials should be gender-sensitive and designed and adequately resourced to protect the privacy and dignity of survivors to minimize stigma and avoid re-traumatizing them and their families. It should have resources to order special victim and witness protection measures should the need arise. The government should also take special measures to encourage women to report these crimes, such as raising awareness, and ensuring each police station has female police officers who are properly trained to handle complaints of sexual assaults. Many victims say that they fear the perpetrators will be protected.

Nepal’s government should introduce a reparation program for survivors of conflict-era sexual violence that is not contingent on successful prosecution and provides compensation and other services to individuals who come forward with their experiences of sexual violence. It should also include community-level interventions that address at least three critical needs of survivors of sexual violence and torture: long-term health care,

mental health services, and livelihood support, especially for those who have developed disabilities as a result of the violence or torture.

If the new government is committed to justice for conflict-era abuses, it should pay immediate attention to assisting those who, for years, are suffering the consequences of sexual violence that they endured.

# Key Recommendations

## To the Government of Nepal

- Ensure that the Truth and Reconciliation Commission or any other independent commission is specifically tasked with a mandate to investigate allegations of conflict-related rape and other forms of sexual violence.
- Develop, in consultation with local women's rights groups and women from conflict-affected communities, a reparations program that meets international standards.
- Implement legislative, policy, and programmatic changes as part of a larger reparative framework to rectify underlying legal, policy, and programmatic barriers or gaps that prevented conflict-era rape survivors from seeking justice.
- Ensure women's participation in the peace process, including in any truth commissions, and ensure that the commissions comply with international standards.

## Methodology

Human Rights Watch conducted the research for this report in collaboration with Advocacy Forum, a Nepali nongovernmental organization that specializes in documenting human rights violations and seeking legal redress.

For several years, Advocacy Forum has facilitated medical treatment and legal assistance to those affected by the 1996-2006 conflict in many parts of Nepal. In the course of its work, Advocacy Forum learned of women's experiences of different forms of sexual violence during the conflict.<sup>1</sup>

In April-May 2013, Human Rights Watch worked with Advocacy Forum to identify women willing to be interviewed about their experiences of sexual assault during the conflict. Human Rights Watch researchers conducted interviews with over 50 women. A combination of immense social stigma attached to sexual assault, fear of retaliation, and women's inability to travel to a safe location for interviews narrowed the pool of women whom Human Rights Watch was able to interview.

Several women shared their experiences of sexual assault that occurred when they were still children under the age of 18.

Due to logistical constraints Human Rights Watch was only able to interview women who lived primarily in the southern Terai region. Human Rights Watch chose this region because it is home to indigenous Tharu and other disenfranchised communities which have long been isolated and ignored by the ruling elite in Kathmandu, and witnessed intensive anti-Maoist operations during the conflict because Maoists found support there.

Human Rights Watch also chose districts in the western hill regions where the Maoists held control. We gathered information in cases where either security forces or Maoist combatants were identified as perpetrators.

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<sup>1</sup> Human Rights Watch did not interview male torture survivors to investigate whether sexual violence occurred.

Human Rights Watch findings in this report are not quantitative, but show that sexual abuse during the conflict may have been common, and broader documentation is needed once the state is able to provide adequate witness and victim protection, counseling, and other support.

In addition to interviews with women who experienced sexual violence, Human Rights Watch interviewed family members, doctors and counselors, activists, government officials, and donors.

Human Rights Watch interviewed only those women who were willing and able to travel to a safe location away from their village to meet with researchers. We took measures to respect the privacy of survivors and conducted interviews in as private a setting as possible. In five cases the women told Human Rights Watch that they preferred to have their husband or another support person of their choice present for a part of or the entire duration of the interview and we respected their wishes.

All interviews were conducted with full and informed consent. We also obtained consent to examine their medical records on file with Advocacy Forum. The interviews were conducted in Nepali, Hindi, or English, depending on the preference of the interviewee, using a female interpreter where required. In all cases Human Rights Watch took steps to minimize re-traumatization of survivors, stopping interviews if they caused distress. We have also not included in this report statements from women who appeared uncomfortable or unable to discuss the abuse that they suffered.

In order to protect victims and witnesses, individual names and all identifying information, such as location or incidents, have been modified or withheld.

## **Terminology and Limitations**

In this report, Human Rights Watch uses the phrase “security forces” to describe police officers, Armed Police Force (APF), or members of the then Royal Nepal Army, or a combination of all of these.

Most of the cases that Human Rights Watch documented occurred after Nepal declared a state of emergency on November 26, 2001. In earlier cases, the perpetrators were only members of the Nepal police because the APF or army was not deployed.

After the emergency was declared, the Royal Nepal Army (now known as the Nepal Army), was deployed to lead the combat against the Maoists under a policy known as the unified command. Since the army conducted joint operations with the police and Armed Police Force, including at night, survivors were often unable to distinguish between the security forces even though they were able to confirm uniformed officers.

In some cases women were able to describe the differences in uniforms worn by police officers and soldiers using characteristics like color and pattern (that is, whether it was camouflage or not), and these have been recorded. None of the women were able to specify the exact battalion or platoon to which the perpetrators belonged.

## I. Background: The Armed Conflict

Over 13,000 people were killed during Nepal's decade-long civil war between government forces and the Communist Party of Nepal (Maoist) (CPN-M). The signing of the Comprehensive Peace Accord (CPA) put a formal end to the conflict in 2006. However, both parties have failed to deliver on their promise to seek justice for victims of human rights violations including sexual violence, and to end impunity.

### Government Acknowledgment of Sexual Assault during Conflict

In February 2011, nearly five years after the Comprehensive Peace Agreement was signed, Nepal's government introduced the National Action Plan on Implementation of United Nations Security Council Resolutions 1325 and 1820. In this plan, the government acknowledged that "women also suffered from sexual violence during the conflict as well as the transition period due to the weak law and order situation."<sup>2</sup>

The National Action Plan also acknowledges the need to hold perpetrators accountable for such violence, stating: "There is a need to take legal action against those involved in different offences during the conflict period, and improve conflict affected women and children's access to justice."<sup>3</sup> Describing a justice system that deals with conflict-related sexual violence as the "need of the day," the Nepal government committed to implementing a "gender-sensitive" justice mechanism and recognized that it is "essential to make necessary amendments in the existing laws."<sup>4</sup>

The National Action Plan describes as "inevitable" the "formulation of laws, policies, and programs for addressing gender-based violence that took place during the conflict and the transitional period and their effective implementation."<sup>5</sup>

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<sup>2</sup> Government of Nepal, Ministry of Peace and Reconstruction, "National Action Plan on Implementation of the United Nations Security Council Resolutions 1325 and 1820 [2011/12-2015/2016]," February 1, 2011, <http://www.gnwp.org/wp-content/uploads/2010/04/Nepal-NAP.pdf> (accessed September 10, 2014), p. 5.

<sup>3</sup> Ibid. p. 18.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid. p. 19.

However, to date, the Nepal government has yet to take action to bring about such legal reforms and introduce programs to benefit survivors of sexual violence from the conflict-era. Programs responding to the needs of survivors of the conflict—especially women who experienced gender-based violence—are critical to assisting victims in coping with the long-term consequences of violence, including chronic pelvic pain, gynecological and pregnancy complications, migraines and other frequent headaches, back pain, premenstrual syndrome, and gastrointestinal disorders.<sup>6</sup>

## Momentum for Law Reform on Sexual Assault

As the Nepal government has itself recognized, its antiquated laws governing sexual assault urgently need change.

The Nepali criminal code criminalizes rape, sexual assault, and sexual harassment of women, and contains provisions making it a crime for officials to have sexual intercourse with women in certain situations. But hurdles such as the 35-day statute of limitations on reporting sexual violence remain in place. A process of drafting a new penal code, criminal procedure code, and sentencing law has been underway for the past several years, but is fraught with delays.

Public outcry following the December 2012 rape of Sita Rai<sup>7</sup> (see below) by a police constable resulted in some momentum for reform of laws governing sexual assault. The case triggered what is commonly known as the “Occupy Baluwatar” protests, which lasted over three months. In response, the government constituted a committee to look into sexual assault laws and recommend changes, which submitted its report in January 2013.<sup>8</sup>

However, in March 2014, former Home Secretary Navin Kumar Ghimire told Human Rights Watch that the relevant government departments had yet to submit recommendations.<sup>9</sup>

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<sup>6</sup> See for example, Centers for Disease Control and Prevention, “Sexual Violence: Consequences,” January 2, 2014, <http://www.cdc.gov/violenceprevention/sexualviolence/consequences.html> (accessed March 20, 2014); World Health Organization, World Report on Violence and Health, 2002, [http://whqlibdoc.who.int/publications/2002/9241545615\\_eng.pdf?ua=1](http://whqlibdoc.who.int/publications/2002/9241545615_eng.pdf?ua=1), (accessed March 20, 2014), Chapter 6.

<sup>7</sup> Name changed. This is the name used in Nepali media.

<sup>8</sup> “Panel submits VAW report to PM,” *Himalayan Times*, January 16, 2013, <http://www.thehimalayantimes.com/fullNews.php?headline=Panel+submits+VAW+report+to+PM&NewsID=362165> (accessed April 15, 2014).

<sup>9</sup> Human Rights Watch interview with Navin Kumar Ghimire, Kathmandu, March 24, 2013.

### *Sita Rai and the Momentum for Reform*

When she was 16, Sita left Nepal to work as a domestic worker in Saudi Arabia. To bypass a Nepali law that prohibits women below age 30 from migrating out of the country for work, Sita traveled on a fake passport.

When Sita returned three years later in December 2012, her fake passport was detected at the Kathmandu airport. In exchange for dropping charges, the immigration officer confiscated her savings of 9,500 riyal (2100 US dollars). Offering assistance to the now penniless woman, police constable Parsuram Basnet tricked Sita into a nearby lodge, and raped her.<sup>10</sup>

Sita Rai's story triggered public outrage. On December 28, 2012, a crowd assembled in front of then-Prime Minister Baburam Bhattarai's official Kathmandu residence in Baluwatar, to hand over a letter demanding an investigation into Sita Rai's case. The gathering turned into a protest against the increasing incidences of violence against women and gained momentum as the Occupy Baluwatar movement.

Representatives of the movement made several demands of the Nepal government. These included the arrest of perpetrators of sexual violence with warrants against them, amending rape laws to drop the 35-day reporting limitation period, lifting the ban on women under 30 from traveling to work abroad, and ensuring at least one third representation of women in parliament. In response, Bhattarai set up a commission of inquiry to look into and implement the activists' demands. Several charges were filed against four officers implicated in her abuse. The Occupy Baluwatar movement went on for 105 days, gaining support from Nepal's leading civil society activists, the public, and the media.

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<sup>10</sup> Parsuram Basnet was convicted for rape and sentenced to five years in prison. See Bhirkuti Rai, "The Fight Continues," *Nepali Times*, 10-16 January, 2014, <http://nepalitimes.com/article/nation/Rape-victim-Sita-Rai-fights-for-justice,1038> (accessed April 15, 2014).

## National Law

The Nepali criminal code, the Muluki Ain, criminalizes rape, sexual assault, and sexual harassment of women, although rape is limited to penile penetration of the vagina and does not extend to oral, anal, or other forms of sexual penetration. The law does contain provisions making it a crime for officials to have sexual intercourse with women in certain situations, including when in government custody, but does not extend to superior or command authority liability. The Supreme Court of Nepal has ordered revision of the law because the 35-day reporting limitation period is “unreasonable” and “unrealistic,” and is a barrier to justice for rape survivors.<sup>11</sup>

## Nepal’s Obligations under International Law

Nepal is a state party to many international human rights treaties which prohibit sexual violence, including rape, and torture. These include the International Covenant on Civil and Political Rights (ICCPR),<sup>12</sup> the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>13</sup> the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW),<sup>14</sup> the Convention on the Rights of the Child (CRC),<sup>15</sup> and the Geneva Conventions.<sup>16</sup>

In addition to the instruments mentioned above, customary international humanitarian law also prohibits sexual violence, making clear that these prohibitions apply to both sides of a conflict.<sup>17</sup>

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<sup>11</sup> *Sapana Pradhan Malla v. Government of Nepal*, Nepal Law Reporter 2065, vol. 11, page 1358-1366 as cited in Advocacy Forum, “Torture of Women: Nepal’s Duplicity Continues,” June 2012, [http://www.advocacyforum.org/\\_downloads/torture-of-women-report-june-26-2012-english.pdf&safe=active](http://www.advocacyforum.org/_downloads/torture-of-women-report-june-26-2012-english.pdf&safe=active) (accessed March 24, 2014), p. 33.

<sup>12</sup> International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force March 23, 1976. Nepal acceded to the ICCPR May 14, 1991.

<sup>13</sup> Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (“Convention against Torture”), G.A. Res. 39/46, U.N. Doc. A/39/51, entered into force June 26, 1987. Nepal acceded to the Convention against Torture on May 14, 1991.

<sup>14</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981. Nepal ratified the CEDAW on April 22, 1991.

<sup>15</sup> Convention on the Rights of the Child (CRC), G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sept. 2, 1990. Nepal ratified the CRC September 14, 1990.

<sup>16</sup> Nepal became a party to the four Geneva Conventions in 1964. Customary international humanitarian law has been set out in International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge: Cambridge Univ. Press, 2005).

<sup>17</sup> ICRC, *Customary International Humanitarian Law*, Rule 93.

The definition of sexual violence that international law prohibits is broad and has been interpreted through international jurisprudence to include rape and other forms of sexual violence.<sup>18</sup> In addition, certain forms of sexual violence during an armed conflict may constitute torture, and international law does not allow any derogation from the prohibition against torture.<sup>19</sup>

The UN has, through various security council resolutions, made clear that there must be national accountability for crimes of sexual violence and has pledged to support countries in holding perpetrators to account, particularly through the comprehensive Resolution 2106, adopted in June 2013, which reaffirms prior resolutions and sets out detailed ongoing concerns and recommendations on how to proceed to address sexual violence during armed conflict.

In light of its international and national obligations, Nepal has a duty to reform its criminal laws to recognize all forms of sexual violence and eliminate the 35-day limitation period that is a barrier to reporting and investigating sexual offences. In 2011, the CEDAW Committee (tasked with interpreting and monitoring state party compliance to the treaty) recommended that the Nepal government “take immediate measures to abolish the statute of limitation for registration of cases of sexual violence to ensure women’s effective access to courts for the crime of rape and other sexual offences.”<sup>20</sup>

Nepal should also incorporate command or superior responsibility as part of its criminal law for international crimes including war crimes and torture.<sup>21</sup> It also has an obligation to independently investigate and prosecute through civilian courts allegations of sexual violence committed by both sides to the armed conflict.

The government has an obligation to direct investigative and prosecutorial authorities to pursue accountability, no matter how high ranking the alleged perpetrator, and no matter

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<sup>18</sup> Rome Statute of the International Criminal Court (Rome Statute), U.N. Doc. A/CONF.183/9, July 17, 1998, entered into force July 1, 2002, art. 7(1)(g) and 8(2)(b)(xxii) and (e)(vi); ICRC, *Customary International Humanitarian Law*, Rule 93.

<sup>19</sup> ICCPR, art. 4(2).

<sup>20</sup> CEDAW, “Concluding Observations of the Committee on the Elimination of Discrimination Against Women,” CEDAW/C/NPLI/CO/4-5, July 29, 2011, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-NPL-CO-4-5.pdf> (accessed June 30, 2014) p. 5.

<sup>21</sup> UN Committee Against Torture (CAT), “General Comment No. 2: Implementation of Article 2 by States Parties,” January 24, 2008, CAT/C/GC/2

which political party is in power. Moreover, the government needs to ensure judicial independence and ensure that its investigative and prosecutorial authorities respond in a timely and cooperative manner to Supreme Court and other court directives.

Nepal should also make effective reparation to victims in accordance with the UN Principles and Guidelines on the Right to a Remedy and Reparation for Victims.<sup>22</sup> According to these principles, “a person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted”<sup>23</sup> and the term “victim” also “includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.”<sup>24</sup>

Reparation for serious violations of human rights, including sexual violence, can take different forms and may include restitution, compensation, rehabilitation, and guarantees of non-repetition.<sup>25</sup> While providing reparations, Nepali authorities must also realize the serious impediments to accessing reparations for particularly disenfranchised groups, which include women and victims of sexual violence, and ensure that systems are in place to reach these victims and provide reparation to them. Any reparation program should be designed in consultation with victims of sexual assault and be in accordance with the UN Secretary General’s Guidance on Note on Reparations for Conflict-Related Sexual Violence.<sup>26</sup>

In January 2014, the Nepal Supreme Court rejected the Truth and Reconciliation Ordinance as unconstitutional, and directed the government to bring it in line with international law to ensure that perpetrators of serious human rights and humanitarian law violations are not subject to an amnesty.<sup>27</sup> Just three months later, the government responded by

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<sup>22</sup> General Assembly, “Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” Resolution 60/147 (2006), A/RES/60/147 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx> (accessed June 30, 2014).

<sup>23</sup> Ibid. para. 9.

<sup>24</sup> Ibid. para. 8.

<sup>25</sup> Ibid. See also: Committee Against Torture, “General Comment No. 3: Implementation of Article 14 by States Parties,” UN Doc. CAT/C/GC/3 (2012), para. 6.

<sup>26</sup> United Nations, Guidance Note of the Secretary General, “Reparations for the Conflict-Related Sexual Violence,” June 2014, <http://www.ohchr.org/Documents/Press/GuidanceNoteReparationsJune-2014.pdf> (accessed September 4, 2014)

<sup>27</sup> “Nepal: Pillay welcomes Supreme Court ruling against amnesty for serious crimes,” *UN News Center*, January 6, 2014, <http://www.un.org/apps/news/story.asp/story.asp?NewsID=46872&Cr=Nepal&Cr1=#.UoonXE2KD3g> (accessed April 15, 2014).

submitting and passing into law a Truth and Reconciliation Commission (TRC) bill, which essentially copies the previous one.<sup>28</sup>

Although rape and serious crimes are specifically mentioned in the new draft as a crime for which no amnesties are allowed, the failure to specify what constitutes serious crimes is problematic. Torture, for example, is not criminalized in Nepali law, and the vagueness of the draft bill means that perpetrators of torture could be amnestied.

In its concluding recommendations to Nepal, the CEDAW Committee specifically reiterated the need to ensure that any Truth and Reconciliation Commission is gender sensitive and “pays attention to the social and security dimension of public testimony for victims of sexual violence.”<sup>29</sup>

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<sup>28</sup> “Nepal to grant amnesty for war crimes,” *Press Trust of India*, April 10, 2014, [http://www.business-standard.com/article/pti-stories/nepal-to-grant-amnesty-for-war-crimes-114041001146\\_1.html](http://www.business-standard.com/article/pti-stories/nepal-to-grant-amnesty-for-war-crimes-114041001146_1.html) (accessed April 15, 2014)

<sup>29</sup> CEDAW, “Concluding observations of the Committee on the Elimination of Discrimination against Women,” July 29, 2011, p. 9.

## II. Sexual Violence by Security Forces

During the conflict, many have described an overall climate of fear where civilians were caught between Maoist combatants demanding support, and security forces reacting angrily to any support for Maoists, coerced or otherwise.

This section provides in-depth accounts of specific episodes of sexual violence perpetrated by security forces against women and girls. The nature of sexual assault itself varies and includes molestation, and penile and other forms of penetrative sexual assault.

### Climate of Fear and Sexual Harassment

Almost all women who spoke to Human Rights Watch described widespread fear of sexual harassment and mistreatment, and said that the anti-Maoist security force operations in their villages were generally abusive. In addition to violent raids that included beatings, security force members made derogatory and sexually humiliating comments while addressing women and girls, particularly relatives of combatants or those suspected of providing food or shelter to the Maoists.

Daya recalled that on many occasions, troops would “kick the door open and say ‘*Eh randi* (whore), get up.’”<sup>30</sup> The raids, which occurred daily and often several times a day, were stressful. “I had become really thin. I didn’t have proper sleep. I used to be worried all the time.” Although it did not eventually work, to protect herself from sexual mistreatment, she said she would pick up her little son in her arms, hoping it would serve as a deterrent.

Every time they [security forces] came, I used to grab my four-year-old son and hold him in my arms. It didn’t matter what he was doing—even if he was sleeping—I’d grab him and wake him up. I used to think maybe if they saw a child in my arms they would take pity and wouldn’t touch me.<sup>31</sup>

Jyotsana, who lived with her family, said security forces would beat villagers, including women—accusing them of supporting the Maoists.

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<sup>30</sup> Human Rights Watch interview with Uma (pseudonym), location withheld, April 29, 2013.

<sup>31</sup> Ibid.

When they came at night—both army and police would come and bang on our doors and kick and wake us up. Other times, they would come walking and surround the village and ambush people who had gone out to go to the toilet. Even if we went to the cornfields sometimes they would come catch us and beat us and use filthy language to address us—*randi, beshiya* [whore]. They kicked and pulled us by our hair.<sup>32</sup>

## Targeting Maoist Combatants, Relatives, and Individuals Alleged to have Aided Maoists

Human Rights Watch documented several cases of sexual assault during interrogations either in police or army custody, or during police or army visits to the homes of relatives of Maoist suspects or families suspected of aiding Maoists. There was a striking similarity in cases from the different districts indicating that sexual assault was used to terrorize and gather “intelligence” on Maoist movements, or as a form of revenge for Maoist affiliation.

### *Rape, Torture, and Cruel, Inhuman, and Degrading Treatment in Detention*

Human Rights Watch documented serious cases of torture including repeated sexual assault of women and girls in police or army custody. None of them were detained by or in the presence of female police officers, nor did they see a female police officer during detention. Only one interviewee told Human Rights Watch that the police framed terrorism charges against her. But she recalled being produced in court and being allowed access to lawyers only after spending many months in army custody in different barracks during her detention period. Family members were not informed of the detention.

In four cases, the women reported that they had been children under the age of 18 who were studying in school when they were detained and raped. In all of these cases, Maoists forcibly recruited or persuaded the children before being captured by security forces.

### **Gayatri, 2001**

Gayatri, a student, had several relatives who were Maoists, and combatants often used to come to her village for food and shelter, and beat those who refused to help. In the winter

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<sup>32</sup> Human Rights Watch interview with Jyotsana (pseudonym), location withheld, April 27, 2013.

of 2001, a group of Maoists came to her class and forcibly recruited five students, including Gayatri, who was a minor at the time, promising to send them back home within two or three days. When Gayatri protested saying she needed her parents' permission, the Maoists warned that they would kill her and her parents if she did not comply, and forcibly recruited and armed the five students with grenades.<sup>33</sup>

After days of walking through the jungle, Gayatri fell sick and the Maoists left her and her friends in a village. One day, as she was bathing under a tap, she was surrounded by security forces. "Suddenly I felt like there was green everywhere. I looked behind me and everywhere I looked there was the army," she said.<sup>34</sup>

Security forces found the grenades, and refused to believe that Maoists had forcibly recruited Gayatri and the other students. After blindfolding and binding their hands, they took her and her friends into custody.

Gayatri was first threatened with rape when she was detained overnight at a makeshift camp, where her blindfold was temporarily removed. "They [security force members] just talked badly to us. They said, 'You are bad people. The Maoists must have raped you. We'll also rape you and leave you.'" The next day, security forces transferred Gayatri and her friends to an army camp where they were separated. Gayatri did not see her friends again.

The rapes began from the first day. She was still blindfolded. The first time the man who came in to take away her dinner plate raped her. Soon it became a pattern. Men entered her room on some pretext or the other—of giving her food, water, clearing the dishes, or taking her to the toilet—and raped her. During the days she was interrogated and beaten and at night she was raped. Gayatri also described how she was forced to provide oral sex or masturbate the men.

The rapes continued for many days. I was blindfolded throughout. My hands were untied after the first few days. There were around five or six officers every night.<sup>35</sup>

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<sup>33</sup> Human Rights Watch interview with Gayatri (pseudonym), location withheld, April 30, 2013.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

If Gayatri protested, they kicked and beat her. On one occasion she screamed and the man who was in the room hit her on the forehead with a rifle butt, leaving a scar, still visible, on her forehead. They threatened to kill her and her parents if she told anyone about the rapes.

Gayatri estimates that she was detained there for about 25 days and that she was raped for 12-15 of those days. She began to have heavy vaginal bleeding because of the rapes and described how she used her petticoat to absorb blood, washing it every day when she was allowed to use the toilet. She also told Human Rights Watch that the room where she was detained was dirty and smelled of dried blood.

After seeing her plight, one of the officers in the army camp organized her release. She gave him her aunt's number who came to take her home. The first time her aunt came, the army officer told her to return with a set of clothes for Gayatri. Before she left the army camp, Gayatri was told to throw away the clothes she was wearing, put on the fresh set of clothes.

After her release, Gayatri confided in her aunt who took her to a hospital for medical treatment and an HIV test, which was negative. They destroyed the records because they did not want anyone else to find out. Because she was blindfolded for a longtime, Gayatri felt it caused her problems with her eyesight soon after her release, lasting over a month. "My eyes tear a lot. I used to have severe pain when I opened and closed my eyes. I got headaches." The beatings during her detention weakened her back, making it difficult for her to work, she said. She continues to have nightmares.

Gayatri has since married. She wants justice but she is too scared to report the case because she does not want her in-laws and husband to find out.

### **Diksha and Basanti, 1999**

During the conflict, Diksha lived with her family. Her father was a Maoist and was not living with the family. She said the police with "plain blue dress without patterns" started coming to their house to inquire about his whereabouts but the family had not seen or heard from him. She recalled that groups of 10 or 12 police officers turned up frequently at any time of day or night.

In November 1999, when Diksha was still a minor, a group of what seemed like 24-25 police officers arrived at her house in the morning when she was cooking. There were no women police officers in the group. They started interrogating everyone about Maoist whereabouts and beat her, her brothers, and her mother. “They kept asking us about Maoists and beat us,” she said.<sup>36</sup>

The police blindfolded her and her mother and took them to the police station, kicking, beating, and pulling their hair en route. “They threatened that they would kill us. They kept calling us ‘*Randi, raadi*, wives of Maoists,’” said Diksha.

They reached the police station after sunset. She was separated from her mother and taken to a room that she later learned was where the police inspector slept. The police officers interrogated and tortured her in the room.

In the room, they handcuffed me and shackled my legs. I was sitting on the floor when a drunk officer entered and started shouting at me using filthy language. He started beating me with a stick, all over. I was leaning against a wall and sitting with my legs outstretched. He stepped on my knees and started beating me on the soles of my feet with a stick.<sup>37</sup>

After beating her, the police officers raped her, she said. She recalled that there were several men in the room and they together overpowered her: “I heard about three or four men in the room. One officer stepped on my legs, another held down my hands, someone closed my mouth....” She said one of them proceeded to rape her with what she felt was a stick.<sup>38</sup>

Diksha told Human Rights Watch she fell unconscious and could not recollect other details. She woke up to find herself handcuffed to a pillar; her body was swollen, and her clothes torn. She needed to go to the toilet, but could barely walk because of severe pain. In the end, the policemen had to help her walk to the toilet downstairs. She found it difficult to pass urine. She recalled that she was bleeding and there were blood clots in her urine.

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<sup>36</sup> Human Rights Watch interview with Diksha (pseudonym), location withheld, April 30, 2013.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

For a little more than two weeks, Diksha says she was kept in detention and beaten. She recalled being raped at least on three separate occasions. On the third occasion she said she was not blindfolded when raped and saw that it was the “inspector” who raped her. She could smell the alcohol on his breath and guessed it might have been the same man who was involved in the previous rapes because the alcohol breath seemed familiar. She was not produced in court or allowed contact with any relatives while she was in detention.

Human Rights Watch spoke to Basanti, Diksha’s mother, who was also detained in the police station and released with her daughter. Basanti said she was beaten, including with nettles. She showed scars from the beatings on her left shin and her arm where she was hit with a rifle butt. Basanti said she was also blindfolded and raped with an object that she thought was a stick. She felt a surge of intense pain and passed out. “When I regained consciousness at night I found that my legs and groin area were swollen and I had bruises,” she said.<sup>39</sup> Basanti was beaten so badly that she developed severe back pain and for a while lost all sensation in one of her toes.

She and her daughter were released after more than two weeks in police custody on the condition that they report at the police station every day. After they were released, they feared being killed and joined the Maoists for protection. They went to hospitals for medical treatment, but lost their medical documentation in another village raid by security forces.<sup>40</sup>

### **Shakti, 2003**

Shakti was a minor in secondary school when members of the Maoist party came to her school to recruit students. She became a combatant and was a member of the district squad and platoon for about nine or ten months, and then mostly engaged in spying for about a year before the Nepal Army captured her.<sup>41</sup>

In 2003, she and another combatant had sheltered in a village, in a civilian’s house, when she said soldiers arrived at night and beat the house owners for sheltering Maoists. Shakti had a pipe bomb with her, which gave her away. The soldiers blindfolded and tied her

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<sup>39</sup> Human Rights Watch interview with Basanti (pseudonym), location withheld, April 30, 2013.

<sup>40</sup> Ibid.

<sup>41</sup> Human Rights Watch interview with Shakti (pseudonym), location withheld, April 29, 2013.

hands, and hit her with the rifle butt. Because of her work as a Maoist combatant, Shakti was able to clearly identify that those who took her into custody were from the army.

She recollected regaining consciousness and discovering that she was almost buried under the soil. “I found that my entire body was under the soil. They had dug up the ground and buried me, and my face was above the ground,” she said.<sup>42</sup>

When they saw her conscious, they pulled her out of the soil, covered her mouth, and poured water into her nose. Soldiers kicked her all over, including on her chest and vagina. They threatened her with forced oral sex. Shakti was blindfolded and did not know how many officers were there but estimated there might have been five or six around her.

The next episode of torture she recalled occurred about six months later, during her detention in the barracks where she said she was routinely interrogated about Maoist leaders and their whereabouts.

Describing the torture she suffered blindfolded, Shakti said: “My legs were lifted and tied and my hands were tied too—it was like a V-shape and I could feel something sharp poking my back.” They passed electric currents through her feet twice a day on many days, once in the morning and at night. They beat her regularly. Shakti estimated that this carried on for two or three months.

During her detention in the barracks, which she estimated lasted about 10 months, Shakti could not recall any specific episode of sexual assault but said she had difficulty passing urine and felt a burning sensation. She could feel that all her clothes were torn. “Everyone could see me naked—everything would show,” she said. They would not even untie her hands when she wanted to use the toilet and she could not clean herself. She recalled how humiliated and dirty she felt, “I felt like I was a pig.”<sup>43</sup>

From the barracks, Shakti was sent to two other detention centres. In the second one, she was housed with other female Maoist combatants. She believed a handful of the female combatants there were raped. Shakti said:

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

There were about 45 of us—we used to cook and live together so I knew how many of us were there in the center. Of the 45 women I think about 10-15 of them were sexually assaulted. I am sure that at least five of those women were definitely raped by the army. When we used to sit down and chat they wouldn't say it directly but they would say other things that made it clear that they were raped. One woman, for example, told us that 11-12 men came and took her and that she bled a lot after those days.<sup>44</sup>

Terrorism charges were framed against her, but she was released once the peace agreement was signed.

Shakti narrated how her health suffered because of the months' long torture. "The soles of my feet hurt like they were pus-filled—I can't describe the pain—it was because of the electric shocks."<sup>45</sup> The continued suspension during custody weakened her upper body so much, she said, that she could not even carry and breastfeed her children. She is unable to work and relies on her parents' support.

### **Radhika, 1998**

Radhika said that the Maoists came regularly to her village and often asked her to join their programs, but she refused. In November 1998, when she was still a minor, Radhika was walking to school in a group of around 15 students when they ran into security forces. She said, "Suddenly we came upon a group of men in black camouflage uniform. They told us that we had to come with them to the police station."

At the police station, everyone else was released but Radhika and two other girls. All three of them were detained together in a large hall, and were taken out to be questioned individually. Radhika says she was beaten during interrogation.

During the questioning, I was beaten and questioned about Maoist movements, about whether I had attended Maoist programs. There had been a Maoist procession earlier that day, so they thought that we had something to do with that. I was beaten very badly.... They kicked me

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<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

against the cement wall and forced my head against it. I remember that blood started streaming down from my head and I collapsed on the floor. The first time they questioned me they put pins under my nails.<sup>46</sup>

On the third day, all three girls were first shifted to another police station and then transferred to the District Police Office, where Radhika was dragged into the office of the deputy superintendent of police (DSP). She said:

I resisted going, so the police officer dragged me to the office of the DSP, kicked and pushed me very violently, and threw me at the feet of the DSP. The policeman then left the room. I was alone with the DSP. I know he was the DSP because he told me so.<sup>47</sup>

The DSP spoke to her in a derogatory way, making unwelcome sexual comments. Radhika recalled, the “DSP started by saying things like ‘Oh, this is a pretty one, come close to me,’ and he was using dirty words.” Soon he told her to take off her clothes and when she refused, he hurled verbal insults at her, and slapped, stripped, and raped her.<sup>48</sup>

Radhika said this continued for about a week. She was taken for “questioning” every day where the DSP raped Radhika each time barring one occasion where another official was involved. Describing these episodes of sexual assault, Radhika said:

Each time except once, I was raped by the DSP. The one exception was when an “inspector” raped me. I was beaten and kicked each time. During some of the rapes, the DSP would call some policemen in to hold me down and cut me on my thighs.<sup>49</sup>

She recounted how they tortured her further by applying chili and salt powder on her cuts and in her vagina. She said, “It used to burn very badly. I remember they kept saying this is

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<sup>46</sup> Human Rights Watch interview with Radhika (pseudonym), location withheld, April 24, 2013.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

what happens to Maoists. They put pins in my nails, both on hands and feet. My finger nails fell off afterwards, I suppose because of the pins.”<sup>50</sup>

After about a week her cousin found out where Radhika was being held and met the DSP asking for Radhika’s release. Although the DSP insisted that he had full records on her Maoist activities, Radhika was released on parole on the condition that she should report to the police station every three days. Before her release, DSP warned her: “I remember the DSP telling me before release that I wouldn’t live if I dared talk about what had happened.”

Radhika could barely walk after she was released and her family took her to hospital where they admitted her for two weeks during which period the doctors sent notes every three days to the police station. After she returned from the hospital she continued to report at the police station every three days. Once again she got a veiled threat of torture and rape: “Eventually, the police started telling me that I should get married immediately or else the same thing would happen to me all over again.”<sup>51</sup>

Radhika left the district and married a year later. Until now she has not disclosed the torture or rape to her husband and in-laws. It has been nearly 15 years after the incident but she said she still suffers because of it, complaining that she cannot eat properly, bleeds heavily during her menstrual cycles, and experiences a “tingling burning kind of pain in my head” where she was hit.<sup>52</sup>

### **Jyotsana, 1996**

Jyotsana lived with her family in Udayapur district during the conflict and said there were constant search operations by security forces. When she was 12, Jyotsana decided to join the Maoists because she felt they were more respectful and helpful than the security forces. The Maoists met the villagers, organized programs in schools, and promised that there would be food, dancing, and singing, she explained.<sup>53</sup>

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<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Human Rights Watch interview with Jyotsna (pseudonym), location withheld, April 30, 2013.

Drawn by their promises, she and a cousin joined the Maoists. However, after four or five months, Jyotsana decided to leave because she could no longer endure the long treks in jungles or the lack of food. The Maoists allowed her to leave with a warning not to disclose names or hideouts. But the villagers refused to let her stay, fearing that her association with the Maoists could cause trouble with security forces.

Jyotsana told Human Rights Watch that she suspected that while she was trying to find shelter in one of the villages a police informer gave her away, leading to her capture and detention. She gave a vivid description of her capture—she was hiding under the bed on the first floor of the house and she heard the security forces downstairs “searching and throwing things.” They came upstairs and found her under the bed:

I heard one of the officers loading a rifle and then another one told him not to shoot me. So the officer pointing the gun at me asked me to come out. As soon as I came out, they started hitting me with the butt of the rifle—they hit me on my face, head, back, and kicked me with their boots. They were wearing a uniform similar to what the armed police force now wears.<sup>54</sup>

Jyotsana told Human Rights Watch that she was dragged away and taken to another villager’s house some distance away, possibly an illegal makeshift detention center. She was detained there for two days and beaten. She was also threatened with rape:

*‘Randi, you’ve been with Maoists and had sex with them. Now you can have sex with us. If you can give it to them, you can give it to us also.’ They used to say dirty things like this and beat me. Or they would hold my hands and say, ‘These are the hands that have used Maoist rifles.’<sup>55</sup>*

Jyotsana was moved from the village-house where she was detained and transferred to various police stations where she was periodically beaten and interrogated. During one such transfer she was molested by a police officer who was accompanying her:

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<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

On the way one police officer touched both my breasts and asked me, ‘How do you like this?’ The other officers were watching and laughing. I got angry and said, ‘How would your sisters feel if you did that? That’s how I feel.’ When I said that they got angry with me. But he didn’t do it again.<sup>56</sup>

After spending months in police custody, Jyotsana was eventually released.

## Rape and Sexual Assault during Search Operations in Villages

Villagers often suffered harsh questioning, beatings, and other abuses during search operations. However, families of suspected Maoist combatants or those suspected of assisting them were particularly at risk.

This section describes cases of women family members of Maoist suspects who suffered torture. It also includes cases of sexual abuse during search operations, including of women from families suspected of aiding Maoists. The case studies below show the nature and circumstances of sexual assault that women experienced during search operations.

### **Madhavi, 2004**

Madhavi lived with her husband, his brother, and her brother’s wife during the conflict. The Maoists used to come to their home often, demanding food and shelter. In August 2004, some Maoists came to their house and asked them to keep a suitcase for them. “They said they would take it soon. We said, ‘We are scared of the army.’ But Maoists said nothing will happen,” Madhavi said.<sup>57</sup>

A few days later, at around 8 a.m., troops surrounded the house. Madhavi told Human Rights Watch that she was not aware that her husband and his brother were Maoist supporters. She was taken aback when her husband produced a gun that he had hidden away. “The soldiers were beating us. Finally my husband showed them the gun he had hidden inside the cowshed,” she said. They beat them and asked for more weapons but did not find any. She recalled, “One of the soldiers said, ‘She has lied. She is a Maoist as well.’”<sup>58</sup>

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<sup>56</sup> Ibid.

<sup>57</sup> Human Rights Watch interview with Madhavi (pseudonym), location withheld, April 23, 2013.

<sup>58</sup> Ibid.

They separated Madhavi from her husband and dragged her into a cowshed. Describing what happened, she said:

They kicked me as if I was a football from here to there. When the first person raped me, I was conscious. But there were four or five people inside the shed, and I don't know how many others raped me. I was unconscious.... I remember one person that raped me. He looked like a demon. I was told that he is a major. <sup>59</sup>

When she recovered some time later she found herself lying in the shed. Her clothes were torn, and she was covered in cow dung. She was swollen and bruised and had difficulty walking, she told Human Rights Watch, describing how she struggled to walk back home from the shed.

The soldiers had left, and had taken away her husband and brother-in-law. The family was anxious and frightened about their disappearance. Within a few days, with the help of villagers, they found the two men's dead bodies and buried them. <sup>60</sup>

When news of the two deaths spread, some human rights activists visited the family, and they took Madhavi to the police station to file a police complaint regarding the killings. She did not mention her rape. "How could I say anything to them? The police said we were Maoists." The activists also took Madhavi to a hospital first in a nearby city, and then to Kathmandu. She says she had rib and back injuries from the beating. Her three-year-old son, who was also traumatized by the violence, also received treatment, she said.

Madhavi told Human Rights Watch that she still felt the damage that was done to her body. "I have pain in my body. Heavy lifting is painful." Madhavi also wanted "punishment for those people" and "compensation."<sup>61</sup>

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<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

### **Meera, 2003**

During the conflict, Meera said that there were heavy security patrols in the district where she lived. Meera told Human Rights Watch that Maoists used to come and ask for food, or for shelter. “We were stuck in between. If the Maoists said to ‘give food’ and we refused they were angry. But if we helped the Maoists, the army was angry.”<sup>62</sup>

In August 2003, security forces arrived in the morning, the day after Maoists had stayed in her house and left. At the time the forces came, her husband had left for work and she was alone with her six-month-old daughter. “The men surrounded the house and started inquiring about the Maoists. “Do you have Maoists in your home? Did you give food to them?” she said, describing how they questioned her.<sup>63</sup> When she denied having assisted the Maoists and went inside the house to feed her six-month-old child, four members of the security forces followed her inside.

One of them snatched the baby from her breast and threw her to one side, hurting and leaving the baby wailing. They continued to question her about the Maoists, and started beating her. Recalling how they forced her on to the bed and threatened to kill her, Meera said:

Then they threw me on the bed. I cried and shouted. When I cried, they kicked me in the face. They threatened to kill my daughter and to kill me.... One after another they raped me.<sup>64</sup>

Meera says she became unconscious. When she regained consciousness, she did not see the men around. She saw that she had “welts on the back from the beatings” and cuts on her lips and cheeks. “I could not even get up,” she said describing the agony she was in. Neighbors came and found her in that state some time later.

The rapes left her traumatized and shocked. “I could not eat. I was just lying there,” she said. When her husband returned from work that evening, he learned from her neighbors what had happened. “He felt helpless and started crying,” Meera said.

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<sup>62</sup> Human Rights Watch interview with Meera (pseudonym), location withheld, April 25, 2013.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

The following day, a neighbor took her for a health check but she did not tell the doctor about the rape. Meera could not do anything for three months after she was raped. She was unable get up. The neighbors cooked for the family and took care of the baby. After three months, when she went back to the doctor, she learned that she was pregnant:

I knew that it could not be my husband's child since I had been sick before the security forces came. So I knew that the child was because of the rape, of those officers who raped me. I couldn't even abort the child since my health condition was so poor. My husband also said not to abort the child.<sup>65</sup>

Meera has a daughter from the rape, and had two sons after that. While there was no trouble with her pregnancies, she says that her health condition is not good.<sup>66</sup> She wants financial assistance.

### **Parvati, 2003**

Parvati lived with her husband and children during the conflict. Many people from the area had joined the Maoists who used to routinely seek food and shelter from the villagers. During 2001-2002, Parvati says that civilians were routinely targeted during intensive security operations in the area.

One day in February 2003, security forces arrived at her house when Parvati's husband had gone to the market and she was alone at home with the children. She was inside cooking, while the children were outside. Security forces came inside and started questioning her about Maoist whereabouts and searching her house.<sup>67</sup>

[O]ne of the men grabbed me by the neck and dragged me to the corner of a room. The other two were outside. He ordered me to take off my clothes. I refused. 'Why should I take off my clothes?' He had a gun over his shoulder.

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<sup>65</sup> Ibid.

<sup>66</sup> Medical report accessed with consent and on file with Human Rights Watch. Evaluation suggests post-traumatic stress disorder (PTSD) and risk of self-harm.

<sup>67</sup> Human Rights Watch interview with Parvati (pseudonym), location withheld, April 24, 2013.

He said, 'I will kill you.' He then pushed me against the wall.... then he raped me.<sup>68</sup>

He then warned her against telling anyone of the rape. Parvati says that she remained inside the house while the man went outside and joined the search operation. When her husband returned, Parvati told him and a neighbor. The neighbor took her to a medical center and told the doctor she was raped but he gave her medication without examining her, she said. Parvati wants justice and compensation for what was done to her.

### **Daya, 2003**

Daya is one of her husband's two wives. Both wives lived in the same house with the parents-in-law and the husband's brother and his family. One a night in January 2003, when security forces arrived on a search operation, Daya's husband was with the other wife in a different room. Daya was asleep and her little son was with her. Security forces woke her up:

It was dark. The men shone a torch at me. I woke because of the light. I could not see anything. For a second I thought it was my husband. But there were two people inside my room, and they were in boots and uniforms. They pulled the blanket off me. It was cold and my baby started crying.... One of the men had gone into the adjoining kitchen. He said, 'Why do you have so many utensils. Are you cooking for the Maoists?' I said we were a big family.... Then they started forcing me. I can't describe what they did. They did so many things. I lost my mind. It is a matter of shame.... After the first one raped me, I tried to snatch the blanket back, but the second one pulled it away. He raped me too.<sup>69</sup>

Daya told Human Rights Watch that when she told her husband what happened he was angry. He asked why the other women in the house had not been raped, considering that the security forces had searched the entire house. He called her a prostitute. But the other relatives pointed out that only she was alone that night. The rest had their husbands in the room when security men started their search.

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<sup>68</sup> Ibid.

<sup>69</sup> Human Rights Watch interview with Daya (pseudonym), location withheld, April 24, 2013.

Daya said she went to the local primary health care center, where she did not say anything about the rape because she was ashamed and got some medication for stomach pain. Daya, at a minimum, wants compensation. She says her husband no longer takes care of her since the rape.

### **Sita, 2002**

According to Sita, in mid-September 2002, there was a big security operation in her village. The area was cordoned off. Villagers reported gunfights between Maoists and security forces.

Security forces came to their village often, interrogating and warning them not to assist Maoists. “They said, ‘You give food to the Maoists and shelter.’ Every day they used to ask us about the Maoists. They would tell us not to help the Maoists,” she said recounting how relentless the questioning was. She also recalled the threats they received from the security forces: “If we find out that you have provided support we will kill you.”<sup>70</sup>

Sita described one such visit by security forces. They arrived when the rest of the household was asleep but she had woken up very early. While the others were outside, two men came into the house to question her. That morning, the interrogation irritated her and she retaliated: “Maoists come in the night. If we don’t give them food and lodging, they shout at us, threaten us. What do you want us to do?”

Angered by her response the security forces started using derogatory language, pushed her on the floor, and started beating her. Then, while one of the men stood guard, the other raped her. She says she thought that her attacker was the senior officer, because he ordered the other man to wait.

He pushed me on the floor. He beat me. And then he raped me. The other officer was outside the door. After he raped me, both of them went away. I was very scared.<sup>71</sup>

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<sup>70</sup> Human Rights Watch interview with Sita (pseudonym), location withheld, April 25, 2013.

<sup>71</sup> Ibid.

After they left, she asked her husband why he had not come out of his room to help her. He expressed his helplessness because he was threatened: “There was a man standing at the door and he threatened to kill me.”<sup>72</sup>

Sita and her husband did not file a police complaint. They were too frightened. She says she cannot forgive her husband for not trying to come to her rescue, and they often fight.

### **Asha, 2002**

The village where Asha lived during the conflict was a Maoist stronghold, which witnessed intensive security force operations. According to Asha, initially the local police used to patrol the area. But because Maoists had bombed the police station, the Nepal army was deployed, conducting joint operations with the police. Asha’s brother-in-law was a Maoist and security forces targeted the family for questioning.

Asha’s husband, who also spoke to Human Rights Watch, said he suspected that the village informer tipped off the security forces, leading to repeated visits to their house for interrogations about his Maoist brother. Asha and her son were alone one night in September 2002 when her husband was away to meet a sick relative.

They came late at night and knocked on my door. I woke up. They ordered me to open the door and said they would otherwise break down the door. I opened the door, and one officer came inside. When he saw I was alone, he took my hand, pulled me to the bed and made me lie down. He threatened that if I shouted, he would kill me. I tried to escape but failed. He was stronger. He raped me. Before he left, he warned me, told me not to tell anyone. I was very scared.... I could not sleep. I went to my neighbor’s house. I did not say anything about the incident.<sup>73</sup>

Asha told her husband the next morning. He told Human Rights Watch that he took his wife to a doctor immediately because he worried that she might get pregnant. They informed the doctor she was raped and got some medication.

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<sup>72</sup> Human Rights Watch interview with Sita’s husband, location withheld, April 25, 2013.

<sup>73</sup> Human Rights Watch interview with Asha (pseudonym), location withheld, April 25, 2013.

Asha and her husband are skeptical about justice because she said it would be difficult for her to single out the rapist; it was a big operation and soldiers had arrived in six or seven vehicles the day she was attacked. But even if she could not get justice, at a minimum she wants compensation.

### **Bipasha, 2002**

Bipasha was visiting her in-laws in a different village for four or five days in September 2002. Her brother-in-law (husband's brother) had joined the Maoists and the security forces often interrogated the in-laws about his whereabouts.

She recounted how the security forces came to her in-laws' house many times. On one day in September 2002, they came early in the morning when the family was asleep: "They just barged in. We were frightened. They looked everywhere, and then they went away."<sup>74</sup>

They returned at around 7 a.m. the same day when the family was awake, asked her parents-in-law questions about their Maoist son, and started questioning and threatening them. Bipasha recalled them saying: "Where is your son? You have to bring him here. Why did he join the Maoists? If you don't bring him, we will kill you."

When her parents-in-law explained that their son had joined the Maoists against their wishes and they did not know where he was, security forces beat her family members and left. But they returned again at around 9 a.m. when Bipasha was alone with her baby and parents-in-law. They asked Bipasha to produce a photo of her brother-in-law. When she told them she did not live there and did not have a photo, they dragged her inside.

[T]hey took me inside and asked me to open the box where we store our clothes. Some of them dragged the box outside. The others started beating me inside. They were kicking me, hitting me, pulling my hair.... Then they pushed me down on the floor.

She described how they proceeded to rape her:

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<sup>74</sup> Human Rights Watch interview with Bipasha (pseudonym), location withheld, April 23, 2012.

They were holding me down and yelling at me. There were many of them. They were raping me. At some point I must have lost consciousness.<sup>75</sup>

When she regained consciousness she found that the security forces were still there:

I was in great pain.... And then I soiled my clothes. One of the men said, 'Let's go. She might die.' ....My mother-in-law was crying, saying, 'Don't do this. She has a small child.' But the men shouted abuses at her.<sup>76</sup>

Bipasha said she was covered in bruises and cuts, had heavy vaginal bleeding, and was unable to walk. One of her brothers-in law took her to a doctor where she was given medicine. Her in-laws sent word to her husband who used to work in another part of the country. He came to fetch her after four or five days and took her back home and cared for her. Her husband, who also spoke to Human Rights Watch, said he took her to a hospital but they were too scared to report the rape.

More than 10 years after the incident, Bipasha felt she was yet to fully recover, underscoring the importance of psycho-social and other support for survivors of rape.<sup>77</sup> Both Bipasha and her husband told Human Rights Watch they want compensation and the perpetrators to be punished.

### **Manorama, 2002**

Manorama said she was alone with her baby son and her nine-year-old sister-in-law, when the security forces arrived on a search operation in October 2002 in the village where she lived. Her baby was only 11 days old, so she was still at home recovering from childbirth while her husband and her other in-laws worked in the field.

She was bathing at a hand pump when seven or eight armed men in military uniform asked about her family. She explained that everyone had gone to the field. Some of the men went inside to check. Her sister-in-law saw them, was frightened, and fled. Manorama explained that the security forces were often rude and aggressive during search operations, and the

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<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Medical report accessed with consent and on file with Human Rights Watch. Evaluation suggests PTSD.

local people were afraid of them. When the security forces did not find anyone else, they left to continue their search operations.

A little while later two members of the same group who had visited their house earlier returned. Manorama described what happened:

I had finished my bath but was still at the pump. They ordered me to go into the house. They said ‘Show us Maoist hiding inside the house.’ I said, ‘We don’t have any Maoists.’ They beat me on my legs with a stick. Then they dragged me into the house. They pulled my hair and threw me on the ground.<sup>78</sup>

After dragging her inside the house, “One of them stood guard at the door while the other did something that he should not have done,” she said alluding to the first rape. “Then the other one, he raped me as well,” she said.<sup>79</sup>

They threatened her: “Don’t tell anyone. Otherwise we will hit you again.” Manorama was scared and did not want to stay home alone. She was also in pain she says, because she was still tender after the recent childbirth. She went to the fields with her baby and told her husband about the rape.

Manorama and her husband decided not to tell anyone. She decided to speak out only after the peace agreement. Since then the villagers have guessed that she might have been raped because she has attended various meetings conducted by Advocacy Forum and have started gossiping about her. Her husband is displeased, especially because she has spoken about what happened to her to no avail—no one has been punished and she has not received compensation.

Human Rights Watch spoke to Manorama’s husband who believed that the soldiers had come from the nearby barracks, and were accompanied by some police.<sup>80</sup>

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<sup>78</sup> Human Rights Watch interview with Manorama (pseudonym), location withheld, April 24, 2013.

<sup>79</sup> Ibid.

<sup>80</sup> Human Rights Watch interview with the husband of Manorama (pseudonym), location withheld, April 25, 2013.

## Radha, 2002

Radha remembers that it was about 7 p.m. on a night in mid-December 2002 when security forces arrived on a search operation in her village. They were all in camouflage uniforms and were carrying weapons. She was outside her hut in the courtyard. As three men approached her, Radha started running toward her neighbors' house to escape them. She says she was scared because she knew that security forces beat people during search operations. However, they caught up with her and ordered her inside her house. After Radha responded sharply to them that she hadn't done anything wrong, the security personnel started pushing her around. She retaliated: "I said, 'You have no authority to touch me.'" But two of them dragged her inside the house while one stood outside. She said:

Two men came inside. They pushed me down on the ground, and pointed a gun at me. I struggled but there were two of them... They held me down and both raped me. Then they went outside. They were laughing. I ran after them. I saw my husband outside and I shouted to him, 'These men have raped me.'<sup>81</sup>

Radha's husband told Human Rights Watch that he hurried from the fields when he saw the security forces. He saw two men come out of his house, and then his wife came out too. She was crying and she told him that she had been raped.

He said that the security forces had come on a search operation, but one of their jeeps was bogged in mud, so they wanted a tractor to help them retrieve it. After his wife told him of the attack, he chased the men, who had climbed into the tractor. "I ran up to the tractor. The owner, who was driving the tractor knew me so he stopped," he said. He said he tried to confront the attackers. But the security forces threatened him: "Get down, or we will kill you." The owner also asked him to leave saying he would be killed. "I was frightened for my life. They had guns," the husband explained why he had to retreat.<sup>82</sup>

Both of them complained to the Village Development Committee, the administrative authorities, and the Local Peace Committee, set up to identify cases eligible for interim compensation after the conflict, but none of these authorities assisted them. They want justice and compensation.

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<sup>81</sup> Human Rights Watch interview with Radha (pseudonym), location withheld, April 24, 2013.

<sup>82</sup> Human Rights Watch interview with the husband of Radha (pseudonym), location withheld, April 24, 2013.

## **Anita, 2002**

During the conflict, Anita lived with her husband and parents-in-law. On the day of the incident in September 2002, the security forces came early in the morning. Anita was still in her room, while her husband had taken their cattle for grazing and her parents-in-law were in the market. One man entered her room while the others waited outside.

I was getting ready to get up.... I had to start the cooking. I heard noises and then there was a man in the room. He was in uniform. I tried to get up, but he stopped me. He was holding me down. He had a gun, which he then put next to the bed. He said ‘Don’t shout or I will shoot.’ He held me down forcefully and raped me. While he was raping me, there was a whistle from outside. There were other soldiers and they started leaving and saying, ‘Come on. Hurry up.’ So he hurried out.<sup>83</sup>

Human Rights Watch spoke to Anita’s husband who said that as he was returning from the field with the cattle he saw the security forces at his house on a search operation. They refused to let him enter his house, and beat him with the butts of their rifles. The security forces signaled the end of the search by sounding a whistle and he saw some of them exit his house. “When they blew the whistle four or five security force personnel came out of the house. Then they started calling out. Then this other man came out,” he said explaining how one more man followed the others, lagging behind. He believed that they were a joint team from the nearby army camp and local police.<sup>84</sup>

Both Anita and her husband believe that the whistle indicating the end of the search and summoning the security back possibly saved her from gang rape. Anita’s husband is angry, helpless, and scared for their lives, and he said that making a complaint about the rape was inconceivable because they were petrified of security forces at that time.

The husband told Human Rights Watch he felt his wife has not yet recovered physically and mentally from the trauma of rape. Anita had a daughter within a year of the rape.

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<sup>83</sup> Human Rights Watch interview with Anita (pseudonym), location withheld. April 25, 2013.

<sup>84</sup> Human Rights Watch interview with the husband of Anita (pseudonym), location withheld, April 25, 2013.

“Sometimes I wonder if she is because of the rape. But my husband loves her, and we believe she is our daughter.”<sup>85</sup>

### **Shona, 2002**

Shona lived with her husband and two sons during the conflict. When the security forces intensified their operations against the Maoists, many of the men from the village ran away. Shona’s husband went to India.

At the beginning of her interview, Shona preferred to have her husband speak about what happened to her and Human Rights Watch spoke to him in Shona’s presence. According to information that her husband gathered from Shona and other villagers after he returned from India, the Maoists used to come often to their house and Shona used to give them food. He believes that a village informer saw a Maoist coming out of their house and alerted the security forces. In February 2002, police came to their home, accused Shona of being a Maoist, and took her into custody. They also took their 11-year-old son and detained him for four days, slapping and interrogating him about Maoist whereabouts.<sup>86</sup>

Shona remembered her detention and volunteered information about it.

That day the police came and took me away in a van. I was kept in a filthy room at the police station. I begged that they let me out of the dirty place. But they refused. For a month-and-a-half, they kept me there. I was beaten so badly, I had welts and bruises. I was also beaten with nettles. They used to keep me tied up. They used to say, ‘Are you a Maoist?’ or ‘Your husband is a Maoist.’ Sometimes they said, ‘If you tell us about Maoists, we will not do anything to you.’<sup>87</sup>

She told Human Rights Watch that even after she was allowed to go home, the “inspector” came home and raped her. She said:

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<sup>85</sup> Ibid.

<sup>86</sup> Human Rights Watch interview with Shona (pseudonym), location withheld, April 24, 2013.

<sup>87</sup> Ibid.

For two months after that, he used to come to our house late at night. ‘Open the door, Maoist,’ he used to say and bang the door with his stick. Even if I did not open the door, he used to kick and come inside. I was alone. The children used to run away as soon as the police came. He used to come to my house. He used to rape me.<sup>88</sup>

According to her husband who was in India at that time, he only heard about the arrest and rape much later. Someone from the village met him in India and told him that his wife had been tortured, and that she was mentally disturbed. Shona has physically recovered since, but her husband says she remains distracted and prone to rages. They want justice and tried registering complaints at the police station after the 2006 peace agreement, but were turned away: “The [police] officer said that nothing can be done,” said Shona’s husband, describing his futile efforts at trying to file a criminal complaint. They also want compensation.

### **Mamta, 2001**

Mamta, a widow, lived with her 10-year-old son and her husband’s family, including his parents and brother. Her husband’s sister had joined the Maoists and did not live with them. Mamta told Human Rights Watch the security forces often came to question the family about her whereabouts.

In October 2001, government forces turned up at their house around midnight when the family was asleep. She and her son were asleep in their room. The family rooms were built around a common courtyard and she says she could hear family members were being questioned in the other rooms as troops started searching the house, turning it upside down. Three of them came into her room to interrogate her. They asked her if she was feeding the Maoists. Then, she says: “They put the nozzle of a gun in my mouth and asked me, “Where is your sister-in-law? Call her back to the house.”<sup>89</sup>

She described how the violence progressively worsened—they pushed her down on the straw mat on the floor and proceeded to rape her:

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<sup>88</sup> Ibid.

<sup>89</sup> Human Rights Watch interview with Mamta (pseudonym), location withheld, April 25, 2013.

One after another, they raped me. Two were holding my hands and legs and they took turns. One of them was young and quite thin. The other was slightly fat. I was so scared I don't remember seeing much, I couldn't recognize them. After that, they went away. I was bleeding and my hands and legs were feeling very weak.<sup>90</sup>

The rape left her in a state of shock, she said. Her young son had witnessed the rape. "He was crying a lot, and had been slapped a few times by the men. I just wanted to be sure he is alright."

She says she was too ashamed to tell her in-laws about the rape. They used to get angry because she was not able to work. "I didn't want to get up, I didn't want to work. I didn't go to a doctor." She eventually moved out with her son, and now lives separately, but says she still suffers because of the rape. "I don't know what to do. I get angry and I cry."

She told Human Rights Watch that she wanted to file a police complaint at that time but didn't because she did not know how to write. She also wants compensation.<sup>91</sup>

### **Nandita, 2001**

Nandita lived with her husband, daughter, parents-in-law and sister-in-law during the conflict. She told Human Rights Watch that constant abuse and beatings by the security forces during anti-Maoist combing operations led her husband to join the Maoists in September 2001. His joining the Maoists caused them more problems—security forces often came to their doorstep, interrogating and harassing them.

Nandita told Human Rights Watch that one night in December 2001 the security forces came in search of her husband when the family was asleep. She was woken by a torch shining in her face, and her mother-in-law beside her. There were so many of them that "three rooms...were filled with security forces." The security forces took her and her mother-in-law to a room and beat them both before separating them. They took Nandita to

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<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

the adjoining room from where she could see her mother-in-law being beaten up. She herself was beaten, threatened, and interrogated about her husband's whereabouts.<sup>92</sup>

Nandita recounted that there were four men in the beginning who were beating her:

I had long hair and they grabbed me and dragged me around. Then they threw me on the ground and kicked me. I saw that my earring was stuck on the boot of one of the men when he kicked me in the head....They started tearing off my clothes, even my inner garments. <sup>93</sup>

She could not recollect what happened next and says that she passed out. When she regained consciousness her mother-in-law was sitting next to her. She learned from her mother-in-law that she had been raped. "When I recovered, my mother-in-law was sitting there. The men had gone. My mother-in-law said, 'I saw what happened. It is a matter of shame. The men raped you.'"

The following morning, Nandita's mother-in-law took her to the medical center. Nandita had boot marks on her back and bruises all over her body. Scratches covered her face, neck, shoulders, and breasts. She did not tell the doctor she was raped and guessed that her mother-in-law had also chosen to remain silent because of the "shame."

Nandita's husband, who remained with the Maoists till 2003 and eventually returned home, also spoke to Human Rights Watch and confirmed that he got news of the rape from other Maoists soon after it occurred. He recalled how the villagers had sent word to him:

I learned about the rape, and I came back after a week. She was in a bad way. She could not sit or lie down. My mother used to keep putting turmeric paste on her and that is how she survived.<sup>94</sup>

Nandita still suffers from backaches and lower abdominal pain and wants compensation.<sup>95</sup>

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<sup>92</sup> Human Rights Watch interview with Nandita (pseudonym), location withheld, April 23, 2013.

<sup>93</sup> Ibid.

<sup>94</sup> Human Rights Watch interview with the husband of Nandita (pseudonym), location withheld, April 23, 2013.

<sup>95</sup> Medical report accessed with consent and on file with Human Rights Watch. Evaluation suggests gynecological disorders.

### III. Sexual Violence by Maoists

There are relatively few reported cases of sexual violence by the Maoists. Nonetheless, Human Rights Watch documented seven cases of sexual violence by Maoists. In most interviews conducted by Human Rights Watch, villagers said that Maoists demanded food and shelter, and provided very little opportunity to refuse.

In addition, the Maoists practiced their own form of summary “justice.” Human Rights Watch documented two cases where a Maoist was accused of sexual violence; the cadres beat the perpetrator in public and banished him from the village.

#### Abduction and Rape by Maoists

The Maoists forcibly recruited people—including children—into combat.<sup>96</sup> Some women and girls recruited by the Maoists, forcibly or willingly, reported rapes by Maoist cadres. Alleged rapes perpetrated by Maoists also occurred when women or girls were found alone at home, or performing chores on their own in isolated spots. In other cases, the perpetrators were local goons prior to the conflict who were emboldened after joining the Maoist party.

#### Nirmala, 2004

Nirmala says she was living with her parents and her one-year-old son during the war because her husband was working in India. The Maoists often came to the village seeking food and shelter, but her family refused. She told the Maoists that they had no right to make such demands because people worked for a living, while Maoists wanted everything for free.

In March 2004, a group of about seven or eight Maoists known to her from prior visits approached her while she was working in the jungle with other women scattered in different places. The Maoists asked her to accompany them for a program. When she refused, they slapped her and shouted at her. Then they tied her hands behind her back and forced her to walk with them. Nirmala said she was held captive for about 11 months and moved around from place to place. During this period, she was made to work as a

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<sup>96</sup> Human Rights Watch, *Children in the Ranks: The Maoists' Use of Child Soldiers in Nepal*, vol. 19, no. 2, February 2007, <http://www.hrw.org/reports/2007/02/01/children-ranks>.

porter for the Maoists, carrying their clothes, and helping them with their daily chores. “I was not free to leave at any point,” Nirmala said.<sup>97</sup>

Initially she was the only woman who was abducted. But over time, “there were several other women who were similarly forcibly taken by this group of Maoists, and who had to do the same things,” Nirmala told Human Rights Watch.

During her time in captivity with the Maoists, Nirmala said she was raped several times. The first time she was raped was by a lake, in a hut set up by local goatherds. She described the first episode of sexual assault:

I was raped by two Maoists that time. I recall another two kept sentry outside the hut. It was probably around 10 at night when three or four men entered the hut I was in. I was not asleep, just sitting there. One of the men told me to take my clothes off, and they slapped me when I refused. Then one of them grabbed my wrists and another one started to take my clothes off. I don’t remember who raped me first, but they took turns—one holding me down by my hands on the floor, while the other one raped me.<sup>98</sup>

Nirmala had severe pain after the rape in her lower abdomen, arms, legs, and back. She said some female Maoists came to check on her around 1 a.m. that night and laughed at her. “I could tell from their reaction to me that they knew what had happened. They just laughed and said ‘Now you know what it’s like to be put in your place,’” Nirmala said.<sup>99</sup>

She told Human Rights Watch she was raped again by two other Maoist cadres. “During all the rapes, the men kept threatening me, and used very bad language, dirty words. After this second incident, they took my top and tied it to a tree for all to see. I’m not sure what that meant, but guess it was meant to humiliate me even more.”<sup>100</sup>

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<sup>97</sup> Human Rights Watch interview with Nirmala (pseudonym), location withheld, April 27, 2013.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> Ibid.

After her family identified which group of Maoists was behind the abduction, Nirmala's father and brother negotiated her release. Nirmala told her immediate family, but no one else knows of the rape. Her sister-in-law and her mother gave her medicines and herbs to prevent pregnancy. She complained that she continues to suffer because of the rapes. She does not know if either the government or the Maoist command took any action against the perpetrators.

My husband and family have been supportive, but I am a different person now than before. I cry easily. I can't eat properly. I have lost so much weight since then. My vagina and lower abdomen hurt all the time.<sup>101</sup>

#### **Meena, 2004**

Meena told a researcher from Human Rights Watch that Maoists routinely came to her village in Ranbari in Surkhet district. They often asked her to attend their programs but she always refused. Eventually, the Maoists abducted her in April 2004 when she was out gathering wood in the jungles together with other women. A group of 8-10 Maoists arrived, she described:

They told me to come with them. I refused to go but they wouldn't have it. They grabbed me and tied my hands together and my feet together with some cloth, and dragged me about 10 feet before untying my feet and forcing me to walk with them. The Maoists were all armed, I don't know what kind of guns they were but I saw they had guns.<sup>102</sup>

She spent about four months with the Maoists and in that period she moved from one place to another with them. "Sometimes we slept in the huts used by goatherds in the jungles, sometimes we would stay in villages where we would be fed," Meena recounted.<sup>103</sup> The Maoists asked her to carry things for them, wash, and take care of other domestic chores. Meena said Maoists raped her five times during her captivity.

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<sup>101</sup> Ibid.

<sup>102</sup> Human Rights Watch interview with Meena (pseudonym), location withheld, April 27, 2013.

<sup>103</sup> Ibid.

Recalling the first episode, Meena said: “The first time I was raped was the day after my capture, in one of the goatherd huts,” and vividly described how she remembered that it was at night when she was inside the hut and it was raining. She continued:

Three of them came into the hut, and immediately one of them told me to take my clothes off. I refused and one of them then kicked me so hard that I fell down against the ground....One of them covered my mouth and told me to shut up. Two of them held me down on the ground, while the other one raped me. They all three took turns raping me. Afterwards, they told me that I’d be killed if I dared tell anyone about the rapes.<sup>104</sup>

On the second occasion she was raped, the perpetrators were different, Meena said: “I was raped by two Maoists the second time. I remember that one of them tried to put his penis in my mouth but I was so disgusted he stopped.”<sup>105</sup>

On the third occasion, there were two men again. Once again, Meena described the location and time clearly—that “It was night time, and like the first time, I was raped in a goatherd hut,” she said. On the fourth and fifth times she was raped, “it was only one perpetrator each time,” Meena explained.

The last two times were different from the other rapes because she recalled that “there were other women who had been captured by the Maoists,” at that time. Trying to reason why the last two times only one perpetrator was involved, she said: “Because there were more women they did not have to share one woman between them.”<sup>106</sup>

But Meena could not confirm that the other women were raped: “I don’t know for sure what happened to the other women, but I assume that, like me, they were raped.” She explained how her belief that other women were possibly raped was grounded in what happened on the last occasion she was raped:

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<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

There were three of us women captives, and there were three men. I know that each took one of us women with him, but I didn't see the other two women getting raped. We women didn't talk about it amongst ourselves. I don't know the names of the other women.<sup>107</sup>

In addition to penile penetrative sex and forced oral sex, Meena said she also experienced attempts at forced anal sex.<sup>108</sup>

Meena told Human Rights Watch she did not get pregnant from these rapes. She said that the Maoists who raped her either used a condom or would give her a small white pill to swallow after the rapes, which she believes were intended to prevent pregnancy.<sup>109</sup>

After about four months with the Maoists, Meena was eventually able to escape, reach home, and move into a camp for displaced persons. She later learned from villagers that Maoists had come to her village looking for her soon after her escape. Meena had not complained about the rapes and wondered if any of the Maoists were punished:

I don't know if any of these men were ever punished. There was no commander as such of the group of Maoists who held me captive. Sometimes we would be joined by other Maoist groups if there was an educational program but otherwise it was just this small group and they all seemed equal to one another.... It's hard to describe how helpless I felt. No amount of crying or screaming or begging helped. Everything they did was against my will.<sup>110</sup>

Meena is now married and has two sons. But she says she still suffers because of the pain. She has no appetite and has constant lower abdominal pain.

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<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Another woman interviewed by Human Rights Watch also mentioned that the Maoists used contraception. The International Center for Transitional Justice and Advocacy Forum documented complaints of forced abortions, and children born to female cadre after they were raped by colleagues. See: Center for Transitional Justice and Advocacy Forum, *Across the Lines: The Impact of Nepal's Conflict on Women* (ICTJ, December 1, 2010), <http://www.ictj.org/sites/default/files/ICTJ-Nepal-Across-Lines-2010-English.pdf> (accessed September 10, 2014)

<sup>110</sup> Ibid.

### Rekha, 2003

Rekha said Maoists used to turn up in her village every so often asking for food, or encouraging people to attend their programs. She had planned to attend one such dance program in a neighboring village in June 2003 but was delayed and asked her friends to carry on. She left from her village at around 10 p.m. on her own. On the way she met a Maoist:

I ran into a Maoist whom I knew from before because he used to come to my house for food. He asked me to go to the dance with him, but I said I was ok going by myself.<sup>111</sup>

When she refused to go to the dance program with him, he turned violent:

He got angry with me then and grabbed me and threw me down a small cliff by the side of the path. He came down to where I'd been thrown. I started hitting him, and he started hitting me back. We must have fought like that for a while, I don't know how long.<sup>112</sup>

She told Human Rights Watch that he beat her and raped her and forced her to perform oral sex:

I was resisting him and he then hit me so hard that the skin from my skull and forehead came off. He must have used some instrument to do this, but I don't know what he used. The skin was just hanging off my face, in front of my eyes, like a curtain. He raped me. I was shouting from the pain. I remember a searing pain in my head and my left arm which had broken when he threw me down the cliff.<sup>113</sup>

After raping her, he warned her that she would be killed if she told anyone and then ran away. "He might have thought I was dead.... I couldn't move. I was bleeding heavily, and in great pain. I lost consciousness," Rekha said.<sup>114</sup>

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<sup>111</sup> Human Rights Watch interview with Rekha (pseudonym), location withheld, April 28, 2013.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

When she regained consciousness after what seemed like several hours, Rekha saw her friends around her. There was blood oozing out of her mouth, and they could see the white of her skull from where the skin had ripped off. They took Rekha to the hospital where she received 36 stitches on her forehead. A researcher from Human Rights Watch who spoke to Rekha observed deep scars on her forehead and scalp. She disclosed the rape to the doctor but does not have any medical documentation from that time. She said she was given some medication and guessed that might have prevented a pregnancy. She did not report the rape to the police or anyone else except close friends and has not seen the perpetrator since. She told villagers that she had had a nasty fall to explain her injuries.

### **Beena, 2002**

During the war, Beena used to live with her parents in their village. She told Human Rights Watch that Maoists came regularly to her village for food or to ask villagers to attend their programs. There were several incidents of forcible Maoist recruitment from her village. The Maoists abducted Beena's brothers as well, but later sent them home, and killed one of her cousins. During this period, the army and police also came to the village asking for information about the Maoists.

Beena told Human Rights Watch that one afternoon in July 2002 she went down to the river, about 10-15 minutes from her village, to bathe and wash clothes. The river, surrounded by fields and not houses, was in a secluded area, she explained.

As she washed clothes, a group of six or seven young men, whom she recognized as Maoists from their previous visits to her village, approached her. She knew one of the men personally as a former student from her school. "These men didn't hide the fact that they were Maoists. They would say so proudly. There is no doubt that this group were all Maoists," she said.<sup>115</sup>

The Maoists asked her to attend a program that was taking place somewhere close by and she refused to go. Her refusal earned their wrath and they turned violent:

When I said no, a couple of them grabbed me and dragged me by my hands along the riverbank to a place further away from the fields. They stopped

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<sup>115</sup> Human Rights Watch interview with Beena (pseudonym), location withheld, April 28, 2013.

where it was particularly desolate. They started slapping me, hitting me with sticks. My head started bleeding heavily. I also got a deep cut on the side of my waist; I remember looking down and seeing something poking out from the cut from my insides.<sup>116</sup>

As they were hitting her they let her know it was revenge. “They said things to me like ‘We wouldn’t be doing this if you had agreed to come to our program,’” she said.

They swore and used dirty words. Then one of them told me to take off my clothes.... I refused, so they started clawing at my clothes and ripping them off.<sup>117</sup>

Beena described how they forcibly stripped and groped her, and proceeded to rape her:

All I remember after that is that I was thrown on the ground and at least three of them raped me. I might have been raped by more than the three, but I lost consciousness so don’t remember.”<sup>118</sup>

Beena later learned that when she failed to return, her brothers went to look for her, found her bleeding in the fields, and immediately took her to the hospital. She told the doctor that she had been raped, and said she was prescribed medicines and injections. She also received stitches for the cut around the waist from which she still has a deep scar. She never saw the perpetrators again. She complained to the police but they took no action.

Beena is now married and has two children. She lives in her husband’s village. Only her brothers know about the rape. She has not told her husband.

### **Santoshi, 2006**

Santoshi said both the Maoists and security forces came to her village often during the conflict—the Maoists on foot, and security forces in vehicles. They were scared that Maoists or security forces would come and take them away. They were too scared to even

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<sup>116</sup> Ibid. She showed a Human Rights Watch researcher the scars from her injuries.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

go to the market and ran away when they saw groups of men. The fear was amplified by stories they heard of Maoists forcibly recruiting, and security forces taking people away from their village and surrounding villages.

When she was about two or three months pregnant, Santoshi was working in the fields at around 7 p.m. She saw two men wearing shorts and bandanas whom she believed to be Maoists. When they started approaching her, Santoshi got scared and started to run. But they caught up with her and grabbed her from the back.

One of them held on to my shoulder and another put his hand on my mouth. They dragged me to a place near a big mango tree. They dragged me by my legs and hands so my hands got scraped. They raped me.<sup>119</sup>

Santoshi told a Human Rights Watch researcher she became unconscious. When she regained consciousness she was in a private doctor's clinic. She later learned that women from the village had found her lying near the mango tree when they were going back home from the fields and carried her to the doctor. The doctor asked her to rest to prevent difficulties giving birth or a uterine prolapse. She says her husband took care of her at that time, but later began to treat her badly. They were too scared to complain to police.

She told Human Rights Watch that on most days her husband ignores that she was raped, but sometimes he taunts her and calls her a loose woman. She has started her own sewing business and supports her children. She told Human Rights Watch that her husband does not support her or their children.

## Maoist “Justice” for Rape

In two cases documented by Human Rights Watch, the women told Human Rights Watch that Maoists accepted that one of their members was responsible for rape. In both cases, the women said that Maoists publicly beat the perpetrators. In one case, the Maoists said they had expelled the perpetrator from their ranks.

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<sup>119</sup> Human Rights Watch interview Santoshi (pseudonym), location withheld, April 26, 2013.

### Case of Madhu, 2006

Madhu told Human Rights Watch that a number of people from her village had joined the Maoists during the conflict. Her father, who also spoke with Human Rights Watch, explained that many local goons joined the Maoist party at that time, misbehaving and bullying the villagers. Maoists often came around asking for food and sometimes used to encourage people to join them. They also asked Madhu, who was a minor in school, to join them in combat.<sup>120</sup>

Her neighbor, who was about 20-25 years old and had joined the Maoists, used to follow her all the time, she said, asking her to go out with him. Madhu complained to her mother who scolded the neighbor. A few days later he spoke to Madhu and told her that her mother castigated him. He pressured her again to be his girlfriend and join the Maoists. “I said, ‘No I don’t want to go.’ Then I walked away. Maybe he was angry,” she said.<sup>121</sup>

A few days after her conversation with him, Madhu had gone to watch television at a neighbor’s house. At around 10 p.m., when she stepped out to go to the toilet, she found that he was waiting outside.

He grabbed me and dragged me to the fields. He was alone. He put his hand on my mouth so I could not shout. He raped me. He kept saying, ‘I will marry you.’ I said, ‘I don’t want to marry you.’ He kept me there for nearly two hours.<sup>122</sup>

When she returned home she told her father who informed the Maoists the following day. Both she and the rapist were brought to another neighbor’s house where Maoists were temporarily sheltering:

There were many Maoists there. They kept asking me to join them, but I refused. Then the Maoists brought him in front of me. They beat him a lot. He begged pardon in front of everyone. He was told to leave the village.<sup>123</sup>

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<sup>120</sup> Human Rights Watch interview with the father of Madhu (pseudonym), location withheld, April 24, 2013.

<sup>121</sup> Human Rights Watch interview with Madhu (pseudonym), location withheld, April 24, 2013.

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

She did not see him until after the peace agreement, when he returned. He is now married and still her neighbor. Madhu, at a minimum, wants compensation. She said she did not want to pursue investigation and prosecution because she had “no choice” but to forgive him. “What else can I do?” she asked.<sup>124</sup>

### **Janaki, 2005**

Janaki’s husband worked in India, and she lived alone with her son during the conflict. Her brother and his family lived close by. Maoists used to often ask villagers to join their public indoctrination programs and cultural events.

In early June 2005, Janaki had gone to a hospital two hours away because her son was sick. Exhausted after returning from the hospital, she had fallen asleep. Suddenly she was woken by a voice calling out to her and banging on her door. It was around 9:30 p.m. There was a man shouting that she had to go out and join a Maoist program. She explained that she had a sick child and could not go but he insisted and dragged her outside.<sup>125</sup>

He pulled her out into the street and said he was taking her to the meeting. Instead, he took her to a desolate side street behind her house and pushed her down on the road. She continued:

My back was hurting. He had put his hand on my mouth to make me stop shouting. He raped me and then left me on the street and went away. He warned me, ‘If you tell anyone I will kill you.’<sup>126</sup>

Despite the overall fear at that time she retorted: “I may die, but I will not let you go.”

She was in a lot of pain and was frightened. She walked back home slowly, crying, picked up her child, went to older brother’s house in the same village, and told him what happened. There was a Maoist meeting going on that day, and her brother went to the Maoists and complained to them.<sup>127</sup>

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<sup>124</sup> Ibid.

<sup>125</sup> Human Rights Watch interview with Janaki (pseudonym), location withheld, April 24, 2013.

<sup>126</sup> Ibid.

<sup>127</sup> Ibid.

The following morning, some women Maoists came to Janaki and asked her to help them identify the perpetrator. They took her to various houses where the Maoists were staying. “They said, ‘You don’t have to confront him, just point him out,’” she recalled.

According to Janaki, when she pointed out the perpetrator, the Maoists were not surprised. She learned from them that he was accused of rape twice before in two different locations. The Maoists said, “We can’t keep him anymore.” She narrated what the Maoists did:

Then they beat him. When he saw me with the Maoists, he was very scared. He was beaten a lot. Even I beat him with my slipper. He asked for forgiveness. He was beaten so badly, he could not get up for two days.<sup>128</sup>

Janaki did not see the perpetrator again.

She did not go to the doctor. She was very frightened and worried that her husband would be angry. When she informed her husband, he was indeed furious. He no longer lives with the family and does not support her. Neither her husband, nor her brother wanted to complain to the police or other authorities. She told Human Rights Watch that she suffered for a long time because of the rape. She used to have nightmares and lower abdominal pain.<sup>129</sup> She wants compensation. “I have a small child. I want to educate him properly. My husband doesn’t care about the family.”<sup>130</sup>

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<sup>128</sup> Ibid.

<sup>129</sup> Medical report accessed with consent and on file with Human Rights Watch. Evaluation suggests PTSD.

<sup>130</sup> Ibid.

## **IV. Barriers to Justice and Reparations for Survivors of Sexual Violence**

All the women that Human Rights Watch interviewed expressed the need for justice, compensation, or both. However, women have come forward in relatively few cases to report to the police their experiences of sexual violence during the conflict.

A combination of factors—severe limitations posed by Nepal’s criminal justice system, fear of retaliation, and social stigma—hinder women’s ability to file criminal complaints and have them thoroughly investigated. Nepal’s criminal justice system does not create an enabling environment for survivors of sexual violence, especially conflict-survivors, to seek justice or reparations.

### **Need for Psycho-Social Support and Other Services**

Until now the Nepal government does not have the capacity to provide proper psycho-social support services for survivors of sexual violence and their families to help them overcome stigma or fear, or cope with the consequences of sexual assault and torture during the conflict. Such services are not only important for the overall wellbeing of rape survivors and their families, but can also play a critical part in helping women decide whether they want to seek justice and supporting them and their families through complex legal procedures.

Nepal’s historically patriarchal society makes it difficult for survivors of sexual violence to speak out about the sexual assault without being stigmatized or blamed. Given the intimate nature of sexual violence, women are often conditioned by wrong notions of “shame” that deter them from coming forward to seek justice for sexual assault.

For instance, Parvati told Human Rights Watch she was raped by a member of the security forces who visited her house in February 2003 to interrogate her about Maoists. Villagers blamed her for it:

For two or three days after the incident, the villagers talked about the incident and blamed me for it. Now they don't say anything. So many people suffered.<sup>131</sup>

Parvati also mentioned that she has spoken with other women in the village. Some admit that they too were raped or sexually abused by security forces, but chose not to tell their husbands or other family members, fearing social stigma. She was reluctant to break the confidence of her friends and Human Rights Watch researchers did not press her for details.<sup>132</sup>

The importance of psycho-social assistance was underscored in many cases like that of Shona.<sup>133</sup> In 2002, police detained, tortured, and interrogated her for giving food to Maoists. After she was released, the officer-in-charge visited her home and forced her to have sex. Because her husband was in India at that time, he learned from villagers only later that his wife had been detained, tortured, and raped, and that she was mentally disturbed, wandering around the village muttering to herself, often subject to violent rages.<sup>134</sup> He told Human Rights Watch that by the time he learned of the incident and returned to the village, "she was feeling calmer," but was still disturbed.

We had no money, so there was no way to seek counseling. Now she is much better. She doesn't get angry any more. Earlier, she would roam around and forget what she was doing.<sup>135</sup>

Access to psycho-social support services are not just important for those women who were raped but also their immediate family and community. In some cases, women interviewed by Human Rights Watch said they censored themselves because they were afraid of being mistreated or rejected by their husbands and in-laws. In some interviews, the husbands expressed their frustration as well, because they were unable to protect their wives or secure justice on their behalf.

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<sup>131</sup> Human Rights Watch interview with Parvati (pseudonym), location withheld, April 24, 2013.

<sup>132</sup> Ibid.

<sup>133</sup> Human Rights Watch interview with the husband of Shona (pseudonym), location withheld, April 24, 2013.

<sup>134</sup> Medical report on file with Advocacy Forum and accessed with consent. Evaluation suggests PTSD.

<sup>135</sup> Human Rights Watch interview with the husband of Shona (pseudonym), location withheld, April 24, 2013.

Women told Human Rights Watch they experienced domestic violence or neglect by their family because of the rape. For example, Sita who was raped by security forces when they came to question her family in September 2002 said her husband often gets into a rage and she continues to face physical violence because of the rape even though more than 10 years have passed. She says she retaliates by blaming him for failing to come to her aid, although he was present in an adjoining room while she was raped.

My husband keeps talking about it. Every time he talks about it, I feel ill. I am living only because of the children. My husband doesn't understand. He is often angry. My health is not okay.<sup>136</sup>

Santoshi said her husband uses the fact that Maoists raped her to silence her when they have domestic disagreements. She is too scared to protest or retaliate when her husband is abusive because she wants to avoid being humiliated and reminded of the rape:

But sometimes when he gets very angry he brings it up and says I am a loose woman and I should get out of the house. His behavior towards me changed after this happened. We were happy before this. But after this everything changed. I feel worthless.<sup>137</sup>

Similarly, Gayatri's in-laws and husband started ill-treating and neglecting her merely because she was in army custody and in the company of men for an extended period of time, calling her a "loose" woman. She had not disclosed to them that she was repeatedly raped in custody. She told Human Rights Watch that she continues to silently suffer abuse and neglect.<sup>138</sup>

There have been some attempts to assist survivors of sexual and gender based violence. Advocacy Forum and others facilitated psycho-social and legal counseling support wherever possible by connecting the women to mental health experts in Kathmandu and paying for the travel and counseling expenses.<sup>139</sup> Survivors facing domestic violence as a

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<sup>136</sup> Human Rights Watch interview with Sita (pseudonym), location withheld, April 24, 2013.

<sup>137</sup> Human Rights Watch interview with Santoshi (pseudonym), location withheld, April 26, 2013.

<sup>138</sup> Human Rights Watch interview with Gayatri (pseudonym), location withheld, April 30, 2013.

<sup>139</sup> UNFPA and UNICEF, together with partner organizations used reproductive health camps to offer medical services as well as confidential and safe access to psycho-social and legal counseling.

fall-out of stigma from conflict-era sexual assault were unaware of any available government services to intervene and assist women facing such assaults.

Unless the Nepal government ensures that survivors of sexual assault and their families can seek counseling through government health services to cope with sexual assault and its fallout, it will be difficult for individual nongovernmental efforts to reach out to women in a systematic manner and help them overcome the stigma of rape or prevent domestic violence within their communities or families because of rape.

Similarly, survivors of domestic violence, including those who experience such violence as a consequence of conflict-era rape, should be able to report such violence and avail of services aimed at assisting survivors of domestic violence.

## **Lack of Medico-legal Treatment and Evidence Collection**

In addition to the absence of psycho-social services, the Nepal government has not introduced a standard protocol for treatment and medico-legal examination of rape survivors to provide therapeutic care and secure any likely medical evidence in a standard and timely manner.<sup>140</sup> There are also no training programs for doctors on the medico-legal aspects of sexual assault.

The absence of a standard treatment and examination protocol to document and collect possible medical evidence of sexual assault, coupled with a lack of training, led to loss of medical evidence of conflict-era rape. A protocol, even if introduced in the future, will not help secure physical medico-legal evidence of rape that occurred during the conflict-era, but it will at least pave the way for better long-term treatment and survivor care.

The challenges of accessing immediate medico-legal examination and treatment were amplified during the conflict for multiple reasons, not just because of a lack of a standard protocol. Most of the women who spoke to Human Rights Watch said that going to a medical facility immediately after the rape was not possible because of a variety of reasons—stigma,

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<sup>140</sup> Human Rights Watch interview with Kopila Adhikari, Board Member, Advocacy Forum, April 24, Kathmandu, 2013. Advocacy Forum assists survivors of sexual violence and told Human Rights Watch that doctors provide whatever treatment and care they are able to and document medico-legal evidence of sexual assault in an ad hoc manner. Advocacy Forum has worked with two doctors to create a standard format that they encourage doctors to use, and have had meetings with the attorney general of Nepal to introduce a standard treatment and examination protocol.

inability to travel long distances, unsafe environment, or lack of necessary financial resources. Government-run health clinics were barely present or functional in most districts during the conflict-era. This made it all the more difficult for survivors of rape to secure any possible medical evidence. For example, Nandita, who was raped in February 2003, went to a doctor and reported the rape because she was anxious about HIV transmission.<sup>141</sup> But the doctor, a private practitioner in a small district town, had no training to provide her any information about medico-legal evidence, nor did he attempt to gather such evidence.

I was very upset and felt unwell. I told the doctor that I was raped. I told him to check my body. I was scared of AIDS. The doctor gave me medicines, but did not examine me.<sup>142</sup>

Madhavi, who was raped in her village by security forces during a search operation, says that initially she was too distressed to look after her own injuries and also had no money. “I had no money. The soldiers took all the money. How could I go to the hospital? I also did not want to live,” she said. She could only go to a hospital many days after she was raped when local human rights organizations came forward to help after news about the killings of her relatives spread.<sup>143</sup>

Gayatri, who was detained, tortured, and repeatedly raped in army custody, visited a hospital after her release. After a free HIV test at a nearby hospital, Gayatri borrowed money for further treatment. She told Human Rights Watch she borrowed about NPR 50,000 to 60,000 (USD 1,000) from her aunt who was part of a savings group, which her father later repaid.<sup>144</sup>

Some sought medical treatment for injuries but did not tell the doctor they were raped because of fear or stigma. Bipasha’s husband told Human Rights Watch how terrified they were to report that security forces raped his wife.

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<sup>141</sup> While a number of women interviewed by Human Rights Watch expressed concern about HIV transmission because of rape, none of them said that they actually contracted the infection.

<sup>142</sup> Human Rights Watch interview with Nandita (pseudonym), location withheld, April 23, 2013.

<sup>143</sup> Human Rights Watch interview with Madhavi (pseudonym), location withheld, April 23, 2013

<sup>144</sup> Human Rights Watch interview with Gayatri (pseudonym), location withheld, April 30, 2013

It was during the Emergency. There was so much fear. We did not dare say anything to anyone, police, doctors, no one. I just took care of her. She was in a terrible state, sometimes angry, sometimes weeping. For two months, I looked after her. Her body was full of bruises. She was very weak. I took her to hospital, and they gave her three bottles of glucose. But we did not say anything about the rape.<sup>145</sup>

Daya, who was raped by security forces in January 2003, said she went to the doctor but did not disclose the rape: “I was ashamed so I did not say anything about the rape.... I was scared I might get pregnant. But after a few weeks, I got my period and I was very happy,” she said.<sup>146</sup>

Meera was beaten and raped by security forces when they came to her house to interrogate her about Maoist whereabouts in August 2003. The day after the rape she went to a hospital with a neighbor to get treatment for the welts and cuts she had. “The doctors asked how I was beaten. I did not mention the rape. I was too ashamed. I was given tablets and ointment,” Meera said.<sup>147</sup>

Similarly, Nandita told Human Rights Watch that her mother-in-law took her to a hospital nearby after security forces raped her when they visited her village for an anti-Maoist combing operation. But neither she nor her mother-in-law told the doctor and he did not examine her for rape. The doctor was also scared, she said.

The doctors used to send everyone away after general treatment. I don’t know if my mother-in-law even told them about the rape. She most likely did not want to mention the shameful subject. She was just crying. The doctor kept me for two or three hours, and then sent me back home with some tablets.... I was scared that I might have become pregnant. But after two months, my husband took me to the medical center and there was nothing.<sup>148</sup>

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<sup>145</sup> Human Rights Watch interview with the husband of Bipasha (pseudonym), location withheld, April 23, 2013

<sup>146</sup> Human Rights Watch interview with Daya (pseudonym), location withheld, April 24, 2013.

<sup>147</sup> Human Rights Watch interview with Meera (pseudonym), location withheld, April 25, 2013.

<sup>148</sup> Human Rights Watch interview with Nandita (pseudonym), location withheld, April 23, 2013

A discussion with a doctor who worked in the same district during the conflict as some of the victims revealed that he had treated cases where women came to him. He said that the women told him that security forces had beaten them, and that they had injuries including severe bruises, cuts, and fractures. He suspected that some women may have been raped, but they did not mention it and he did not want to embarrass them by asking.<sup>149</sup>“Mostly, the women used to come with injuries from beatings. Some had vaginal infections or injuries. They did not really talk about rape.”<sup>150</sup>

Even in cases where women had medical examinations soon after the sexual assault, they did not have access to the records, or had lost or destroyed the file for fear of being caught with it. For example, Gayatri who was repeatedly raped in army custody in 2001 told Human Rights Watch,

When I was released my aunt took me to a hospital.... She was scared that I would have got AIDS. They used to do free blood tests in that hospital. The blood test was normal. I didn't do any test for pregnancy because there was no way I could be pregnant—I was bleeding heavily every day....My aunt and I destroyed all the hospital papers. We burned it because we did not want anyone to find out. It's shameful. I haven't told anyone what happened to me.<sup>151</sup>

Rekha, who said she was raped by a Maoist and brutally assaulted on her head, said she went to the hospital within hours. Recalling the hospital visit, she said:

They took me to the hospital. I received 36 stitches on my forehead. I told the doctors that I had been raped but I don't have the medical documentation from that time. I did not get pregnant. It could be that the doctors gave me some medicine for that.<sup>152</sup>

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<sup>149</sup> Human Rights Watch interview with Dr. Basanta Khaday, April 26, 2013.

<sup>150</sup> Ibid.

<sup>151</sup> Human Rights Watch interview with Gayatri (pseudonym), location withheld, April 30, 2013

<sup>152</sup> Human Rights Watch interview with Rekha (pseudonym), location withheld, April 28, 2013.

After the end of the conflict, it was impossible for women to secure any likely medical evidence of the sexual assault because of the time that elapsed since the sexual assault.

## **Absence of Victim and Witness Protection**

A majority of women who spoke to Human Rights Watch said that it was inconceivable to even consider going to the police to report sexual assault during the conflict, especially where security forces were themselves the perpetrators of such violence. For example, Anita's husband told Human Rights Watch why they did not file a police complaint after his wife was raped by a member of the security forces:

I was angry. She was upset. But what could I do? If I tried to complain, I would have been beaten. I would have been killed. The soldiers behaved very badly. They killed someone's husband, someone's son. They beat people. And they raped my wife.<sup>153</sup>

In addition to the overall insecurity and fears, several women interviewed by Human Rights Watch said they were threatened with violence or death if they dared to tell anyone about the incident. Radhika who was repeatedly raped after she was taken into police custody and illegally detained for many days in the police station, said, "I remember the DSP [District Superintendent of Police] telling me before release that I wouldn't live if I dared talk about what had happened."<sup>154</sup>

In another case, one woman who was forcibly abducted by Maoists and gang raped during the 11 months that she spent with them traveling through the forests, told Human Rights Watch:

Before my release, the two men who raped me warned me not to say anything about what had happened to me, they threatened to kill me if I spoke about the rapes.<sup>155</sup>

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<sup>153</sup> Human Rights Watch interview with husband of Anita (pseudonym), location withheld, April 24, 2013.

<sup>154</sup> Human Rights Watch interview with Radhika (pseudonym), location withheld, April 24, 2013.

<sup>155</sup> Human Rights Watch interview with Nirmala (pseudonym), location withheld, April 27, 2013.

To ensure proper prosecutions for sexual violence, the Nepal government will need to develop a witness protection mechanism to ensure that there is no intimidation by members of the security forces and former Maoist combatants.

## Failures of the Justice System

Instead of supporting rape survivors who are willing to come forward and seek justice, Nepal's criminal justice system creates insurmountable barriers. For instance, after the peace agreement, when he was able to overcome fear of reprisals, Shona's husband says he tried to register a complaint, but without success.

We want justice.... I want the inspector ... to be punished.... After the peace agreement, I went to the police station to register a complaint. But they refused to register it. I said, 'This was the inspector at that time. You can confirm our case from your records.' But the officer said that nothing can be done. They sent me away and said such cases will not be registered.<sup>156</sup>

The Muluki Ain, Nepal's national codified legal system, lays down the law governing rape. Among other things, the Muluki Ain confines rape to penile-penetrative sexual assault, making other forms of penetration punishable with far lesser sentences.<sup>157</sup>

Human Rights Watch documented at least four instances where the sexual assault included insertion of objects inside women's vaginas, forced oral or anal sex, and forced masturbation.<sup>158</sup> In one case, a woman told Human Rights Watch that perpetrators had rubbed salt and chili powder into her vagina.

Apart from the definitional and sentencing gaps, the procedural hurdle to report rape adds to women's woes making justice next to impossible for a vast majority of women who experienced sexual assault during the conflict. The Muluki Ain includes a stringent time limit

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<sup>156</sup> Human Rights Watch interview with the husband of Shona (pseudonym), location withheld, April 24, 2013.

<sup>157</sup> Muluki Ain (General Code) 2020, Chapter 14 "Regarding Rape." [http://nepalconflictreport.ohchr.org/files/docs/1963-04-12\\_legal\\_govt-of-nepal\\_eng.pdf](http://nepalconflictreport.ohchr.org/files/docs/1963-04-12_legal_govt-of-nepal_eng.pdf) (accessed September 10, 2014)

<sup>158</sup> Human Rights Watch interview with Diksha and Basanti (pseudonyms), location withheld, April 30, 2013

of 35 days from the date of the incident for women to report the offence.<sup>159</sup> Women who do not report a crime of rape within 35 days of being raped are legally barred from doing so.<sup>160</sup>

According to Advocacy Forum, even where women or their family members were brave enough to go to police stations and orally report the rapes to the police within days of the incident, there is no documentary proof that they had done so and the police took no steps to register and investigate their cases. For example, Beena told Human Rights Watch she was raped by Maoists when she refused to join a program that they asked her to join. “I reported the rapes to the police but they did nothing as far as I know. I did not see the 6-7 men around the village again,” she said.<sup>161</sup>

Nandita’s husband says he is angry:

We want these people punished. We just don’t have the reach or the power. If I did, we would have dealt with it a long time ago. We need support.<sup>162</sup>

### *Purna Maya’s Case*

Advocacy Forum’s landmark efforts with the Purna Maya case highlights the injustice caused by the 35-day time limit. To date, because the complaint is “time-barred,” no criminal investigation has been ordered.

During the conflict, Purna Maya says she lived with her daughter and earned a living running a small tea-stall. She was not in touch with her husband.

The tea-stall was by the road, and the army often came by to ask her about Maoists who came to the stall. They also started interrogating her about her husband’s whereabouts, accusing him of being a Maoist. Eventually, they came and took her away to an army camp in Dailekh district in October or November 2004, where she says she was raped and tortured in army custody.

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<sup>159</sup> Muluki Ain (General Code) 2020, Chapter 14, Section 11.

<sup>160</sup> *Ibid.*

<sup>161</sup> Human Rights Watch interview with Beena (pseudonym), location withheld, April 28, 2013.

<sup>162</sup> Human Rights Watch interview with the husband of Nandita (pseudonym), location withheld, April 23, 2014.

## Purna Maya's Struggle for Justice: A Timeline

- *Verbal complaints of rape, during the conflict*  
According to Advocacy Forum, Purna Maya made verbal complaints of rape to the Dailekh police office and district administration, to no avail.
- *Attempt to file a First Information Report (FIR), September 2011*  
Advocacy Forum and local women's organizations, acting on behalf of Purna Maya, tried to lodge a written police complaint with the Dailekh Police Office, which refused to accept it on the grounds that it was time-barred because it had crossed the 35-day limit.
- *Appeal against police refusal to file FIR*  
As per criminal procedure, Advocacy Forum appealed the police office's refusal to register a criminal complaint to the Chief Development Officer (CDO) in the District Administration Office. The CDO orally upheld the police position that the case was time-barred, without a written order.
- *Petition in the Supreme Court, December 2011*  
Advocacy Forum, together with other leading nongovernmental organizations in Nepal, attempted to file a petition in the Supreme Court of Nepal on behalf of Purna Maya seeking an order from the court directing the police to register and investigate the case. The Registrar of the Supreme Court, who is tasked with deciding which cases can be filed before the court, refused to allow the petition to be filed, saying that they need to approach the CDO according to procedures and ultimately ordered that "[t]he petitioners, in this case, have been found approaching the court directly without following the legal procedures the writ could not be registered....Do as provided by law."  
  
Advocacy Forum told Human Rights Watch that in making this order, the registrar failed to pay attention to the critical fact that it had already approached the CDO, been refused verbally, and the officer had avoided giving a written order.
- *Order of the Supreme Court, January 2012*  
The Supreme Court of Nepal issued an order confirming the registrar's decision disallowing the petition, saying that the petitioner should follow the legal procedures to seek remedy, implying that they needed to go back to the CDO. The Supreme Court disregarded its earlier judgment in 2008, where it compared the limitation period in rape cases to other offences and said that the time given to file a complaint of rape was inadequate and caused injustice.  
  
In December 2012, Advocacy Forum and REDRESS took Purna Maya's case before the UN Human Rights Committee, saying that it had exhausted all local remedies and had failed to receive justice. The case has yet to be decided.

Nepal's criminal laws also do not incorporate the doctrine of command or superior responsibility, making it more difficult for many rape survivors from the conflict era to seek justice since, in many cases they were not able to single out perpetrators. But the authorities can identify the unit and commanding authorities that participated in the area operations.

Human Rights Watch spoke to one survivor, for example, who after narrating her experience of rape and beatings at the hands of security forces despaired: "I don't know who they are, how can the perpetrators be punished?"<sup>163</sup> Similarly, Anita's husband felt complaining about how his wife was raped was futile: "If the right person is punished, it would be enough for us. But we don't know the person so it is not possible."<sup>164</sup>

Overall, impunity for egregious abuses during the conflict remains the norm, including for rape cases.

## Exclusion of Survivors of Sexual Violence from Reparations

Almost all the women whom we interviewed said they wanted compensation and other reparation for the violence and trauma they survived. However, Nepal's Interim Relief Program for conflict-affected victims is limited. It only provides monetary compensation and that too covers only family members of those who have disappeared or were killed, excluding those who experienced sexual assault or torture during the conflict. As Nandita pointed out:

People whose children died, whose husbands died, they have received compensation. We have not received anything.<sup>165</sup>

Similarly, the compensation for Torture Act, 1996, which includes those who experience "cruel, inhuman and degrading treatment," has effectively excluded all conflict-survivors who experienced torture, including sexual assault in detention, because it imposes an outer 35-day limit from the date of the torture or release to make a complaint and seek compensation, making it almost impossible to seek compensation. As one woman said,

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<sup>163</sup> Human Rights Watch interview with Daya (pseudonym), location withheld, April 24, 2013.

<sup>164</sup> Human Rights Watch interview with the husband of Anita (pseudonym), location withheld, April 25, 2013.

<sup>165</sup> Human Rights Watch interview with Nandita (pseudonym), location withheld, April 23, 2013

Other victims have been compensated. I was tortured too. I want compensation but I am worried that the government will not look after me.... I am worried my husband might start creating problems. But I told him that if we don't talk about it, our file will not move.<sup>166</sup>

After the 2006 peace agreement, Nepal set up Local Peace Committees (LPC) at the community level as part of post-conflict resolution. These are local quasi-representative bodies of the Ministry of Peace and Reconstruction and their mandate includes assisting with the implementation of the CPA, mediating local level conflicts, and monitoring the implementation of the relief and reconstruction programs. But the 2009 terms of reference of these committees are silent on gender-based violence during conflict.<sup>167</sup>

A key function of the peace committees is to identify and register those conflict-affected persons eligible for compensation. In at least one case, a family had gone to the local peace committee making a complaint of rape and seeking compensation. Radha's husband, who had helped her approach the local peace committee for compensation said:

I told them, 'How can they deny it? All the villagers also know what happened. The VDC signed the statement to say that my wife was raped.'<sup>168</sup> The peace committee said, 'Please wait. We will talk to the CDO and get back to you.' We are still waiting. They treat us like toys. Everyone keeps asking questions. 'How?' 'Why?' All these questions hurt our pride, our dignity.<sup>169</sup>

Similarly, Shona's husband, explained how he tried to complain about how his wife was raped during the conflict and argued that she too needed to be compensated but was told his case wife's case could not be considered for compensation:

I went to the VDC [Village Development Committee, a local government body], but he refused to register our case. He said our case was not valid.

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<sup>166</sup> Human Rights Watch interview with Renuka (pseudonym) who said she was raped by security forces while she was walking on the road with her husband in Kanchanpur district in March 2002, location withheld, April 25, 2013.

<sup>167</sup> Government of Nepal, Ministry of Peace and Reconstruction, "Terms of Reference of Local Peace Committees," [http://cprnepal.org/wp-content/uploads/2011/08/ToR\\_LPC\\_Eng\\_Feb-2009.pdf](http://cprnepal.org/wp-content/uploads/2011/08/ToR_LPC_Eng_Feb-2009.pdf) (accessed September 4, 2014)

<sup>168</sup> Copy of VDC report on file with Human Rights Watch.

<sup>169</sup> Human Rights Watch interview with the husband of Radha (pseudonym), location withheld, April 24, 2013.

Actually so many people were making [compensation] claims, they were not taking it seriously. If we had gone to the VDC with a human rights organization, it may have been valid. But we had no one to take us.... We know of other cases where Advocacy Forum has got people compensation.<sup>170</sup>

Several women reported that their husbands taunted them for speaking about rape and not receiving any justice or compensation. For instance, Manorama said her husband criticizes her as having brought “shame” on the family for nothing. She recounted what he said: “You made so much noise. You have exposed yourself. It was all a secret, but now things are different. What was the point? You haven’t got any compensation either.”<sup>171</sup>

Daya said that villagers who now laugh at her behind her back might think otherwise if she received money. “If I get compensation, the villagers may treat me with more respect,” she said.<sup>172</sup>

## Risk of Impunity through Amnesty

The Comprehensive Peace Agreement of 2006 consolidated a series of commitments to human rights, including the establishment of a Truth and Reconciliation Commission (TRC). After many years of stalling, a deeply flawed TRC bill was passed into law in May 2014. The act called for the formation of a high-level commission to investigate serious human rights violations committed during Nepal’s armed conflict from 1996 to 2006. Troublingly, it granted the commission discretion to recommend amnesty for perpetrators if grounds for that determination are deemed reasonable. The government would then decide whether to grant an amnesty. The act does not define “reasonable.”<sup>173</sup>

Although section 26(2) contains a specific exception from amnesty for rape, the bill does not address the 35-day statute of limitation period on reporting rape under the Nepali criminal code, which precludes victims from accessing justice. The provision on amnesty is identical

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<sup>170</sup> Human Rights Watch interview with husband of rape survivor Shona (pseudonym), location withheld, April 24, 2013.

<sup>171</sup> Human Rights Watch interview with Manorama (pseudonym), location withheld, April 24, 2013.

<sup>172</sup> Human Rights Watch interview with Daya (pseudonym), location withheld, April 24, 2013.

<sup>173</sup> Nepal Act on the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, *Nepal Law Commission*, 2071, 2014, [http://www.lawcommission.gov.np/index.php?option=com\\_remository&Itemid=18&func=fileinfo&id=1803&lang=en](http://www.lawcommission.gov.np/index.php?option=com_remository&Itemid=18&func=fileinfo&id=1803&lang=en)

to section 23 of the 2012 ordinance, which had been explicitly rejected by the Supreme Court in January 2014 as unconstitutional and in breach of Nepal's international legal obligations.

Furthermore, the current act enumerates the serious human rights violations that would fall within the jurisdiction of the commission, including murder, abduction, rape and sexual violence, forced evictions, and mental and physical torture but section 26 contains vague language that does not completely reject amnesty, leaving open the possibility that perpetrators of these crimes might instead benefit from an amnesty.

The Office of the High Commission for Human Rights delivered a scathing critique of the act, pinpointing all the ways in which the act falls short of Nepal's international obligations and most crucially, continues to undermine victims' attempts at justice and accountability.<sup>174</sup>

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<sup>174</sup> OHCHR, "Technical Note on the Nepal Act on the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, 2071 (2014)," May 21, 2014, [http://www.ohchr.org/Documents/Countries/NP/OHCHRTechnical\\_Note\\_Nepal\\_CIDP\\_TRC\\_Act2014.pdf](http://www.ohchr.org/Documents/Countries/NP/OHCHRTechnical_Note_Nepal_CIDP_TRC_Act2014.pdf) (accessed September 10, 2014).

## V. Recommendations

The political leadership in Nepal acknowledged that sexual abuse occurred during the conflict when it signed the peace agreement in 2006. However, the government has yet to develop mechanisms to investigate these allegations and take steps to provide justice and reparations.

### To the Government of Nepal

- Ensure that the Truth and Reconciliation Commission or any other independent commission is specifically tasked with a mandate of investigating allegations of conflict-related rape and other forms of sexual violence. Such a commission should have adequate powers and resources at its disposal to:
  - Adopt gender-sensitive procedures that respect the privacy and dignity of survivors.
  - Engage counselors, interpreters, or special educators to ensure that all procedures are accessible to people with disabilities and to minimize re-trauma.
  - Order victim and witness protection measures.
  - Refer survivors and their families to psycho-social counseling and other support.
- Amend the Interim Relief Scheme to ensure that conflict-era victims of sexual violence and torture are eligible for reparations. Develop, in consultation with local women's rights groups and women from conflict-affected communities, a reparation program that is in accordance with international standards and includes, at a minimum:
  - Individual compensation and other rehabilitative services for those women who come forward with their experiences of rape and other forms of sexual violence. Rehabilitative services should take all appropriate measures to promote the physical, cognitive, and psychological recovery, and social reintegration of survivors of sexual violence and their families in an environment that fosters the

- health, welfare, self-respect, dignity, and autonomy of the survivor. Rehabilitative services should include livelihood and other support tailored to meet the specific needs of women, including age and disability-specific needs, the economic impact of raising children born out of rape, and whether they are female-headed households.
- Community-based rehabilitative services for all conflict-affected families to at least address long-term health needs and mental health services.
  - Community-based interventions to expand services to curb domestic violence in order to assist those women who experience such violence as a consequence of rape.
- Implement legislative, policy, and programmatic changes as part of a larger reparative framework to rectify underlying legal, policy, and programmatic barriers or gaps that prevented conflict-era rape survivors from seeking justice. These changes should be developed in consultation with local women's rights activists and should include:
    - Amending the criminal laws to eliminate the 35-day rule for reporting rape and other sexual offences.
    - Expanding the definition of sexual offences to include all forms of sexual offences with appropriate punishments based on harm.
    - Incorporating command and superior responsibility for war crimes, torture, and other international crimes committed by the police and other security forces.
    - Introducing a uniform protocol for treatment and medical examination of rape survivors that respects their privacy and dignity, and minimizes re-trauma.
    - Training police, doctors, and judges to ensure they take a gender-sensitive approach to dealing with survivors of sexual violence.
    - Creating a victim and witness protection program for all victims, including rape.

- Ensure women’s participation in the peace process including in any truth commissions that should comply with international standards.
- Encourage local peace committees to accept complaints of conflict-related sexual assault, and to help survivors process their applications through the appropriate channels, including the TRC.
- Urgently initiate police training and accountability to ensure that sexual assault complaints are promptly registered and properly investigated.
- Ensure all police stations throughout the country are staffed with female police officers who are adequately trained to deal with victims of sexual violence.
- Perform outreach and educational programs to educate communities about remedies available to victims of sexual violence.
- Train doctors and community health workers to provide services to victims of rape and other sexual violence. These should include the ability to address long term impact on rape survivors from the conflict who need mental health care as well as treatment for a range of issues we documented including prolapsed uterus, sexually transmitted disease, and other physical symptoms.
- Encourage the National Human Rights Commission to prepare and make available names of alleged perpetrators of human rights violations including sexual violence where they find credible cause for further investigations. Encourage civil society participation to identify victims of sexual violence and support their efforts to provide legal and medical assistance.

## **To the United Nations and International Donor Community including the US, UK, Japan, and India**

- Call upon the Nepal government to draft a constitution that reflects the will of the people and guarantees fundamental freedoms.
- Call upon all political parties, particularly the Communist Party of Nepal (Maoist), to cooperate in investigations into rape and other sexual violence by their members and supporters.

- Assist the government of Nepal to reform its criminal justice system by providing training to the police and judiciary.
- Assist the government of Nepal in establishing an effective transitional justice mechanism to investigate conflict related abuses including sexual violence.
- Assist the government of Nepal in establishing an effective reparation program for survivors of sexual violence and their families.
- Support civil society organizations that work with victims of sexual violence and assist them with legal aid and medical treatment.

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# SILENCED AND FORGOTTEN

## Survivors of Nepal's Conflict-Era Sexual Violence

Sexual violence, including rape, was committed by both sides to Nepal's decade-long civil war between government forces and the Communist Party of Nepal (Maoist) (CPN-M), which ended with a 2006 peace agreement. However, it is only recently, after peace has been restored, that some women are willing to report the sexual abuse that occurred during the conflict, seeking justice and redress. A combination of immense social stigma attached to sexual assault and fear of retaliation prevented many women from reporting these crimes during the conflict, and it still inhibits many others from speaking of the assaults.

*Silenced and Forgotten*—based on interviews with more than 50 women that Human Rights Watch conducted with the assistance of Advocacy Forum, a Nepali nongovernmental organization—documents women's experiences of sexual assault during the conflict. Some of the women described how members of the security forces raped and sexually abused female combatants after arrest, and targeted female relatives or supporters of Maoist suspects. Other women told how Maoist combatants raped women who refused to support them or whom they had forcibly recruited to help their insurgency.

While the government has acknowledged that women suffered rape during the conflict, it is yet to include them in an interim compensation program used to provide for family members of those killed or disappeared during the war. The government's Truth and Reconciliation Commission Act specifically removes perpetrators of sexual violence from possible amnesties, but the authorities have yet to ensure meaningful prosecutions of the perpetrators and an effective reparations program for the victims. Human Rights Watch calls on Nepali authorities to take those essential steps and to introduce medical and psycho-social programs for survivors to help them cope with the long-term consequences of the violence.



*Sexual violence during Nepal's 10 year conflict between Maoists and government forces has remained largely undisclosed.*

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