

Shadow Report on NEPAL

Sexual Violence against Women during Armed Conflict

Submitted to

**United Nations Committee on the Elimination of Discrimination
against Women**

Submitted by

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Abbreviations and Acronyms

CA	Constituent Assembly and Legislative Parliament
CAAFAG	Children Associated with Armed Forces and Armed Groups
CEDAW	Convention on Elimination of all forms of Discrimination against Women
CPA	Comprehensive Peace Accord
Committee	the UN Committee on Elimination of Discrimination against Women
DAO	District Administration Office
GoN	Government of Nepal
HimRights	Himalayan Human Rights Monitors
INSEC	Informal Sector Service Center
LPC(s)	Local Peace Committee(s)
Maoist	Belonging to the rebel Nepal Communist Party (Maoist)
MoLD	Ministry of Local Development
MoPR	Ministry of Peace and Reconstruction
MoWCSW	Ministry of Women, Children and Social Welfare
NGO(s)	Non-governmental Organization(s)
NHRC	National Human Rights Commission
PPCC	Partnership for Protecting Children in Armed Conflict
TRC	Truth and Reconciliation Commission
TYIP	Three-Year Interim Plan
UN	United Nations
UNSCR	United Nations Security Council Resolution
VDC	Village Development Committee

Executive Summary

Introduction

The Government of Nepal (GoN) has submitted its 4th and 5th combined Periodic Report to the Committee on Elimination of Discrimination against Women to be reviewed as prescribed by CEDAW. Himalayan Human Rights Monitors (HimRights), human rights NGO working in the areas of human rights, monitoring grave human rights violations, documentation, response, transitional justice and peace building, has felt the need to prepare an shadow report pertaining to Sexual Violence against Women during Armed Conflict and Post-Conflict Violence in Nepal.

Issues of Concern

The GoN has reported that it has adopted a number of policies, developed a number of plans and implemented a number of programs to address the issues of the Sexual Violence of Women and Girls during the decade long armed conflict and the transition period that is continuing till date consisting of violent post-conflict period. The major issue of concern is the gap between the policies (including plans and programs) and practice (implementation and performance). The details of which are as below:

- 1. Failure to Acknowledge the use of Sexual Violence as a Weapon of War/Terror during Armed Conflict and Post-Conflict Violence:** The Comprehensive Peace Accord, the Interim Constitution and other documents have mentioned about sexual violence during the conflict, however the report submitted to the Committee on Elimination of Discrimination against Women by the GoN fails to acknowledge this form of grave human rights violation and infringement of humanitarian laws.
- 2. Victims/Survivors of Sexual Violence Unaccounted/Unaddressed:** Although there are policies, plans and programs to address the issues of conflict affected persons and families, however these have not adequately addressed the issues of sexual violence during the period of armed conflict and post-conflict violence, particularly use of sexual violence as a tool of war. The National Plan of Action on implementation of UNSCR 1325 and 1820, 'Protection and Prevention' has highlighted major issues of victims/survivors of sexual violence but does not effectively lay out the redressal procedures.
- 3. Social Stigma towards Victims/Survivors of Sexual Violence:** Rape and sexual abuse were being often used as weapons of conflict/war and/or terror/threat. However, cases of sexual violence remained unreported because of shame and social stigma, denied justice, and fear of further intimidation by the perpetrator. Many woman and girl survivors of sexual violence including the displaced and migrating populations have been forced into prostitution in the cities within the country and trapped into trafficking for the purpose of commercial sex work.
- 4. Justice Denied to Victims/Survivors of Sexual Violence:** The existing laws have defined sexual violence, especially rape, in a very limited sense and the procedure to address and redress of the offence is not only time consuming but also cumbersome. Thus, the

victims/survivors of sexual violence are in a way denied justice; because justice delayed is justice denied.

5. **Relief, Rehabilitation and Reintegration of Victims/Survivors of Sexual Violence:** Although the government has developed policies, plans and programs for relief, rehabilitation and reintegration of conflict affected, the victims/survivors of sexual violence and rape during the armed conflict and the post-conflict violence during the transition period have not been able to receive the services and benefits.
6. **Psychosocial Counseling and Trauma Healing of Survivors of Sexual Violence:** The policies, plans and programs mention of psychosocial counseling services to the conflict affected, however there are very few psychosocial counselors or counseling services in most of the district the Women Development Offices. The trauma of the victims/survivors of sexual violence during the conflict and the post-conflict transition period have been continued and increased because of physical, mental and emotional impacts of the incidents. Without proper therapy in practice, the paper cannot heal their pains and sufferings.
7. **Representation of Women, especially the Survivors of Sexual Violence, in Decision Making Levels of Conflict Transformation, Peace Building and Transitional Justice Mechanisms:** The representation of women in different decision- and policy-making as well as implementing institutions and mechanisms relating to peace building is insignificant and nominal, even the 33% representation in the CA is not meaningful. The representation of the survivors of sexual violence in those institutions and mechanisms is a far cry.

Recommendations

HimRights recommends to the Committee to make the GoN accountable and responsive to respect, protect and fulfill the basic human rights of the survivors of the sexual violence during armed conflict and post-conflict violence for creating an environment for their dignified life:

- Acknowledge the use of sexual violence as a weapon of war and terror during conflict
- End impunity to the perpetrators and ensure prompt and justice to the survivors/victims through transitional and restorative justice;
- Carry out in-depth study and research on the sexual violence during the armed conflict and the post-conflict violence;
- Implement community programs on rehabilitation, reconciliation and reintegration including safe space for healing and livelihood of the survivors;
- Form gender sensitive, independent and authoritative TRC;
- Enhance meaningful inclusion and representation of women/survivors in institutions and mechanisms on conflict transformation and peace building at the decision- and policy-making and implementation levels;
- Develop and execute effective, participatory and transparent implementing procedures for policies, plans and programs;
- Implement National Plan of Action on Implementation of UNSCR 1325 and 1820 effectively.

Introduction

Nepal became a State Party to CEDAW and the Optional Protocol to CEDAW, without any reservations, respectively in 1991 and 2007. The Government of Nepal (GoN) submitted the initial report in 1997 and the second and the third combined periodic report in 2003. The General Recommendations and Concluding observations of the Committee on the Elimination of Discrimination against Women to the reports submitted by the Government of Nepal were crucial in improving the situation of women's human rights in Nepal. The Government of Nepal has submitted the fourth and the fifth combined periodic report to the Committee, the review of which is going to be held soon.

In this perspective, the Himalayan Human Rights Monitors (HimRights), a non-government, non-partisan and non-profit human rights organization, involved in studying and working in the areas of conflict transformation and peace building, is delighted to present this report to the Committee pertaining to the critical issues of Sexual Violence during the Armed Conflict and Post-Conflict Violence.

Nepal experienced a decade long armed conflict (1996 to 2006), between the then Communist Party of Nepal (Maoist) and the then Government of Nepal. According to INSEC, a Nepalese human rights organization, 820 women were killed by the state and 193 women were killed by Maoists during the conflict, while 267 women have been abducted and 137 women have disappeared.¹ In the hardest hit areas, many women had to face various challenges and problems from both conflicting parties. They suffered physically, mentally, psychologically and emotionally. As men had either escaped because of fear/threat or joined either of the forces, on the one hand the workload of women increased and on the other the Maoists forced women to provide them with food and lodging while the State Security Forces tortured them for it, and many were arrested and tortured in suspicion for being Maoists. They were sexually abused, raped, maimed, tortured, abducted, and faced extra-judicial imprisonment and killing.

CEDAW has no specific Article relating to impacts of conflict on women, however the Beijing Platform for Action and the Security Council Resolutions 1325, 1820, 1888 and 1889 have spelled out the course of action for it. Likewise, The Committee in its Concluding Comment numbers 202 and 203 at the 30th session expressed its concern on the impacts of the armed conflict on women and urged the Government of Nepal to ensure equal participation of women in the conflict resolution and peace building, to allocate sufficient resources in meeting the needs of women suffering from conflict, and to ensure their security and protection from violence.

In the paragraph 21 of the current report to the Committee, the GoN has accepted that the armed conflict widely affected the civil, political, economic, social, and cultural rights of the people, and not only disrupted development activities but also inflicted immeasurable sufferings

¹ INSEC Year Book, 2007

to the people incidences of human rights violation of women and children, including sexual abuse of women and girls.

The purpose of this report is to assist the Committee to make the GoN accountable and responsive to the women and girls affected by sexual violence during armed conflict and the post-conflict violence including the transitional period, end impunity to the perpetrators and meet justice to the victims/survivors.

The Gaps and/or the Issues

Although the signing of the Comprehensive Peace Accord (CPA) between the between the GoN and CPN Maoist on 21 November, 2006 and has been a significant achievement to end the decade long armed conflict and to open the road to peace, the efforts to conflict transformation and peace building have not been realized in practice as expected. Particularly, Clause 7.6 of the CPA has committed to provide special protection to the rights of women and children, to immediately prohibit all types of violence against women and children, including child labor and sexual exploitation and harassment have not been addressed. Similarly, a National Action Plan on implementation of UNSCR 1325 and 1820 has been developed to ensure proportional and meaningful participation of women at all levels of conflict transformation and peace processes; and protection of women and girls' rights² but very little has been implemented.

The following issues, mostly the gaps in implementation of the policies, plans and programs are crucial relating to the sexual violence during armed conflict and post-conflict violence:

1. Failure to Acknowledge the use of Sexual Violence as a Weapon of War/Terror during Armed Conflict and Post-Conflict Violence

The different reports of the government, including the 4th and 5th combined report to the Committee by the GoN just mention about sexual violence and rape during the armed conflict and the post-conflict violence, but skip the topic. However many organizations, including media, working in the areas of conflict transformation, rehabilitation, reconciliation and peace building have come across plenty of stories and evidences of sexual violence and rape especially by State Security Forces. In terms of geographical locations, cases of sexual violence were reported most often in remote districts such as Kalikot, Rolpa and Achham³ and remote rural areas. In Bhajani, Kailali it was reported that there were hardly any women who

Data on casualties as of 16 July 2010	
Cases	Number
Killing	16,831
Disappearance	1,381
Displacement	21,099 (Families), 82,122 (persons)
Personal property Loss	13,253
Injured	1,299
Disabled	4,305 (with certain percentage of injury)
Abduction/imprisonment	716
Kidnap	1,440
Destruction of public property	2,119

Source: MoPR, www.peace.gov.np

² National Plan of Action on implementation of UNSCR 1325 and 1820 , GoN, 1 February 2011

³ Across the lines, Advocacy Forum, Kathmandu, Nepal

were not sexually harassed. In many areas, women were not only harassed and beaten but also sexually abused. If they happened to be the significant suspected or known Maoists they were not only tortured physically and mentally but also molested and/or raped.⁴

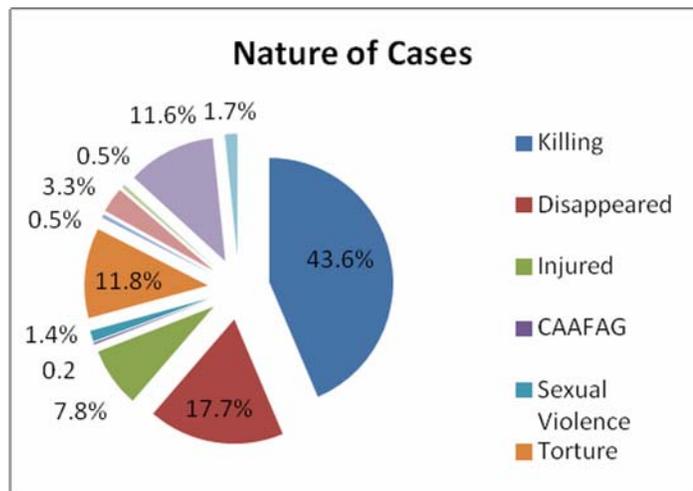
The failure to acknowledge not only the occurrences of but also use of sexual violence, including sexual abuse, assault, exploitation and rape, as weapons of conflict/war and or terror/threat on the part of the then conflicting parties, especially the State is hiding the facts from the people and denial of justice to the victims/survivors.

Certain socially marginalized communities have been particularly targeted by security forces. This is due in part to their perceived association with the CPN (Maoist), as the CPN (Maoist) movement received support in its early stages from oppressed and ethnic minority communities in the west of Nepal. These groups, including the very poor and landless, dalits, and the ethnic minority Tharu and Magar communities have reportedly suffered exceptionally high numbers of extrajudicial killings, rape, “disappearance” and torture in the context of the conflict. The widespread human rights abuses committed against these communities by security forces can be seen as an extension of the historical discrimination and violence they face in society.⁵

Many new cases were identified during ‘Women in Constitution and Reconciliation’ program in 6 districts and Voices and Experiences of Children in Armed Conflict in 16 districts which were not registered in any Government bodies. Many cases of conflict victims are still to be registered especially in Hills and Mountains districts. It is mainly due to geographical difficulty and poor government mechanism on dissemination of information on relief and compensation.

2. Victims/Survivors of Sexual Violence, injured and abductees Unaccounted/Unaddressed

The 4th and 5th combined periodic report mentions a great deal about the government policies, plans and programs to deal with addressing and redressing the affects and impacts of the armed conflict and the post-conflict violence, however very little has been achieved in practice pertaining to the sexual violence against women during the course of the armed conflict and post-conflict violence and transition period. The issue of investigation, record and address/redress the cases of sexual



⁴ Social Impact of Armed Conflict in Nepal: Causes and Impact, Anjana Shakya, SIRF (2006)

⁵ Amnesty International, Nepal: Killing with Impunity, 2005

violence is missing while there is a wide gap or inconsistencies between the policies (including plans and programs) and the implementation, which have not only continued the trauma of the violence during the course of the armed conflict but also increased during the transition period.

It is astonishing to note that the data of conflict victims issued by the MoPR in its second quarterly/eight monthly progress report (Fiscal year 2010/11) does not include the cases of sexual violence during the course of conflict although it is mentioned in different policy guidelines, programs and reports, including the 4th and 5th combined periodic report. The adjacent chart (as of April 2011) is an evidence of the real situation, depicting the nature of cases amongst 316 women and adolescent girls directly affected by and survivors of the armed conflict in the 6 reconciliation program districts of HimRights.⁶ It reveals that 1.4% of the data is on victims/survivors of sexual violence.

The following table indicates that sexual violence/assaults consist of almost 20% of the gross violations of human rights and humanitarian laws during the period of June to November 2010 in 13 PPCC working districts.

Types and Number of Violations recorded during the period of June-Nov 2010⁷

SN	Districts→	Banke	Bara	Bardiya	Dang	Dhading	Mahottari	Parsa	Ruthat	Sunsari	Saptari	Siraha	Sarlihi	Surkhet	Total
	↓Violations														
1.	Use or attacks against school	5	11	8	13	9	5	9	1	12	10	1	2	4	90
2.	Use/recruitment	-	-	-	2	-	-	2	-	-	-	-	1	-	5
3.	Killing or maiming	1	2	-	-	-	-	5	4	-	-	-	-	-	12
4.	Abduction	1		1	-	-	-	1	1	1	7	2	1	-	15
5.	Sexual violence ⁸	-	2	2	5	4	4	1	2	5	1	2	1	-	29
	Total	7	15	11	20	13	9	18	8	18	19	5	5	4	151

3. Social Stigma towards Victims/Survivors of Sexual Violence

Different media reporting's, stories and articles about sexual assault, abuse, exploitation and rape of a large number of women and girls by both the conflicting parties during armed conflict and different armed groups during post-conflict violence; rape and sexual abuse being often used as weapons of conflict/war and/or terror/threat. However, cases of sexual violence rarely came to surface, they remain unreported. There are many factors associated with this reluctance, e.g., shame and social stigma, denied justice, and fear of further intimidation by the perpetrator.

⁶ "Women in Constitution and Reconciliation", a HimRights project women and girl conflict victims/survivors in Makwanpur, Bara, Kailali, Bardiya, Kapilbastu and Bhojpur

⁷ Partnerships for Protecting Children in Armed Conflict, an alliance of 7 organizations working on child rights and education

⁸ The sexual violence includes rape, attempt to rape, and sexual assaults and abuses.

The paragraph 79 of the present periodic report of the GoN states that armed conflict and the post-conflict violence have caused large scale displacement and migration of people; many young women, adolescent girls and young girls have been attracted to dance bar, restaurants, massage parlors and so on in Kathmandu and other cities of Nepal, many of which are engaged in prostitution where they are sexually abused and exploited.

A research carried out by Advocacy Forum revealed a phenomenon of “false marriages” when government security force personnel married girls using false identities and then deserted them when they were transferred to another barrack. Many women were abandoned while pregnant. Most have been forced to raise their children as single mothers without any means of support.⁹ The society views them of ‘immoral character’ and many of such women have been forced by the circumstance to prostitution.

Nisha Chaudhary (22) of Kailali had gone through extreme sexual violence and rape during armed conflict. She was taken by Security Forces from home accusing her of being a Maoist cadre in 2001. Security Forces were searching for her sister (Maoist cadre). Her sister was not in home at that time, so, they took her instead. At the age of fifteen she spent almost 9 months in Army detention, where she had gone through series of sexual violence, rape and physical torture. She could not dare to visit doctors or report the case even after being released from fear of further threat and retaliation.

After being released, she participated in candle and incense making training for livelihood of the family. She resumed her studies and supported her siblings’ education as well.

She got married. Unfortunately, her husband and in-laws soon found out about her about the past incident and the suffering she had endured. She was abused and discriminated by her in-laws and husband, and after seven days of marriage she was thrown out of her home. She is now with her mother; living in fear of further humiliation. She is still suffering from physical and psychological problems.

4. Justice Denied to Victims/Survivors of Sexual Violence

The definition of sexual violence and rape, in Nepalese law, needs to be redefined to ensure compatibility with international standards.¹⁰

Likewise, the legal provisions are not in favor of the victims who were sexually exploited during armed conflict. The victim has to file case within the 35 days of the incident, which is impractical in the cases of rape or other sexual violence and even more impossible during armed conflict. It is not both the conflicting parties seem to be trying to keep the issue hush-hush.

The perpetrators of gross human rights violations and humanitarian laws are 'protected' by the political parties and enjoying impunity. The victims/survivors of the sexual violence are unable to receive justice through the traditional justice mechanisms and the government has only paid 'lip-service' to transitional justice and TRC.

⁹ Across the lines, Advocacy Forum, Kathmandu, Nepal

¹⁰ The Prosecution of Sexual Violence in Nepal, WOREC Nepal and WILPF, April, 2011

Justice delayed is also in a sense justice denied. Therefore, justice for the victims/survivors of sexual violence during the armed conflict and the post-conflict violence has become distant reality.

5. Relief, Rehabilitation and Reintegration of Victims/Survivors of armed conflict

The paragraph 24 of the combined 4th and 5th report of the GoN elaborates in detail about the plans and programs on distribution of relief and rehabilitation package to families of killed, injured, disappeared and displaced persons and conflict affected children but it does not mention about the sexually assaulted, abused, exploited and raped women and girls during the armed conflict and post-conflict violence.

The redressal mechanism has been established by MoPR for overall care, management and rehabilitation of conflict victims which has specific provisions for women. Now, it has become a tool for the political parties to benefit their vested interests rather than ensuring social and legal justice for sexually abused and exploited

“When my husband was in India for employment, Maoists came to my home and raped me. That makes me worried all the time. I have not said anything about that to my husband. I am scared about the consequences after I tell him; moreover, I am scared of HIV infection. I am a local Women Volunteer. I feel so guilty for not sharing with my husband. I am suffering all day and night for this reason.”

Krishna Chaudhary, Basauti VDC, Kailali

women. During the ‘Women in Constitution and Reconciliation’ with the conflict affected women and girls in 6 districts, they claimed that the mechanisms are headed by leaders of the local units of the major political parties and each of them have separate lists of their cadres and kins, who receive the relief and compensation, instead of the real conflict affected¹¹.

Victims of sexual violence have received neither relief and compensation/reparation nor justice. There is no provision of relief and compensation in the on Civilian Relief and Compensation and Financial Assistance Guideline 2010 for the victims of sexual violence. In the

A girl associated with Maoist PLA from Kanchanpur was not accepted in her family and the society, even after she made her way back home. She is now living with one of her aunts in Dhangadhi. She was accused of being sexually assaulted while she was involved in conflict. She did not receive any support from the Government. She is seeking support for income generation training.

Amrita Chaudhary, Krishnapur VDC, Kanchanpur

mean time, no initiatives have been taken on documentation of cases regarding sexual violence that took place during armed conflict and post-conflict circumstances. “Due to lack of proof and proper documentation, it has been a big issue even for NHRC to proceed with such cases”, a Human Rights Activist of Kailali said. Chief District Officer from Kailali admitted, “The victims of sexual violence could be provided with relief as per the sixth

¹¹ Source: Annual Report of ‘Women in Constitution and Reconciliation’ Program, HimRights 2010/11

*category of relief to injured persons.*¹² But this does not seem to be practical or provide justice to the victim in real sense.

The Ministry of Peace and Reconciliation has stated that 1299 persons were injured during armed conflict. But there are thousands of other victims of injury who are not registered in the Ministry. Majority of them have not received any relief packages and further medical treatment support.

The government relief package is provided only to the victims whose treatments were carried out in government and community hospitals. Due to security and other reasons, many people got treatment in private hospitals and hospitals abroad, especially in India. The point worthy of consideration is that majority of conflict victims have not received any relief from the government.

My house was bombarded during the armed conflict. My sister died in that incident and I got seriously injured. I did not get any support for medical treatment from the government. There are still bomb shrapnel in my body. I am not able to work properly because of constant pain on my back and leg. My concern is that how many years I have to live with shrapnel in my body. What was my fault?

Nirmala Khawas, Dingla – 7, Bhojpur

Her husband was seriously beaten by State Security Forces accusing him of being Maoist Commander. They almost killed him. He was let go after request by all villagers. She sold their land and her jewelry for his treatment. He is under continuous medication. There is no one in her family who can earn. She has submitted applications for relief in District Administration Office, but never heard of any responses.

Bhumisara Chhetri, Khailad 6, Kailali

Similarly, there were several cases of abduction followed by extreme torture. Many of them were abducted by Security forces and kept in forceful detention.

Due to torture, detainees are facing both physical and psychological problems. Regardless of series of applications and requests in District Administration Offices, they have not received any relief packages. There is no provision of relief and compensation to the victims of abduction and forceful detention.

Tara Devi Pradhan from Siddheshor VDC of Bhojpur was abducted by State Security Forces on 8 February 2004. She was primarily affiliated with Maoists. She was severely beaten and left wounded for several days. She was later kept in detention in Bhojpur for 3 months where she had to bear series of inhumane torture. Later, she was transferred to a prison in Kathmandu. She was released only after CPA was signed in 2006. Now, she finds herself very difficult to carry out her daily activities. She demands the Government to make specific provisions on relief packages and compensation to victims of abductions and forced detentions during armed conflict.

Bardiya has the highest number of cases of disappearances. Most of the disappeared are male members of the families. It has direct impact on women. Due to the disappearances of male members, who were breadwinners of their families, all the family responsibility shifted to women. Likewise,

¹² Statements made on 'Women in Constitution and Reconciliation' Program in Dhangadhi, Kailali (September 10, 2010) HimRights 2010/11

they have had to live in uncertainty whether the disappeared would come back or not. Their only demand is to initiate investigation on disappearance and reveal truth, ensure justice and penalize the perpetrators. Due to loss of breadwinner of the family, the entire economic and family burden shifted to women. Therefore, the most visible challenge in the lives of women who only used to look after household works now had to bear economic burden as well. The situation was critical if they were elderly. They had to look after food, clothing, and education of their children and grandchildren.

However, the trauma of the families of the disappeared is expressed in the words of Hira Acharya of Khairi Chandanpur VDC, Bardiya: *“The land and properties that had been captured were returned. My husband has been disappeared for so many years, who will give my husband back? Who will give me justice?”*¹³

6. Psychosocial Counseling and Healing of Survivors of Sexual Violence

As guided by the TYIP, a national action plan for the social rehabilitation of women affected by the conflict has been approved by the government but its implementation, particularly the psychosocial counseling service for trauma healing, legal aid, redress, compensation and reparation, justice to the conflict affected, especially the victims of sexual violence, abuse, exploitation and rape during the conflict and the transition period have not been met. A psychosocial counselor has been assigned to the District Women Development Offices, however they are inadequate in terms of the programs and area of the district on the one hand and laxity of the government offices in providing services.

Rearing 8 grandchildren at the age of 75 years

Sun Bir Gole and her spouse from Ratanpur VDC of Bara are taking care of their eight grandchildren at the age of seventy-five years. Their grand children were orphaned due to armed conflict. Both of their sons were killed by State Security Forces and both of the daughters-in-law got remarried. They are helpless and living on grievances all the time. It has not only added economic burden at that age, but also fear of being deprived of education. They have not received any relief packages from District Administration Office.

Whatever the GoN has mentioned in its report to the Committee, it does not have any provision of providing psychosocial counseling to the conflict victims, especially the survivors of sexual violence. The situation is even more critical in remote parts of the country as there are no psychosocial counselors in most districts or limited to district head quarters only.

¹³ Statement made in “Women in Constitution and Reconciliation’ Program in Bardiya in December, 2010, HimRights 2010/11

7. Representation of Women, especially the Survivors of Sexual Violence, in Decision Making Levels of Conflict Transformation, Peace Building and Transitional Justice Mechanisms

Although the MoPR has developed guidelines to ensure effective protection mechanisms for women and girls against all forms of violence, including sexual violence, and to ensure meaningful participation of women in peace building; merely translation and wide dissemination of 1325 and 1820 have been made.

The 33 percent representation of women in the Constituent Assembly and Legislative Parliament (CA) is a significant achievement but they merely are 'puppets' to the whips of the political parties and lack meaningful participation. No voice for women victimized due to sexual violence during the conflict has been raised, recorded and discussed in the CA.

Paragraph 228 of the 4th and 5th periodic report states that cases of sexual exploitation and any kind of violence and infringement on the rights of women during conflict will be investigated and brought to justice, but justice has not been made even in the case of Maina Sunuwar of Kharelthok VDC-6, Kavre. The transitional justice mechanism is being used merely during training and workshops, and the bill for the Truth and Reconciliation Commission to investigate acts of grave violations of human rights and crimes against humanity committed during the course of conflict and to create an atmosphere of reconciliation has been covered by cobwebs and dust.

The representation of women in decision making levels at the national and local peace mechanisms is nominal: the Coordinators of the 49 District level Local Peace Committees consist of 94% (n=53) men and 6% (n=3) women whereas the Secretaries of 75 District level Local Peace Committees consist of 71% (n=53) men and 29% (22) women¹⁴ although the Three-Year Interim Plan (TYIP), 2007/08 to 2009/10, has included provision for equal participation of women in conflict resolution and peace building.

Recommendations

The report of the GoN fails to provide details of the implementation process of the policies, plans and programs for justice, rehabilitation and reconciliation, including psychological recovery, trauma healing and social reintegration, to the women and girls who were victims of the conflict, especially the sexual violence during the armed conflict and the post-conflict violence.

The following recommendations are forwarded to the UN Committee on Elimination of Discrimination Against Women for make the GoN accountable and responsive to respect,

¹⁴ Source: MoPR [<http://www.peace.gov.np>], 2011

NB : The Cases illustrated on this report are referred from 'Women in Constitution and Reconciliation' program in different districts as indicated in the boxes. HimRights, 2010/11

protect and fulfill the basic human rights of and create an environment to live a dignified life for the victims/survivors of sexual violence, abuse and exploitation including rape during the armed conflict and the post-conflict violence:

- Information on the Victims/Survivors of sexual violence, abuse and exploitation including rape during the armed conflict and the post-conflict violence
 - Carry out investigations, study and research on sexual violence during the armed conflict and the post-conflict violence;
 - Establish and manage data and records of the victims/survivors, perpetrators, nature and consequences of sexual violence during the armed conflict and the post-conflict violence;
- Rehabilitation, Reconciliation and Reintegration including Healing of the Victims/Survivors
 - Provide special support for livelihood through income generation and/or skill/vocational training to the victims/survivors;
 - Implement community programs to reconciliation and reintegration of the victims/survivors;
 - Immediately initiate psychosocial counseling, medical assistance, legal aid and support for psychological and physical healing of the victims/survivors;
 - Create a safe and dignified space for conflict survivors/victims because pain, sufferings, frustrations and trauma are engrained in them for which they do not have a space to vent out; therefore effective and vibrant platforms where issues and concerns of the women survivors/victims could be heard and addressed need to be opened up so that the survivors will able to transform their feelings from hatred to compassion, empathy and empowered to fight for their rights and justice;
 - Immediately implement sustainable livelihood support initiatives for the survivors of sexual violence;
- End Impunity to the Perpetrators and Meet Justice to the victim/survivors
 - Acknowledge that sexual violence, abuse and exploitation, including rape during the armed conflict and the post-conflict violence was used as a weapon of war/terror and declare these as war crimes and crimes against humanity;
 - Reform existing laws pertaining to sexual violence, abuse and exploitation, including rape by making them people-friendly and make them conducive to the rights-based approach;
 - Delimit the statutory limitation of 35 days for reporting/registration of cases of sexual violence, abuse and exploitation, including rape to increase the access to justice of the victims/survivors;
 - Ensure legal and social justice to victims of sexual violence during armed conflict by formulating distinctive legal provisions as well as social awareness;
 - End political and administrative interference in accessing justice ;
 - Immediately establish an Independent Special Court as Independent Transitional Justice Mechanism to hear and address the cases of grave human rights violations and humanitarian laws, including sexual violence, abuse and exploitation, including rape during the armed conflict and post-conflict period, unless the TRC is operational;
 - Investigate and prosecute crimes committed against women and girls, including crimes of sexual violence and rape during the armed conflict and the post-conflict violence;

- Create environment for adopting the bill on TRC incorporating the feedback from different sectors as early as possible;
- Gender sensitive Truth and Reconciliation Commission and Disappearance Commission should be established to facilitate conflict afflicted survivors' in accessing justice. In the transitional and post conflict period impunity seems to be the rule rather than the exception in Nepal. The perpetrators should be brought within the authority of TRC and prosecuted accordingly for every heinous crime and human rights violations.
- Enhancing Meaningful Inclusion and Participation of Women in Policy- and Decision-Making Levels
 - Increase the number and quality of the women participating in policy- and decision-making levels, especially in the Local Peace Committees (LPCs);
 - Include the directly conflict affected women, ensuring representation of voices of the victims/survivors of sexual violence during the armed conflict and post-conflict violence, in the LPCs and other mechanisms relating to conflict transformation and peace building;
- Effective Implementation Procedures of the Policies, Plans and Programs
 - Incorporate the provisions of the International Human Rights Standards and International Humanitarian Laws in the national laws;
 - End political/administrative interference in implementing policies, plans and programs;
 - Frequent change in the steering committee of the LPC after every six months and lack of co-ordination amongst various members of the LPC is considered as the main existing problem. Power struggle between political parties and too much political interference is the main reason behind LPC being dysfunctional. Unwillingness to carry forward the commitments made by earlier committees is creating a dormant LPC. Furthermore, it should be more responsible to recommend only real conflict victims to the District Administrative Office and not people who only have political ties.
 - Ensure compensation and reparation to be given to the real conflict victims whether or not they have political linkages;
 - Local level relief and compensation processes (e.g. required documents for evidence/verification) should be made user-friendly since these are extremely lengthy and time consuming;
 - Ensure accountability and transparency in the processes.