Association suisse
contre l'impunité

Schweizerische Gesellschaft
für Völkerstrafrecht

Swiss association
against impunity

Written Information for the Follow-up

to

the Concluding Observations of the

Committee on the Elimination of Discrimination against Women with regard

to Nepal's Combined Fourth and Fifth Periodic Reports

(CEDAW/C/NPL/CO/4-5)

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Submitted by

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TABLE OF CONTENTS

Contents **Pages**

1. INTRODUCTION 3

1.1 Focus of the Report 3

1.2 Historical Context 4

2. THE CODIFICATION OF RAPE OR OTHER FORMS OF SEXUAL VIOLENCE 6

2.1 Definitions 6

2.2 Penalties 8

3. OBSTACLES TO EFFECTIVELY INVESTIGATE, IDENTIFY, JUDGE AND SANCTION THOSE RESPONSIBLE FOR RAPE OR OTHER FORMS OF SEXUAL VIOLENCE 9

3.1 Statute of Limitations 9

3.2 Difficulties in Filing First Information Reports 10

3.3 Stigmatisation 12

3.4 Procedural Obstacles within the Military Justice System 13

4. THE PENALISATION OF MARITAL RAPE 15

5. THE INADEQUACY OF THE DRAFT LAWS ON TRUTH AND RECONCILIATION COMMISSION AND THE COMMISSION OF INQUIRY ON DISAPPEARANCES WITH INTERNATIONAL STANDARDS 15

6. FAILURE TO PROVIDE LEGAL AID TO VICTIMS OF RAPE OR OTHER FORMS OF SEXUAL VIOLENCE 20

7. FAILURE TO ADEQUATELY PROTECT AND SUPPORT VICTIMS AND WITNESSES OF RAPE OR OTHER FORMS OF SEXUAL VIOLENCE 22

8. FAILURE TO PROVIDE ADEQUATE COMPENSATION AND INTEGRAL REPARATION TO VICTIMS OF RAPE OR OTHER FORMS OF SEXUAL VIOLENCE 24

9. CONCLUSIONS AND RECOMMENDATIONS 27

10. INFORMATION ON THE ASSOCIATIONS SUBMITTING THIS WRITTEN INFORMATION 30

1. Introduction

1.1 Focus of the Report

1. The associations submitting this report are concerned on many counts with the government of Nepal's failure to implement the recommendations contained in the concluding observations adopted by the Committee on the Elimination of Discrimination against Women (hereinafter "CEDAW" or "the Committee") on 29 July 2011.[1] In paragraph 49 of its concluding observations, the Committee requested the State party "to provide, within two years, written information on the **steps undertaken to implement the recommendations** contained in paragraphs 26 and 36 above". In light of their mandate and area of expertise, TRIAL and HimRights will focus on the recommendations covered in **paragraph 36, which concern the investigation and prosecution of acts of sexual violence committed during the conflict**; **the provision of legal aid, adequate protection and integral reparation to victims and witnesses, as well as the draft laws seeking to establish transitional justice mechanisms.** The associations submitting this report will also address the recommendations made by the Committee in **paragraph 20 of the concluding observations, deeming the issues therein contained - in particular women's access to justice – to be urgent matters which need to be addressed by the State party**. The omission from this report of other subjects covered in the Committee's concluding observations does not imply by any means that TRIAL or HimRights consider that Nepal has fully implemented the recommendations or that it fully complies with all other obligations under the Convention on the Elimination of all forms of Discrimination against Women (hereinafter "the Convention").

2. Systematic reforms are needed to identify, investigate and prosecute those responsible for acts of sexual violence committed during the conflict and post-conflict periods, to provide victims with legal aid and adequate measures of protection and integral reparation and to ensure women's access to justice in general. This report seeks to assess the government of Nepal's efforts to implement the recommendations made by the CEDAW on 29 July 2011 and to formulate concrete recommendations with regard to the legislative changes that are needed in order for the government of Nepal to successfully combat sexual violence and guarantee women's access to justice.

3. This report will address specifically the following sections of the Committee's concluding observations contained in paragraphs 20 and 36:

> ***20. The Committee urges the State party to give priority attention to combating violence against women and girls and to adopt comprehensive measures to address such violence, in accordance with its general recommendation No. 19. To this end, the Committee recommends that the State party:***

[1] Committee on the Elimination of Discrimination against Women (CEDAW), Concluding Observations on Nepal, UN doc. CEDAW/C/NPL/CO/4-5 of 29 July 2011 (hereinafter "CEDAW Concluding Observations on Nepal").

[…]

(c) Take immediate measures to **abolish the statute of limitations on the registration of sexual violence cases**, to ensure women's effective access to courts for the crime of rape and other sexual offences;

[…]

(f) **Adopt and enact without delay the draft law, currently under preparation, which significantly increases the punishment for marital rape**, as mentioned during the dialogue, and undertake an awareness-raising campaign on the new provisions in this regard.

* * *

36. The Committee urges the State party to:

(a) Prioritize the consideration of the **draft laws on the Truth and Reconciliation Commission and the Commission of Inquiry on Disappearances**; ensure that the Commissions are gender-sensitive, independent and authoritative and that the Truth and Reconciliation Commission deals with sexual violence; and pay particular attention to the social and security dimension of public testimony for victims of sexual violence;

(b) **Investigate, prosecute and punish all acts of violence, including acts of sexual violence perpetrated by the armed forces, Maoist combatants and private actors, through transitional and restorative justice**, and ensure that, under the draft law on the Truth and Reconciliation Commission, the **statute of limitations on filing complaints relating to rape and other forms of sexual offences during the conflict does not preclude women's access to justice**;

(c) Initiate a **thorough and complete investigation into the perpetration of sexual abuse during the armed conflict and post-conflict periods;**

(d) Ensure **women's access to justice and make legal aid available and accessible to all women affected by the conflict**, including women victims of sexual violence during the conflict and post-conflict periods;

(e) Ensure the **protection of victims and witnesses and provide shelter homes for victims of sexual violence**, including in rural and remote areas;

(f) […] ensure **that victims of sexual crimes receive appropriate reparations, rehabilitation and counselling** […]

1.2 Historical Context

4. From 1996 to 2006 a civil war raged in Nepal between the government of Nepal and the Communist Party of Nepal - Maoist (CPN-M). Although Nepal had changed from an absolute to a constitutional monarchy in 1990, failure to address deep-rooted socio-economic problems led to

the conflict.[2] Rounds of peace talks began in 2001 but with no success.[3] King Gyanendra of Nepal declared a state of emergency on 26 November 2001 and ordered the army to intervene in response to the attacks by the Maoist rebels.[4] Various constitutionally granted human rights and freedoms were suspended in Nepal: freedom of expression, freedom of peaceful assembly, freedom from censorship, right against preventive detention, right to information, right to property, right to privacy and right to a constitutional remedy (with the exception of the right to *habeas corpus*).[5] The conflict ended with the signing of the Comprehensive Peace Agreement (CPA) on 21 November 2006.[6]

5. During the conflict in Nepal from 13 February 1996 to 21 November 2006, an estimated 13,236 people were killed and 1,300 suspected enforced disappearances were carried out, as well as at least 2,500 acts of torture and other forms of ill-treatment, thousands of arbitrary arrests and an untold number of rapes.[7] Incidents of rape or other forms of sexual violence committed during the conflict have likely been under-reported due to social and cultural taboos, as well as to a "lack of support, protection and redress mechanisms necessary for victims to be able to speak out"[8] and to a widespread fear of repercussions or further victimization. According to the Office of the High Commissioner for Human Rights in Nepal (OHCHR), the majority of cases of sexual violence committed during the conflict period allegedly implicate security force personnel as the perpetrators who, in an effort to extract information about Maoists, arrested, detained and subjected civilian women to rape and other forms of torture.[9]

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2 National Human Rights Commission (NHRC), *Ceasefire Report,* 12 April 2007 (hereinafter "NHRC Ceasefire Report"), p. 2, available at: http://www.nhrcnepal.org/nhrc_new/doc/newsletter/Ceasefire%20report%20final.pdf (last accessed 6 August 2013).

3 *Ibid.*

4 *Ibid.*

5 The declaration of the state of emergency was accompanied by the suspension of sub-clauses (a), (b) and (d) of clause (2) of Article 12, clause (1) of Article 13 and Articles 15, 16, 17, 22 and 23 of the Constitution of Nepal which can be accessed at www.supremecourt.gov.np/main.php?d=lawmaterial&f=constitution_part_3 (last accessed 6 August 2013).

6 United Nations Security Council Resolution 1740, UN doc. S/RES/1740 of 23 January 2007.

7 OHCHR, *Nepal Conflict Report: An analysis of conflict-related violations of international human rights law and international humanitarian law between February 1996 and 21 November 2006,* November 2012, (hereinafter "Nepal Conflict Report 2012") citing figures compiled by INSEC and the ICRC, at fn. 11; Ch. 2 (History of the Conflict), available at http://www.ohchr.org/Documents/Countries/NP/OHCHR_Nepal_Conflict_Report2012.pdf, (last accessed 24 July 2013).

8 *Ibid.,* p. 158.

9 *Ibid.*

Victim A[10]

In 2004 Victim A was kidnapped by the Royal Nepalese Army (RNA) along with her children. She was suspected of being a Maoist. She was tortured and sexually abused by the soldiers that had taken her. Most of these abuses were committed in the presence of her young children. Some of the men that took her were known to her. Victim A remarked that the men who took her stripped her and sexually abused her so many times that she cannot remember all that was done to her.

Victim A's experiences are not unique. There are untold thousands of women and girls who were abused but the legal framework of Nepal, as presently constituted, provides no judicial remedy for them and no means of prosecuting their assailants, even when those assailants are known by the victims, as was so with some of the men in Victim A's case.

2. The Codification of Rape or Other Forms of Sexual Violence

2.1 Definitions

6. International doctrine and jurisprudence recognize that rape or other forms of sexual violence amount to a violation of the right to personal integrity and can be considered as a particularly grave form of torture.[11] As such, they **must be codified under domestic criminal legislation and sanctioned with punishments that are appropriate to the extreme gravity of the crime**. Rape or other forms of sexual violence should also be codified under domestic legislation when committed as war crimes or as crimes against humanity. The Rome Statute of the International Criminal Court (hereinafter "the Rome Statute") provides some guidelines for the type of conducts that can *inter alia* be considered crimes of sexual violence.[12] A non-exhaustive list of the acts that may constitute rape and sexual violence would include the crimes of sexual slavery, enforced pregnancy, forced prostitution, forced sterilisation (including penile amputation), forced nudity,

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10 The identity of this victim as well as the others whose testimonies are reproduced below have been withheld to protect their right to privacy and for security reasons. Upon request, the names can be provided to the Committee, under condition that they are strictly kept confidential.

11 See: **European Court of Human Rights (ECtHR)**, Case *Aydin* v. *Turkey,* judgment of 25 September 1997, para. 86 and *M.C. v. Bulgaria,* judgment of 4 December 2003, paras. 148 and 149*;* **International Criminal Tribunal for Rwanda (ICTR)**, Case *Prosecutor* v. *Jean-Paul Akayesu,* ICTR-96-4-T, Chamber I, judgment of 2 September 1998, para. 597; **International Criminal Tribunal for the former Yugoslavia (ICTY)**, Case *Prosecutor* v. *Zejnil Delalić,* IT-96-21, Trial Chamber II, judgment of 16 November 1998, paras. 475-496, 943 and 965; and Case *Prosecutor* v. *Anto Furundzija,* IT-95-17/1, judgment of 10 December 1998, paras. 264-269. See also **Medical Foundation for the Care of Victims of Torture**, *Rape as a Method of Torture,* 2004, available at: http://www.freedomfromtorture.org/sites/default/files/documents/rape_singles2.pdf (last accessed 28 July 2013).

12 Rome Statute of the International Criminal Court (1998) available at: http://untreaty.un.org/cod/icc/statute/romefra.htm (last accessed 6 August 2013), Article 7(1)(g): "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity" would be acts amounting to crimes against humanity "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack". Under Article 8 (2)(b)(xxii), "rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in Article 7, para. 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions" would be acts amounting to war crimes.

mutilation of genitals and breasts, forced circumcision and other sexual assaults not involving penetration. Neither of these are defined nor criminalized under Nepalese legislation.

7. Only rape is codified under Nepalese legislation albeit as an ordinary offence, and not as a war crime or a crime against humanity, and its definition is inconsistent with international standards. The Muluki Ain (General Code)[13] provides that:

> ***[Definition of Rape]***
>
> *"If a person enters into **sexual intercourse with a woman without her consent** or enters into **sexual intercourse with a girl below the age of Sixteen years with or without her consent** shall be deemed to be an offence of rape. Explanation: […]*
>
> *(a) A consent taken by using fear, coercion, undue influence, misrepresentation or use of force or kidnapping or hostage taking (abducting) shall not be considered to be consent.*
>
> *(b) A consent taken when she is not in a conscious condition shall not be considered to be consent.*
>
> *(c) Minor penetration of the penis into the vagina shall be considered to be a sexual intercourse for the purposes of this Number".*[14]

8. This narrow definition of rape limits which sexual assaults can be classified as rape. For example **the Muluki Ain (General Code)'s definition of rape denies the possibility that a male can be raped, as sexual intercourse is narrowly defined, appearing to be limited to the penile penetration of a vagina**. In contrast the Elements of Crime of the Rome Statute recognises that any penetration, "however slight, of any part of the body of the victim with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body", can constitute rape, thus embracing the reality that a male can be the victim of rape and that many other conducts as mentioned above can also amount to rape.[15] It is also important to notice that in the definition contained in the Muluki Ain, it is alsow explicity phrased that the cictims can only be a "women" or a "girl" thus making it clear that a "male rape" is not even evisaged.

9. Rape "with a woman within kinship (prohibited degree of consanguinity)" is also codified under Nepalese legislation albeit again as an ordinary offence.[16]

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13 Muluki Ain (General Code) of 2020 (1854), amended several times and completely revised by New General Act 2064 (Muluki Ain 2064), most recently amended in 2066 (2010), hereinafter "Muluki Ain (General Code)" available at: http://www.lawcommission.gov.np/en/documents/Prevailing-Laws/Statutes---Acts/English/Muluki-Ain-(General-Code)-2020/ (last accessed 6 August 2013).

14 Muluki Ain (General Code), *op. cit.,* Chapter 14 on Rape, No. 1.

15 Elements of Crime of the Rome Statute of the International Criminal Court, UN doc. PCNICC/2000/1/Add.2 (2000), adopted and entered into force on 9 September 2002, available at: http://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/0/elementsofcrimeseng.pdf (last accessed 6 August 2013) Articles 7 (1) (g)-1, 8 (2) (b) (xxii)-1 and 8 (2) (e) (vi)-1.

16 Muluki Ain (General Code), *supra* note 13, Chapter 14 on Rape, No. 1 and 2.

2.2 Penalties

10. In addition to rape being incorrectly defined there **is no domestic provision or law specifically criminalizing sexual violence when the latter is committed as a war crime, crime against humanity, torture or genocide**.

11. Moreover, the criminal penalties attached to rape, including marital rape (further analysed in section 4 of this report) are not proportionate to the extreme gravity of the offence and thus also inconsistent with international standards.[17] Under the Muluki Ain (General Code) **the penalty for committing rape ranges from five to fifteen years' imprisonment depending on the age of the victim**.[18] In the absence of aggravating circumstances, **the rape of a woman who is twenty years of age or older carries a maximum penalty of seven years' imprisonment**.[19] The **maximum penalty for marital rape** is **six months**. A full list of ages and the penalties respectively associated is provided here:

> **"A person who commits rape shall be liable to the imprisonment as mentioned hereunder:**
>
> *Imprisonment for a term ranging from **Ten years to Fifteen years** if the minor girl is below the age of Ten years;*
>
> *Imprisonment for a term ranging from **Eight years to Twelve years** if the minor girl is above Ten or*

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1. If a person enters into sexual intercourse with a woman without her consent or enters into sexual intercourse with a girl below the age of Sixteen years with or without her consent shall be deemed to be an offence of rape.

Explanation: For the purposes of this Number:

(a) A consent taken by using fear, coercion, undue influence, misrepresentation or use of force or kidnapping or hostage taking (abducting) shall not be considered to be consent.

(b) A consent taken when she is not in a conscious condition shall not be considered to be consent.

(c) Minor penetration of the penis into the vagina shall be considered to be a sexual intercourse for the purposes of this Number.

2. A person who commits rape with a woman within kinship (prohibited degree of consanguinity) shall be liable to the punishment as referred to in the Chapter on Incest, in addition to the punishment as referred to in this Chapter. In cases where imprisonment for life has been imposed to an offender, an additional punishment for rape shall not be added.

17 For references on the matter see *inter alia*: *Rape and Sexual Assault: A Legal Study,* Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), UN doc. S/1994/674/Add.2 of 28 December 1994, Annexe II, available at: http:// www.ess.uwe.ac.uk/comexpert/ANX/II.htm (last accessed 6 August 2013) and Special Rapporteur on Contemporary Forms of Slavery, *Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict,* UN doc. E/CN.4/Sub. 2/1998/13 of 22 June 1998 (hereinafter "Report McDougall"), para. 102; Obligation to adopt adequate domestic legislative measures: *International Covenant for Civil and Political Rights* (1976) http://www2.ohchr.org/english/law/iccpr.htm (last accessed 6 August 2013), Articles 2.2, 3, 7, and 10.1; *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (1984) - http://www2.ohchr.org/english/law/cat.htm (last accessed 6 August 2013), Articles 1, 2 and 5; and CEDAW, *General Recommendation No. 19*, para. 24.b.

18 Muluki Ain (General Code), *supra* note 13, Chapter 14 on Rape, No. 3.

19 *Ibid.*

more years of age but below Fourteen years of age;

*Imprisonment for a term ranging from **Six years to Ten years** if the minor girl is of Fourteen years of age or above below Sixteen years of age;*

*Imprisonment for a term ranging from **Five years to Eight years** if the woman is of Sixteen years of age or above but below Twenty years of age;*

*Imprisonment for a term ranging from **Five years to Seven** years if the woman is of Twenty years of age or above".*[20]

3. Obstacles to Effectively Investigate, Identify, Judge and Sanction those Responsible for Rape or Other Forms of Sexual Violence

3.1 Statute of Limitations

12. International standards with regard to statutes of limitations for gross human rights violations, including rape, are set forth in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law which establishes that "[…] *statutes of limitations shall not apply to gross violations of international human rights law and serious violations of international humanitarian law which constitute crimes under international law*".[21] The Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity also provides that "*[…] Prescription shall not apply to crimes under international law that are by their nature imprescriptible […]*".[22] Moreover, the Rome Statute establishes that "the crimes within the jurisdiction of the court shall not be subjected to any statute of limitations".[23] Isolated instances of rape, which do not meet the threshold of crimes against humanity or war crimes, are still a form of torture and thus should also be imprescriptible as has been stated in international case law.[24]

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20 *Ibid.*

21 **Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (hereinafter "Basic Principles and Guidelines on the Right to a Remedy and Reparation"), UN doc. A/Res/60/147 of 21 March 2006, Principles 6-7 (Statutes of Limitations), available at: http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx (last accessed 6 August 2013.)**

22 *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, Addendum to the Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher* (hereinafter "Updated set of Principles to Combat Impunity"), UN doc. E/CN.4/2005/102/Add.1 of 8 February 2005, available at: http://ap.ohchr.org/documents/alldocs.aspx?doc_id=10800 (last accessed 6 August 2013), Principle 23 (Restrictions on Prescription).

23 Rome Statute of the International Criminal Court, *supra* note 12, Article 29.

24 ICTY, *Prosecutor* v. *Anto Furundzija, supra* note 11, paras. 155-157. See as well: Committee Against Torture (CAT) Concluding Observations on Morocco, UN doc CAT/C/CR/31/2 of 5 February 2004, para. 5.f; Concluding Observations

13. The Muluki Ain (General Code) stipulates that "*If a suit on the matter of rape is not filed within Thirty Five days from the date of the cause of action, the suit shall not be entertained*".[25] Since 2008, the Supreme Court has directed the government of Nepal to extend this time limit set for the filing of allegations of rape.[26] The CEDAW also recommended in its concluding observations that Nepal "take immediate measures to abolish the statute of limitations on the registration of sexual violence cases, to ensure women's effective access to courts for the crime of rape and other sexual offence".[27] This recommendation unfortunately was not heeded. **The law in Nepal still includes a 35-day statute of limitations on the filing of complaints of rape**, a clause that in practice bars many victims of rape who, due to fear, detention, trauma, stigma or severe health consequences, are unable to file a complaint within such a short period.

14. Recent cases of violence against women in Nepal (occurred between the months of December 2012 and March 2013),[28] which occurred after the gang rape of a student in New Delhi have sparked a movement popularly called "Occupy Balutwar" (after the place of residence of the Prime Minister) lasting over 100 days in which victims and activists demanded that the government make legal and policy changes to address the acts of violence against women, provide justice and reparation to the victims. Heeding the demands of the protesters the government formed a Committee called "A Monitoring Committee formed to make a Study of the Prevalent Policy, Law and System in order to address Violence against Women" which came up with 25-page list of recommendations. One of which is to **extend the statute of limitations to one year** to file cases of rape.[29] At the time of writing, there has not been any significant follow-up to these recommendations either.

3.2 Difficulties in Filing First Information Reports

15. In addition to the 35-day statute of limitations applicable to rape complaints, before a criminal investigation is launched in Nepal, the victim of the violation must submit a First Information Report

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on Chile, UN doc. CAT/C/CR/32/5 of 14 June 2004, para. 7; Concluding Observations on Turkey, UN doc. CAT/C/CR/30/5 of 27 May 2003, para. 7.c.

25 Muluki Ain (General Code), *supra* note 13, Chapter 14 on Rape, No. 11.

26 *Advocate Sapana Pradhan Malla v. Government of Nepal Ministry of Law and Parliamentary Affairs et al.,* Writ No. 3393. 2065, published in Nepal Law Journal, Vol. 11, Decision No. 8038, Falgun 2065 (11 July 2008), pp. 1358 - 1369 (decision available online in Nepali only).

27 CEDAW Concluding Observations on Nepal, *supra* note 1, para. 20(c).

28 Including the rape and robbery of a returned migrant worker by Tribhuvan International Airport authorities; the burning alive of two Muslim girls in the Terai by their own family members; the murder of two housemaids –one of which a worker in Kamlari. See: Global Voices, *Delhi's rape cases stirs movement for justice in Nepal,* 29 December 2012, available at: http://globalvoicesonline.org/2012/12/29/delhis-rape-case-stir-movement-for-justice-in-nepal/ (last accessed 6 August 2013).

29 Document on file with TRIAL.

(FIR) in the office located nearest to the incident.[30] This is problematic when, as is often the case, the perpetrator is a police or military officer within the local office. The victim's fear of potentially confronting his or her assailant by having to accuse him or her in the office where he works is a significant deterrent to justice. Moreover, FIRs can only be filed for crimes listed in Schedule 1 of the State Cases Act, 1992 which includes rape, but not other forms of sexual violence. Once an FIR has been filed the Nepali police are obliged to investigate the claims.[31] There are however no penalties for refusing to register an FIR. In practice the lack of punishment for failure to register an FIR has effectively resulted in the delegation of authority to the police to decide which FIRs to register and which to ignore. In exercising this discretionary authority the police frequently refuse to register FIRs against themselves or security forces and have even failed to register FIRs when directly ordered to do so by the Supreme Court.[32] In 2012 OHCHR's Nepal Conflict Mapping Report concluded that fewer than 100 FIRs related to conflict-era serious human rights violations were registered in Nepal.[33] The OHCHR offered a summary of the various reasons for which victims were prevented from filing FIRs:

> *(1) […]* ***a lack of public confidence in the police because, in many instances, police refused to file the Reports*** *when an attempt was made: multiple accounts identified during the [Transitional Justice] Reference Archive Exercise indicate that the* ***police were uncooperative in this respect.***
>
> *(2)* ***Court orders to the police to file a First Information Report or to conduct an investigation were ignored.*** *Police justifications for refusing to register First Information Reports included "insufficient evidence", "no authority", the belief that such cases would be dealt with by the Truth and Reconciliation Commission, and the fact that the implicated army personnel were still in the district.*
>
> *(3)* ***Victims or their families were coerced or harassed*** *by security forces or the CPN (Maoist) not to file a First Information Report or to withdraw the complaint if they had already filed it. At times, this appeared to occur in combination with an offer of compensation.*
>
> *(4) Police also resorted to mediation in order to avoid having to register a First Information Report or to undertake an investigation. […] Mediation may place victims, especially women, at a disadvantage relative to local power structures. It is particularly inappropriate as a substitute to accountability for serious crimes.*
>
> *(5)* ***In some cases, when First Information Reports were filed****, they were recorded at the police station in a register other than "Diary 10"* ***and no action was taken by the police****. Suspicious deaths caused by security forces were reported in First Information Reports as "accidental".*[34]

30 State Cases Act, 1992, Sec. 3(1). For a useful description of the procedures related to opening a criminal investigation, see *OHCHR Nepal Conflict Report 2012, supra* note 7, pp. 184, 187-188 and 197-198.

31 The Supreme Court of Nepal ruled that this mandatory obligation exists in the case of *Purnimaya Lama v. District Police Office, Kavrepalanchowk and Others*, Writ No. 1231, March 10, 2008, at para. 9.

32 International Commission of Jurists and Nepal Bar Association, *Transitional Justice and Right to a Remedy: Supreme Court Jurisprudence in Nepal*, January 2012, p. vi.

33 *OHCHR Nepal Conflict Report 2012, supra* note 7, p. 194.

34 *Ibid.,* pp. 194-195.

16. Additionally the OHCHR reported that in some cases the police use their *de facto* discretionary power to avoid investigating more recent human rights violations.[35] The OHCHR reported that **in cases of rape or other forms of sexual violence "the police refuse to file a case because there is no medical report, while the doctor refuses to do a forensic examination in the absence of a First Information Report**".[36] Such abuses of discretion contribute to widespread impunity and increase the lack of confidence in the judicial system, particularly where women are concerned.

3.3 Stigmatisation

17. In Nepal there are longstanding societal norms, which devalue women and stigmatise victims of rape.[37] A woman who is raped is treated, on the whole, not as a victim but as a stain on society. For that reason many women prefer to remain silent rather than attempt to bring their assailants to justice. The decision to come forward as a victim of rape means ostracizing oneself from society. Because of the drastic social consequences that follow coming forward as a victim of rape it often takes months or even years for a victim to report that they have been attacked. Given the very real social stigma that exists in Nepal it is thoroughly unrealistic to expect a victim of rape to be prepared to file an FIR within 35 days. Below are first-hand accounts of victims of rape and their struggles against the social taboo that accompanies being a victim of rape (all accounts are unedited and in the victims' own words):

> *Victim B*
>
> *In 2003, I was 17 years old and was studying in 7th grade. When I was going to school at 9 am in the morning with my younger brother, a 25-26 year old man came to us. He sent my brother away and told me that he was a Maoist. He asked me to go with him and when I denied, he held my hands and took me to the jungle. He punched my head very hard, tore off my clothes and raped me. He left me there, I was bleeding and my clothes were drenched in blood. I could not move; I slowly went to the river, washed my clothes and went home. I did not tell anyone about it, I told my mother that the clothes were torn while playing. I also told my brother not to tell anyone. I was just 17 and it was very difficult, I hid all my pain and did all the household works so that no one would find out.*

> *Victim C*
>
> *When I was in the 10th grade the police took advantage of it. My three friends and I were going to*

35 *Ibid*., p.169.

36 *Ibid*., p. 166.

37 During the conflict in Nepal both men and women were subjected to rape or other forms of sexual violence. Most of the considerations expressed in this document apply to both categories of victims, since they are facing the same consequences and the same obstacles in fulfilling their rights. However, the majority of information collected and referred to comes from women victims of rape and associations that work with this category. To date, no comprehensive research concerning specifically men victims of rape in Nepal has ever been carried.

school one day and the police gang raped us and threw us on the roadside. I even scratched the face of the police who raped me. The villagers knew about it and took us for treatment. They blamed the Maoists for what happened but I denied. All of us planned to commit suicide…

(She was recaptured and remarked that) 25-26 other girls were also brought. It was very cold but all of them were kept naked. The army had brought a dozer and dug a huge hole. They tore their clothes, raped them, cut them into pieces and threw them in the hole. One day all of us were taken somewhere, the army asked my friends to run and shot them. The Major said I was innocent so I was not killed…

My family tortured me a lot after they found out about my past [that she was raped] and because it was an inter-caste marriage. My husband and mother-in-law used to beat me. I gave birth to my son. That family even tried to kill me and send me out of the house but I was determined that I would not leave. My mother–in-law would not even give me food; I would work very hard but always slept empty stomach. I had forgotten what happiness was.

Victim D

Finally, the day I was released at 6 pm, one of the Army took my hands and sent me out of the gate. When I went outside I didn't see my family. My legs were bleeding and I cried a lot. I couldn't walk but I still went because I feared that they would take me back again and kill me. When I was walking the villagers were just staring at me but no one helped me. They passed bad comments, they said maybe I was raped, I felt so sad and I cried even more. I even thought of jumping in the river. I met my mother only after I returned home.

Victim E

I was just 13 years old when the Maoists took me from my school in Surkhet. 142 people were taken from my village. In 2000, when I was fleeing from the army I was shot and the bullet hit my arm…

I was taken by the Maoist again in 2002. I was 16 years old; the army caught us when the group was moving from one camp to the other…

They were cruel. They blasted, "you girls are constantly raped in the Maoist camps so what difference does it make if we do the same thing." I stopped counting the number of times I was raped and tortured…

When I came out, I was literary out of senses. I had to take medication for 3 months, which cost Rs. 500 each, three times a day. With the support of UNICEF, the bullet was removed from my arm. But my arm is useless. I am married and I have a 3 months old daughter. My husband does not know about it [rape] and I am scared that he will leave me if he finds out.

3.4 Procedural Obstacles within the Military Justice System

18. In Nepal the military justice system is used to protect human rights violators from being brought to justice. The government of Nepal maintains that it has "conducted military proceedings against its

members"[38] for violations of international human rights law or international humanitarian law however, "such claims have never been substantiated by the Nepali Army despite numerous requests by OHCHR to do so".[39] In its latest periodic report to the Human Rights Committee, the government of Nepal disclosed that "From the year 2002 onward, Nepali Army, through Military Court decisions, has penalized 176 military personnel for torture, violation of human rights and humanitarian law. Sixteen military officers were found to be involved in grave violations of human rights".[40]

19. By comparison to the number of violations alleged to have taken place during and since the conflict (see paragraph 5 above) these figures are comparatively low, especially in the case of commanders. By the State party's own admission the sanctions applied in these cases have merely involved disciplinary action such as suspension or disqualification from UN peacekeeping operations rather than the penalties of imprisonment, which are theoretically available in court martial cases concerning serious violations of human rights.[41] Notwithstanding the requirement in international law that perpetrators of gross human rights violations and crimes under international law should be tried in the ordinary criminal justice system,[42] such sanctions via the military justice system are a clear indication that it fails to satisfy the obligation to provide an effective judicial remedy for serious human rights violations.

20. The Nepali Military Code of Conduct (i.e. the Army Act of 2006) also prevents many human rights violations from being prosecuted. The Army Act of 2006 fails to recognize any form of sexual violence as crimes, except for rape. However, in Sec. 63, the Army Act defers the investigation and prosecution of rape allegations to domestic courts.[43] Such a deferral is tantamount to a dismissal in light of the record failure of the government to investigate and prosecute instances of human rights violations. Neither does the Army Act of 2006 provide specific penalties for cases of rape. Hence, Nepal's current reliance on military courts as a vehicle for bringing military officials to justice in human rights cases has the net effect of permitting impunity.

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38 *OHCHR Nepal Conflict Report 2012*, supra note 7, at footnote 813.

39 *Ibid.*

40 Human Rights Committee (HRC), Nepal, *Combined Second to Fourth Periodic*, UN doc. CCPR/C/NPL/2 of 21 February 2012, (hereinafter "HRC Second Periodic Report"), para. 122.

41 *Ibid.*

42 For example, Article 16 of the *UN Declaration on the Protection of All Persons from Enforced Disappearance* (1992) available at: http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/A.RES.47.133.En (last accessed 6 August 2013) states: "Persons alleged to have committed any of the acts referred to in Article 4, paragraph 1, above, [enforced disappearance] shall be... tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts." *See also* Principle 29, *Updated Set of Principles to Combat Impunity, supra* note 22.

43 Army Act (2063) 2006, Amended (2066), 2010, (hereinafter "Army Act 2006"), Sec. 66.

In February of 2004, 15 year old, ***Maina Sunuwar*** *was taken prisoner and tortured by members of the Royal Nepali Army. She subsequently died while in custody. Due to pressure from the international human rights community, an inquiry was held and three officers were court martialled in September of 2005. A report from the inquiry concluded that "It was indeed as a result of torture inflicted during the course of interrogation that the death of Maina Sunuwar occurred".*[44] *The officers responsible for Maina's death were charged only with improper interrogation techniques and illegal disposing of human remains even though there was compelling evidence to support charges for enforced disappearance, torture and extra judicial killing of a minor. They were sentenced to six months imprisonment, were required to pay 25,000 and 50,000 Nepali Rupees respectively (approximately 250 and 500 Euros) and were deemed temporarily unfit for promotion. The prison sentence was shortly thereafter commuted to time served, as the officers had been confined to barracks during the court proceedings.*

To date there have been numerous petitions filed with the Supreme Court by the relatives of Maina Sunuwar as well as an order to compel a full investigation of the perpetrators and a fourth officer who was not part of the court martial proceedings. At the time that this report was written none of the perpetrators has stood trial.

4. The Penalisation of Marital Rape

21. This Committee recommended in para. 20(e) of its concluding observations that Nepal "adopt and enact without delay the draft law, currently under preparation, which significantly increases the punishment for marital rape, as mentioned during the dialogue, and undertake an awareness-raising campaign on the new provisions in this regard." At the time this follow-up report was drafted the **punishment for a person convicted of marital rape remained unchanged**. The Muluki Ain (General Code) reads **"the husband who commits a rape with his wife shall be liable to imprisonment for a term ranging from Three months to Six months**".[45] Even the maximum available punishment of six months falls woefully short of conforming with international standards of punishment for crimes as grave as marital rape.

22. The patriarchal norms that prevent women from filing FIRs within the statute of limitations (see section 3.1) also are reflected in the law pertaining to marital rape. The Muluki Ain (General Code) reproduces a belief that rape within a marriage is somehow less significant than other forms of rape.

5. The Inadequacy of the Draft Laws on Truth and Reconciliation Commission and the Commission of Inquiry on Disappearances with International Standards

23. For the past half-decade various efforts have been made to institute transitional justice

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44 OHCHR-Nepal, *The torture and death in custody of Maina Sunwar: Summary of concerns*, December 2006, available at http://nepal.ohchr.org/en/resources/Documents/English/reports/IR/Year2006/2006_12_01_HCR%20_Maina%20Sunuwar_E.pdf, p. 4.

45 Muluki Ain (General Code), *supra* note 13, Chapter 14 on Rape, No. 3.

mechanisms intended to address conflict-era human rights violations perpetrated by all parties. According to the 2006 CPA and the 2007 Interim Constitution, a Truth and Reconciliation Commission (hereinafter "TRC")[46] and a Commission of Inquiry on Disappearance[47] were to be established. While the purpose of the mechanisms was "to investigate the truth […] and to create an environment for reconciliation[s] in the society"[48] and were thus envisaged as non-judicial mechanisms, both the CPA and the Interim Constitution contained a commitment to holding perpetrators of gross human rights abuses accountable and to tackling impunity.[49]

24. There were various draft bills for the establishment of the TRC and Disappearance Commission but they were all widely condemned for failing to meet international standards. Among the concerns raised by civil society were the definitions of human rights violations contained in the bills and the weakness of victims and witness protection mechanisms (further analysed in section 7).[50] After years of deadlock in the Legislative Assembly, which was unable to resolve the bills' contentious issues, the Constituent Assembly decided to withdraw the pending bills in May 2012. Shortly thereafter, the Constituent Assembly was dissolved.

25. On 28 August 2012, the cabinet (Council of Ministers) forwarded a draft executive ordinance to the President seeking approval for the establishment of a single *Commission of Investigation into Disappeared Persons, Truth and Reconciliation* (hereinafter "the prospective Commission"). Whereas the previous draft bills seeking to establish transitional justice mechanisms were far from being in line with international law and standards, the 2012 draft ordinance was a clear violation of Nepal's international human rights commitments as it contained an amnesty provision.

26. Despite widespread condemnation by both international and national human rights organisations

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46 The November 2006 CPA concluded between the Government of Nepal and the Communist Party of Nepal-Maoist of 21 November 2006, explicitly provided for the establishment of a high-level TRC – clause 5.2.5, CPA. The January 2007 Interim Constitution reaffirmed that the State has a legal responsibility to constitute a high-level TRC – *see* Interim Constitution of Nepal (15 January 2007), Section IV, Article 33 (q).

47 The CPA also stipulated that both parties to the conflict agreed to make public the names and addresses of all those who were subjected to enforced disappearance and killed during the course of the conflict. *Ibid.,* clause 5.2.3.The January 2007 Interim Constitution reaffirmed that the State has a legal responsibility to provide relief to the families of victims of enforced disappearance, Interim Constitution of Nepal (15 January 2007), Section IV, para. 33 (s).

48 Clause 5.2.5 of the CPA.

49 Clause 7.1.1 of the CPA states: "Both sides express the commitment that impartial investigation and action as per the law would be carried out against the people responsible in creating obstructions to the exercising of the rights envisaged in the letter of agreement and guarantee not to encourage impunity."

50 See, e.g., TRIAL et al. *Briefing Note to the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence on the recent political developments in Nepal leading to a lack of access to justice for victims of gross human rights violations and international humanitarian law,* August 2012, available at http://www.trial-ch.org/ fileadmin/user_upload/documents/CAJ/Nepal/Briefing_Note_to_the_SR_on_TJ_23.08.2012_-_copie__1_.pdf, at 9; International Commission of Jurists (ICJ), *Witness Protection in Nepal: Recommendations from International Best Practices,* August 2011, available at http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/05/Nepal-witness-protection-analysis-brief-2011.pdf, p. 12.

of the 2012 ordinance[51] the text of the executive ordinance was signed into law by the President of Nepal on 14 March 2013, without it having been seen by victims or other stakeholders including the United Nations and the international community. It entered into force immediately.

27. The establishment of the prospective Commission as envisaged in the 14 March 2013 law has been met with a high degree of criticism in Nepal and in the international community. The most highly criticized aspect of the prospective Commission has been the inclusion of an amnesty provision in the law. While the prospective Commission has the mandate "to end impunity" and bring perpetrators "within the ambit of the law", perpetrators may request amnesty and the prospective Commission can recommend amnesty *ex officio.* Such a provision is clearly contrary to international law.[52]

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51 *Ibid.,* Although the text of the 2012 draft ordinance was never made public or shared for consultation, copies seen by human rights lawyers revealed the extent of its incompatibility with victims' demands and international law and standards.

52 Amnesties for crimes under international law are incompatible with the duty of States to investigate, prosecute and punish perpetrators of these crimes. *See*, e.g., *Article 4,* Basic Principles ***and Guidelines on the*** Right ***to a Remedy and Reparation***, *supra* note 21: "In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him." *Principle 1,* ***Nuremberg Principles on International Law*** *(1946) available at*: http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/7_1_1950.pdf (last accessed 6 August 2013): "Any person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment." On the duty to investigate crimes against humanity and war crimes: *Article 1,* ***Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity*** (1973) - http://www1.umn.edu/humanrts/instree/x5picoda.htm (last accessed 6 August 2013): "War crimes and crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, to punishment." On the duty to investigate torture committed on the territory of a state: *Article 12,* ***Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment****, supra* note 16: "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction." *Article 13,* "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given." On the duty to investigate enforced disappearance: *Article 13,* ***UN Declaration on the Protection of all Persons from Enforced Disappearance*** **(1992)** *supra* note 42: "Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation." On the duty to investigate extrajudicial executions: *Article 9,* ***Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*** (1989) available at: http://www2.ohchr.org/english/law/executions.htm "There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries." *See also*: ***Rome Statute of the International Criminal Court*** (1998) *supra* note 12, *Preamble,* "Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes."

28. Moreover, the amnesty provision **entrusts the prospective Commission with discretion to recommend amnesty for serious crimes – explicitly including rape – if the prospective Commission is satisfied that there are sufficient reasons and grounds for doing so.** Sec. 23(2) states:

> *"Notwithstanding anything contained in Sub Section (1), the Commission shall not recommend amnesty to the perpetrator involved in serious crimes, including rape, that the Commission's inquiry doesn't confirm sufficient reasons and grounds for granting amnesty".*

29. Although the wording of Sec. 23(2) is somewhat awkwardly drafted in the original text, the provision appears to simply confirm the obligation stated in Sec. 23(1) for the Commissioners to give written reasons for recommending amnesty. Thus, it appears that no category of crimes is excluded from the scope of the prospective Commission's power to grant amnesty, including serious human rights violations. Moreover, as crimes against humanity, war crimes, torture and enforced disappearance are not codified as crimes in Nepali law, there appears to be no basis in domestic law for the prospective Commission to exclude these crimes under international law from the scope of amnesty. It is also notable that perpetrators of rape during the conflict already enjoy *de facto* impunity due to the 35-day statute of limitations on reporting this crime (see section 3.1 above).

30. The amnesty provision is a grave disappointment to victims and has been repeatedly denounced as unlawful in international law, including by the High Commissioner for Human Rights who stated "Such amnesties would not only violate core principles under international law but would also weaken the foundation for a genuine and lasting peace in Nepal".[53] On 24 March 2013, not one but two writs were filed with the Supreme Court of Nepal arguing that the ordinance violates constitutional rights and the International Covenant on Civil and Political Rights and requesting a number of its flawed provisions be voided and an order of mandamus issued to compel the government to enact law criminalising serious human rights violations and to establish a commission that meets international standards.[54] The petitioners in both writs also requested interim relief in the form of non-implementation of the challenged provisions until the court rules

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53 OHCHR, *Pillay says Nepal commission must not grant amnesties for serious violations*, 20 March 2013, available at http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13163&LangID=E (last accessed 28 July 2013).

54 Kathmandu Post, *TRC Ordinance challenged in court*, 25 March 2013, available at http://www.ekantipur.com/2013/03/25/top-story/trc-ordinance-challenged-in-court/368973.html (last accessed 28 July 2013).

(including Sec. 23).[55] On 31 March 2013, a single bench judge of the Supreme Court issued a stay on the implementation of the challenged provisions of the law pending the outcome of the consideration of the constitutional challenge.[56] The establishment of the prospective Commission is therefore on hold for the time being.

31. A significant difference between the powers of the prospective Commission proposed in 2012 and as enacted in March 2013 is the mechanism by which Commissioners may refer alleged perpetrators for prosecution. Secs. 25 and 29 allow the prospective Commission to refer alleged perpetrators to prosecution in two ways; in its final report and by corresponding with the Attorney General prior to issuing its report.[57] The Ministry of Peace and Reconstruction can also submit such a request on the basis of the final report. However, these provisions do nothing to remove other obstacles to investigation and prosecution of conflict-era crimes. There is no provision for crimes under international law currently not defined in Nepali law to be included in the scope of prosecutions arising from the prospective Commission's recommendations, namely torture, enforced disappearance, war crimes, and crimes against humanity, including rape or other forms

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55 *Ram Kumar Bhandari et al v. Chairperson, Interim Election Government, Office of the Prime Minister and Council of Ministers et al,* Writ petition no. 069-WS-0058 (23 March 2013) (copy on file with TRIAL); *Madhav Kumar Basnet et al for Justice and Rights Institute (JURI-Nepal) v. Chairperson of the Interim Council of Ministers,* Writ petition no. 069-WS-0057 (23 March 2013) (copy on file with TRIAL).

56 Order of mandamus of the Supreme Court of Nepal, *Ram Kumar Bhandari et al v. Chairperson, Interim Election Government, Office of the Prime Minister and Council of Ministers et al,* (31 March 2013) (copy on file with TRIAL).

57 Executive Ordinance establishing a Commission of Investigation into Disappeared Persons, Truth and Reconciliation, 13 March 2013, (hereinafter "Executive Ordinance"), unofficial translation on file with TRIAL. Sec. 25:

1) While carrying out investigation pursuant to this Ordinance, the Commission may recommend for action, as per the existing laws, to perpetrators not designated for amnesty pursuant to Section 23.

2) While recommending for action pursuant to Sub-section (1), the Commission shall do so through the report to be submitted pursuant to Section 27.

3) Notwithstanding anything contained in Sub-section (2), the Commission may correspond to the Office of the Attorney General to prosecute perpetrators not designated for amnesty prior to submission of the report pursuant to Section 27(1).

Sec. 29:

(1) The Attorney General or a Public Prosecutor designated by him shall decide on the matter whether a case can be prosecuted or not against any person, if the Commission itself or the Ministry writes to it based on the report of the Commission to initiate a case against any persons who were found guilty on allegation of serious human rights violations.

(2) The Attorney General or a Public Prosecutor, while deciding on the matter whether a case can be prosecuted or not pursuant to Sub-clause (1), should state the ground and reason thereof.

(3) The Public Prosecutor shall have to initiate a case against such person in such court wherein the Government of Nepal, upon publishing a notice on Nepal Gazette, notifies it; if a decision, after the necessary investigation pursuant to Sub-Clause (1), is reached to initiate a case against such person.

(4) If the Attorney General of a Public Prosecutor designated by him decides to prosecute pursuant to Sub-section (1), Case can be filed within 35 days of such decision notwithstanding anything contained in any other existing law.

of sexual violence. Moreover, victims and national human rights organisations have expressed concerns that the Attorney General lacks independence from the government of Nepal and Nepali Army and that, as a result, prosecutions of security forces will not ensue from such a process, if any remain un-amnestied by the prospective Commission.[58]

32. Given the State party's policies of entrenching impunity through shielding perpetrators within the security forces from criminal justice (see section 3.4), it is doubtful that the ambiguities and inadequacies in the amnesty and referral to prosecution provisions are accidental. The executive ordinance, then signed into law, also contains numerous other deficiencies. For example, the prospective Commission is empowered to "undertake reconciliation" between victims and perpetrators.[59] To achieve this, the prospective Commission may request the perpetrator to apologise and pay compensation. While not explicitly linked to receiving amnesty, it seems clear that perpetrators could come under pressure to do both of these to avoid prosecution. Similarly, victims may come under pressure from perpetrators and a number of other sources to give their consent to this reconciliation process - which is mandatory - and to accept its outcome.

33. Overall, Nepal's prospective Commission appears to be designed to further entrench impunity rather than to seriously investigate human rights violations, their causes and consequences. Aside from the concerns mentioned above, the provisions concerning the brokering of reconciliation between victims and perpetrators and amnesty place the focus on direct perpetrators while shifting it away from indirect perpetrators and those bearing command or superior responsibility for crimes. Further concerns about the prospective Commission's serious deficiencies in witness protection and support and its powers to order reparation measures to victims, and are dealt with below in sections 7 and 8 respectively.

6. Failure to Provide Legal Aid to Victims of Rape or other Forms of Sexual Violence

34. In its concluding observations the Committee requests the government of Nepal ensure **women's access to justice and make legal aid available and accessible to all women affected by the conflict**, including women victims of sexual violence during the conflict and post-conflict periods.[60]

35. Access to free legal aid has been recognized both as a right in itself and as an "essential procedural guarantee for the effective exercise of other human rights including the right to an

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58 Anuj Mishra, *Prosecutorial independence Separation of Attorney*, The Himalayan Times, 7 February 2012, available at http://www.thehimalayantimes.com/fullNews.php?headline=Prosecutorial+independence+Separation+of+Attorney+&NewsID=319578 (last accessed 28 July 2013); USAID, *Nepal Rule of Law Assessment: Final Report,* 2009, available at: http://www.ncf.org.np/upload/files/318_en_usaid_nepal%20rule%20of%20law%20assessment-sep-2009.pdf (last accessed 28 July 2013).

59 Sec. 22, Executive Ordinance, *supra* note 57.

60 CEDAW Concluding Observations on Nepal, *supra* note 1, para. 36 (d).

effective remedy, the right to liberty and security of person, the right to equality before the courts and tribunals, the right to counsel and the right to a fair trial".[61] The right to legal aid is enshrined in both international and regional human rights treaties as well as in a large number of soft law instruments. To highlight but a few most relevant for the Nepalese context, Article 14 (3)(d) of the International Covenant on Civil and Political Rights recognizes the right to free legal assistance. Articles 37 (d) and 40 (2)(b)(ii) and (iii) of the Convention on the Rights of the Child recognizes the right to legal assistance, which the Committee on the Rights of the Child has clarified must be free of charge.[62] While these references apply to persons charged of criminal offences, this right has been recognized to apply more broadly in the Basic Principles on the Right to a Remedy which establishes that States should *inter alia "**provide proper assistance to victims seeking access to justice**"* and *"**make available all appropriate legal [...] means to ensure that victims can exercise their rights to a remedy** for gross violations of international human rights law or serious violations of international humanitarian law".*[63]

36. Under the Nepalese Legal Aid Act (1997), those arrested are entitled to free legal assistance if their incomes are below a prescribed amount.[64] However, Nepalese law is silent on the obligation of the police to inform the arrestee of such rights. With regard to persons accused and facing trial hearings, there are no legal provisions requiring that they be provided legal assistance or representation in court unless they are under the age of 16.[65] Those are the only legal provisions in Nepal related to legal aid and as is clear, they are not specifically tailored for victims of human rights violations seeking redress. In fact, to date no such mechanism or legal services are available in Nepal. This has in practice barred victims from accessing justice. This is particularly relevant in light of the fact that analysis of socioeconomic conditions of the victims in Nepal reveals that a large majority live in poverty, thus increasing their vulnerability and hampering their possibilities of accessing justice.[66]

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61 Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul, *Annual Report 2012,* UN doc. A/HRC/23/43 of 15 March 2013, para. 28.

62 Committee on the Rights of the Child, *General Comment No. 10,* UN doc. CRC/C/GC/10 of 25 April 2007, para. 49 (Legal or other appropriate assistance, Article 40 (2(b)(ii)).

63 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, *supra* note 21, Principle 12 (c) and (d).

64 Legal Aid Act 2054 (1997), Section 3(a). Amount currently set at incomes under 40,000 Nepalese Rupees per month (approx. 422 USD).

65 Children's Act 2048, (1992), Section 19.

66 From September 2010 to February 2011 the International Center for Transitional Justice (ICTJ) conducted research in 18 Nepalese districts, directly or indirectly interviewing approximately 1,200 persons including victims and relatives of victims of gross human rights violations committed during the conflict. The research revealed that 81% of those interviewed could not produce enough to eat throughout the year. ICTJ, *From Relief to Reparations: Listening to the Voices of Victims,* 1 September 2012, available at: http://ictj.org/publication/relief-reparations-listening-voices-victims (last accessed 28 July 2013), p. 11.

37. Women victims of sexual violence committed both during conflict and post-conflict periods, already constrained by stigma associated with having suffered these crimes, are especially affected by the lack of an integrated model encompassing but not limited to access to legal aid. Research conducted in 2010 by the International Center for Transitional Justice and Advocacy Forum – Nepal revealed that women who are prepared to overcome the social stigma attached to sexual violence crimes are barred in practice from accessing justice due to lack of information about how to how to do so, which has also contributed to entrenching impunity for such crimes.[67]

7. Failure to Adequately Protect and Support Victims and Witnesses of Rape or other Forms of Sexual Violence

38. Victims and witnesses of sexual violence are not adequately protected in Nepal. The government itself has admitted that "There is no specific legislation on witness protection as such" but added that "[v]arious administrative mechanisms are in place to that end".[68] However, there is at present no established witness protection programme or specialised law enforcement agency for victims and witness protection in the country. Since 2010, the OHCHR has been calling for the establishment of an effective system of witness protection and support.[69] The OHCHR reported in 2012 that there are "no legal provisions for witness protection in Nepal".[70] In fact, physical witness protection measures are not prescribed in law except for victims of trafficking in human beings,[71] and are therefore only available in practice "in a piecemeal manner and on a case-by-case basis".[72] Psycho-social support for witnesses and victims of serious crimes are also not provided through any established programme, and it falls on civil society to provide counselling and other necessary support services to fill the gap.

39. The lack of adequate physical and procedural protection of victims and witnesses' rights to life, security of person, and privacy in the criminal justice process significantly impacts upon the

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67 Advocacy Forum and International Center for Transitional Justice, *Accross the Lines: the Impact of Nepal's Conflict on Women,* 2010, p. 81.

68 HRC, Second Periodic Report, *supra* note 40, para. 158.

69 OHCHR-Nepal, *OHCHR urges the prompt establishment of a witness and victim protection mechanism in Nepal*, 18 December 2010, available at: http://nepal.ohchr.org/en/resources/Documents/English/pressreleases/Year%202010/December/2010_12_17_PR_OHCHR_Witness_protection_E.pdf (last accessed 28 July 2013).

70 *OHCHR Conflict Report 2012*, Chapter 10, Accountability, *supra* note 7, p. 188.

71 ICJ, *Witness Protection in Nepal: Recommendations from International Best Practices*, *supra* note 50, p. 10, noting Sec. 26 of the Human Trafficking and Transportation (Control) Act, 2007.

72 *Ibid*., p. 9.

willingness of individuals to report crimes and cooperate with the administration of justice.[73] In 2005 the Committee against Torture noted with concern the "alleged reprisals against and intimidation of persons reporting acts of torture, in the form of re-arrests and threats, and the lack of witness protection legislation and mechanisms".[74] This deficiency has a particularly negative impact in cases of rape or other forms of sexual violence where the lack of physical and privacy protection for the victims and their families prevents many women from being willing to come forward and report such acts. The International Commission of Jurists found that: *"In recent years, despite monitoring by civil society and international organizations,* ***reports of threats and violence against victims and witnesses remain common, particularly in criminal cases involving conflict-related human rights abuses****, such as torture and ill-treatment,* ***including conflict-related sexual violence*** *[…]".*[75]

40. In 2011, in response to an order of the Supreme Court issued in the case of *Mira Dhungana v. Nepal Government*, a draft Witness Protection law was drafted, which would "provide security against the risks, threats or any other undue influence likely to come up against witnesses from a suspect, convict, offender or any other individuals linked to the suspect, convict or offender".[76] This bill would criminalize bribery, harassment and threatening the witness or victim. The legislation would also create procedural witness protection measures.

41. There are, however, some serious flaws in the above mentioned draft legislation. Under the proposed legislation a Committee comprised of the chief of police, chief district officer, and the public attorney would be established to implement the said legislation.[77] As many of the complaints of sexual violence that have been reported (and those that are not formally reported) are against security forces themselves, allowing security officials to run the witness protection programme is not proper. Additionally, the legislation, as presently constituted, does not call for independent oversight of the Committee that will organize and implement the programmes. Even with its flaws, as of the drafting of this follow-up report, this proposed programme had not been submitted to parliament for a vote on its implementation.

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73 Informal Sector Service Center (INSEC), *Witness Protection: A Study Report*, June 2011 (copy on file with TRIAL), p. 35.

74 Committee against Torture (CAT), *Concluding Observations on Nepal*, UN doc. CAT/C/NPL/CO/2 of 13 April 2007, para. 28. *See also*, Special Rapporteur on Arbitrary Executions, *Mission Report on Nepal*, UN doc. E/CN.4/2001/9/Add.2 of 9 August 2000, para. 55 and WGEID, *Mission Report on Nepal*, UN doc. E/CN.4/2005/65/Add.1, para. 51 (threats to human rights defenders and civil society during the conflict).

75 ICJ, *Witness Protection in Nepal: Recommendations from International Best Practices*, *supra* note 50, p. 3.

76 Preamble, Draft Bill on Protection of Witnesses (2011) (copy of unofficial translation on file with TRIAL).

77 Sec. 17 of the Draft Bill on Protection of Witnesses, provides that the chief of police, chief district officer, and the public attorney serve as members of the prescribed Committee.

8. Failure to Provide Adequate Compensation and Integral Reparation to Victims of Rape or Other Forms of Sexual Violence

42. The CEDAW requests the State party to "ensure **that victims of sexual crimes receive appropriate reparations, rehabilitation and counselling**".[78] Appropriate reparation should include a wide number of measures that serve to redress the harm suffered or restore the victim (whether and individual or a community) to the situation he or she enjoyed previous to the violation. Reparations should be proportional to the gravity of the harm suffered and the circumstances of each case; they should be adequate, effective and prompt and include measures of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.[79] In the case of gross human rights violations, including rape, monetary compensation alone cannot be considered as an adequate and integral form of reparation.

43. Currently the government of Nepal lacks a comprehensive programme of compensation and reparation for victims of gross human rights violations during the conflict, including victims of rape or other forms of sexual violence. The existing provisions in the legal and policy framework for reparation to victims of serious human rights violations are limited to compensation and fall short of international standards. The National Human Rights Commission (NHRC) is provided with the power to issue orders for compensation to victims of human rights violations.[80] For victims of specific violations such as torture or preventive detention without a lawful basis, the Interim Constitution provides for a right to compensation.[81] Other forms of reparation such as *rehabilitation, restitution, satisfaction and guarantees of non-repetition* however, do not a feature in such provisions.

44. In cases of rape, criminal courts may order "appropriate compensation" to women victims and their dependent minors. The Muluki Ain (General Code) provides that:

> *"If a person is held to have committed rape with a woman, the court shall make an order to provide appropriate compensation to the victim from the offender upon considering the physical or mental*

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78 *CEDAW Concluding Observations*, para. 36 (f), *supra* note 1.

79 See *inter alia: Basic Principles and Guidelines on the Right to a Remedy and Reparation*, *supra* note 21, Principles 15 and 18; *Updated Set of principles to combat impunity, supra* note 22, Principle 34; For reparations with regard to particular crimes, see Article 14, Convention against Torture; CAT, *General Comment No. 3 on Article 14 of the Convention against Torture*, UN doc. CAT/C/GC/3 of 13 December 2012*;* Article 19, WGEID, *Report of the Working Group on Enforced or Involuntary Disappearances 2012*, 28 January 2013, UN doc. A/HRC/22/45, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.45_English.pdfhttp://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.45_English.pdf, (hereinafter "WGEID Annual Report 2012"), paras. 46-58. *See also* Article 24(5), International Convention on the Protection of All Persons from Enforced Disappearance for the specific crimes

80 Article 132(3)(I), Interim Constitution.

81 Articles 26 and 25 of the Interim Constitution respectively. For example, Article 25(2) states: "Any person held under preventive detention shall, if his/her detention was contrary to the law or was in bad faith, have the right to be compensated in a manner as prescribed by law."

loss she has suffered. In the course of determining such compensation, the gravity of the offence and pain suffered by the dependent minors if any shall also be taken into account if such victim is already dead.

[...]

If the court [...] convicts the accused of rape [...], the court shall mention in ist decision aout the compensation to be awarded to the victim from the offender and shall also cause the same to be provided to the concerned woman [...] For the purposes of realizing the compensation, the court shall attach the property, including the share on joint property of the accused immediately after filing of a case pursuant to this chapter".[82]

45. The provision is not gender neutral and therefore bars male victims of rape from seeking compensation.[83] Neither is a minimum or maximum amount of compensation prescribed, although some general guidelines on what the court should consider are provided for. In practice however, rarely do rape victims use the formal justice system for two-fold reasons. Firstly, rape victims are not always able to identify the perpetrator. Moreover, the law requires that rape victims provide evidence based on medical examination within 24 hours of the crime, a condition which is in practice difficult to fulfil due to lack of access to medical facilities, social stigma, fear, mistrust of authorities and lack of awareness of the law and the criminal justice system.[84] The mentioned reasons, coupled with the deficient legislation and the 35-day statutory limitation, make it unlikely that victims of rape or other forms of sexual violence would resort to the formal justice system unless the requirements to do so were reformed and a mechanism to protect their identity established.[85]

46. In April 2007 the Ministry of Peace and Reconstruction was established and given the mandate to provide relief and rehabilitation to "conflict-affected persons".[86] Between 2008 and 2009, the Ministry of Peace and Reconstruction set up an "Interim Relief Programme" (IRP) providing one-off monetary forms of assistance to several categories of conflict-affected persons, namely relatives of deceased people, of persons who were disappeared and those who were injured, wounded or disabled due to the conflict.[87] Initially, the scheme provided up to 25,000 Nepali Rupees (approximately 250 Euro) to the family of disappeared people and up to 100,000 Nepali Rupees (approximately 1,000 Euro) to the family of the deceased. Furthermore, only children of the

82 Muluki Ain (General Code), *supra* note 13, Chapter 14 on Rape, Numbers 10A and 10C.

83 It is also not possible to register a case of rape concerning a male victim under the current provision. *See* above para. 8.

84 ICTJ, *From Relief to Reparations: Listening to the Voices of the Victims*, *supra* note 66, p. 13.

85 *Ibid.*

86 *See Guidelines for providing relief to beneficiary of a deceased person pursuant to cabinet decision, October 5, 2008; Guidelines for providing relief to the beneficiary of a disappeared person pursuant to cabinet decision, January 12, 2009* (copy of unofficial translation on file with TRIAL).

87 ICTJ, *From Relief to Reparations: Listening to the Voices of the Victims*, *supra* note 66, pp. 6-7.

deceased were eligible for scholarships. This disparity created incentives to register as a relative of a deceased even for those families who had not clarified the fate and whereabouts of their loved ones. While the scheme has been amended to provide up to 100,000 Nepali Rupees for relatives of either disappeared or deceased, the amounts are clearly not proportional to the gravity of the violations and in most occasions cannot even cover the debts accrued as a result of it, much less account for the physical, psychological and moral harms occasioned.[88] Moreover, the incentive prevails since widows are still provided with 25,000 Nepali Rupees not stipulated for the relatives of disappeared.

The government had recently given Rs. 100,000. What would that amount of money do? It won't even help me to pay the debts. I'm facing my difficulties in providing expenses for my children's education. How could I manage expenses? If I eat in the morning, I become worried about supper. The conditions in my house are pathetic.[89]

47. It is worthwhile noticing that widows who benefitted from the IRP lost their entitlement to compensation if they remarried, which illustrates that the assistance provided is based on need, rather than the harm to be addressed, a concept altogether absent from the reparation scheme under the Nepali legal system.[90]

48. Moreover, in what respects scholarships, the IRP only makes them available for up to three children below the age of 18 who are in grades 1-12. This already deprives many children, including those who lost schooling opportunities due to the conflict and are now left without the possibility of receiving a formal education.[91]

49. **Victims of torture, including rape or other forms of sexual violence are not entitled to claim any interim relief through the IRP**, despite the constitutionally guaranteed right to compensation for torture (see para. 44 above). It is also important to mention that in practice, police and the families of perpetrators often attempt to broker mediation with victims and offer "compensation" payments (or promises thereof) to ensure that families will not register criminal complaints or file civil suits (see para. 15 above). This forceful mediation is also reported to often take place in

88 The WGEID has stated that "*Women as family members, particularly where they become household heads due to an enforced disappearance, are in specific material, financial, psychological and legal needs. The relevant governmental institutions must provide them adequate counselling, rehabilitation and support services, assistance and information*". WGEID, *General Comment on Women and Enforced Disappearance*, doc. A/HRC/WGEID/98/2 of 14 February 2013, para. 44.

89 In-depth interview done by HimRights in April 2012, (Female), Dadeldhura.

90 *See* ICTJ, *From Relief to Reparations: Listening to the Voices of the Victims*, *supra* note 66, p. 16.

91 For more see ICTJ, *From Relief to Reparations: Listening to the Voices of the Victims*, *supra* note 66, pp. 17-18.

relation to cases of sexual violence.[92]

50. With regard to reparations within the proposed transitional justice mechanisms, the executive ordinance of March 2013 proposes to give powers to the prospective Commission to award reparation to victims and their relatives. The reparation measures outlined in Sec. 24 of the executive ordinance represent a slight improvement of Nepal's existing legal and policy framework, but overall would still not be fully in line with international standards, since no clear right to integral and effective reparation is articulated.[93] The prospective Commission may order – in addition to compensation – various forms of restitution and rehabilitation, including health-care, training, loans, accommodation and employment. The OHCHR noted that:

> *The definition of "reparation", particularly in Art. 2(e), would benefit from further clarity and alignment with international standards. The definition should specify that victims have the **right** to reparation, and that full and effective reparations include not only restitution, compensation, and rehabilitation but also measures of "satisfaction" and guarantees of non-recurrence.[94]*

51. If the executive ordinance survives the current challenge at the Supreme Court and the prospective Commission is eventually established in practice,[95] victims' rights to reparation may be significantly enhanced in Nepal, including for those who were subjected to rape or other forms of sexual violence. However, it will remain to be seen how the prospective Commission will tackle questions about how reparation measures should be delivered, e.g. on a case-by-case basis before the prospective Commission versus through an administrative scheme; group versus individual reparations and so forth.

9. Conclusions and Recommendations

52. Based on the above analysis, TRIAL and HimRights conclude that **there has not been adequate progress made by Nepal in implementing the Committee's recommendations in its concluding observations of 29 July 2011**. Therefore TRIAL and HimRights respectfully request the CEDAW to recommend to the government of Nepal to:

- Ensure that the definition of rape currently existing in the Muluki Ain (General Code) is changed to conform to international standards, including not limiting rape to the penile penetration of the vagina.

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92 Nepali Times, *Rape for ransom*, 21 December 2012, available at: http://nepalitimes.com/news.php?id=19884#.UWUnKR9s7VI (last accessed 10 April 2013).

93 Sec. 24, Executive Ordinance, *supra* note 57. The term reparation is defined in Sec. 2 of the ordinance as encompassing only compensation, concessions and facilities to be granted to victims and their relatives.

94 OHCHR, *Comments on the Nepal "Commission on Investigation of Disappeared Persons, Truth and Reconciliation Ordinance 2013,* 3 April 2013 (copy on file with TRIAL).

95 *See supra* para. 30.

- Ensure that other forms of sexual violence (including but not limited to sexual slavery, enforced pregnancy, forced prostitution, forced sterilisation (including penile amputation), forced nudity, mutilation of genitals and breasts, forced circumcision and other sexual assaults not involving penetration) are expressly and individually criminalized.
- Ensure that rape or other forms of sexual violence are also codified as war crimes, crimes against humanity, torture or genocide.
- Ensure that penalties for the commission of rape or other forms of sexual violence are consistent with international standards and commensurate to the extreme gravity of these acts.
- Abolish the 35-day statute of limitations on the registration of claims related to rape or other forms of sexual violence. In particular, there should be no statute of limitations on filing complaints relating to rape or other forms of sexual offences, which occurred during the conflict, as war crimes or crimes against humanity.
- Ensure that the law is changed so that FIRs can be filed for rape or any other acts of sexual violence.
- Eliminate the requirement that FIRs be filed only at the police office nearest the location where the offence occurred.
- Ensure that the *de facto* discretionary authority of the police in registering FIRs be eliminated and the police be required to register FIRs even when no medical report has been provided.
- Ensure that the failure to register and FIR is subjected to further scrutiny and, where appropriate, to investigation, prosecution and sanction.
- Ensure, in particular, that all cases of rape or other forms of sexual violence perpetrated during the conflict are promptly, independently, impartially and thoroughly investigated and that those responsible are judged and sanctioned in accordance with international standards on fair trial.
- Design and launch, in cooperation with women's organizations, targeted awareness-raising campaigns to educate and change societal attitudes, particularly those that foster patriarchal ideas about the roles of women in society and that undermine the human rights of women.
- Cooperate with women's organizations to train and sensitize the media on issues related to women's rights generally and violence against women in particular, in order to contribute to changing the predominant social and cultural beliefs and attitudes that perpetuate harmful stereotypes and myths about women.
- Ensure that persons accused of gross human rights violations are tried only by the competent ordinary courts and not by any other special tribunal, in particular military courts.
- Ensure that the Nepali Military Code of Conduct, the Army Act of 2006, be amended to

recognise and penalise rape or other forms of sexual violence not currently mentioned in Sec. 63 of the Army Act.

- Ensure that the definition and penalties for marital rape be amended to equal the severity of rape in all situations.
- En sure that persons accused of gross human rights violations do not benefit from any special amnesty law or similar measures that may have the effect of exempting them from any criminal proceedings or sanctions.
- Ensure that a new law is adopted to create transitional justice mechanisms, which are in line with international standards.
- Ensure that adequate legal assistance is provided to all victims seeking access to justice, and in particular to victims of sexual violence.
- Ensure that information on accessing justice be made generally accessible so that all victims may be made aware of the legal aid available to them.
- Ensure the creation of a comprehensive protection programme, which provides security against any type of harassment, threats or reprisals to victims of gross human rights violations, witnesses, their families, their counsels as well as their representative associations. The programme should be victim-oriented and directed by experts who are adequately trained to provide these services. The programme shall be financed by the State.
- Ensure the creation of a national reparations programme for victims of gross human rights violations, including victims of rape or other forms of sexual violence, which encompasses compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition. The programme should guarantee, as a measure of reparation, access to free psychological support provided through the State's institution and health services. Measures should have a restorative aim and be awarded without discrimination to all victims of gross human rights violations independent of the offence.
- Ensure that the amount of economic compensation awarded to victims of gross human rights violations be increased to reflect the gravity of the harms suffered.
- Guarantee that the children of all victims of rape or other forms of sexual violence, including those who lost their opportunities to study during the conflict, be granted access to free education, to the highest levels of instruction.

10. Information on the Associations submitting this Written Information

TRIAL (Swiss Association against Impunity) TRIAL is an association under Swiss law founded in June 2002 and headquartered in Geneva. It is apolitical and non-confessional and has consultative status with the United Nations Economic and Social Council. Its principal goals are in the fight against impunity for the perpetrators accomplices and instigators of genocide, war crimes, crimes against humanity, enforced disappearances and acts of torture. To accomplish its goals, TRIAL coordinates a network of lawyers capable of rapidly and efficiently instituting legal proceedings. These lawyers offer the victims of international crimes the necessary skills for their proper defence including filing of legal complaints at the domestic and international levels as well as liability procedures. TRIAL has also set up a litigation programme born from the premise that, despite the existence of legal tools able to provide redress to victims of international crimes, these mechanisms are considerably underused. Accordingly, TRIAL aims at offering victims the requisite professional help to prepare and file their complaints before existing international mechanisms and tribunals.

Since 2009, TRIAL has been working in Nepal, combining its expertise with that of Nepalese human rights organisations to help victims submit their cases before the Human Rights Committee and to the diverse Special Procedures of the Human Rights Council, thus providing high-quality material for advocacy campaigns to push the government to change its laws and practices in favour of the protection and promotion of the most fundamental human rights. In cooperation with local partners, to date, TRIAL has submitted 10 individual cases to the Human Rights Committee.

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HimRights (Himalayan Human Rights Monitor)

Himalayan Human Rights Monitors (HimRights) officially registered in 1999 as a non-governmental, non-partisan, non-profit organisation committed to defending the rights of poor, marginalised and socially excluded communities and individuals, with a special focus on women, children and youth. HimRights works in affiliation with all major human rights institutions based in Nepal and abroad, pursuing a three-fold approach of (1) monitoring and reporting, (2) responding to human rights violations; and (3) advocating and training for policy change, influence, raising awareness, and capacity- building to cope with – and respond to – changing human rights dynamics in Nepal. HimRights works for the advancement of human rights, gender justice, child/women empowerment, peace campaign, enhancement of participatory democracy and people-centered development. HimRights enables to work effectively in the areas of human rights, anti-trafficking, safe migration, good governance, conflict transformation/mitigation, reconciliation and peace building.

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