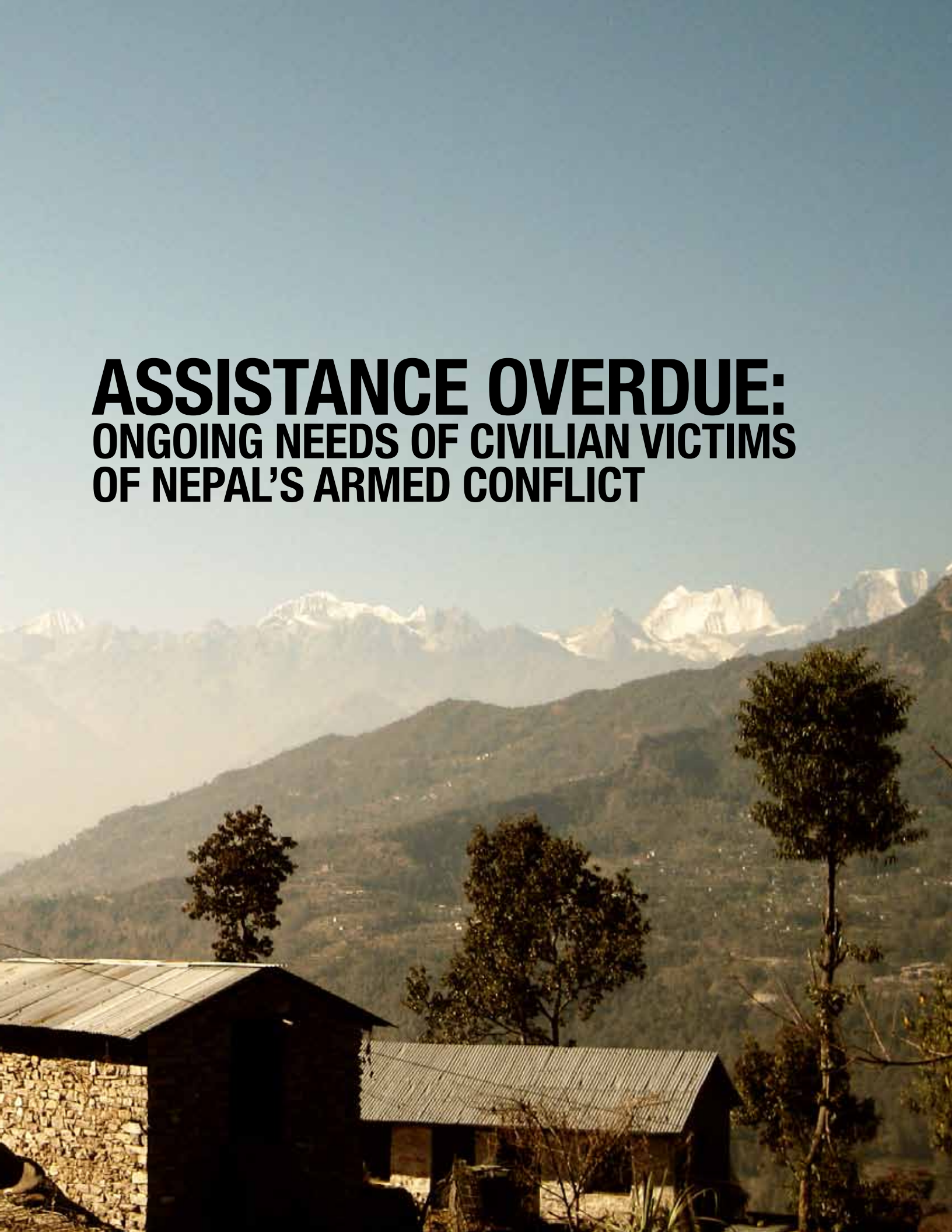
ASSISTANCE OVERDUE:
ONGOING NEEDS OF CIVILIAN VICTIMS OF NEPAL'S ARMED CONFLICT



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IHRC
INTERNATIONAL HUMAN RIGHTS CLINIC
HUMAN RIGHTS PROGRAM AT HARVARD LAW SCHOOL

CENTER FOR
CIVILIANS IN CONFLICT
RECOGNIZE. PREVENT. PROTECT. AMEND.

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Cover photo: Nepal's armed conflict reached every corner of the country including small villages, such as Chathali in the mountains of Dolakha. The government has failed to provide adequate assistance to victims in these communities, meaning their needs are unmet and their suffering continues.
Photograph by Neha Sheth

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Methodology

The Harvard Law School International Human Rights Clinic (IHRC), with assistance from Center for Civilians in Conflict, made two trips to Nepal and conducted more than 110 interviews with victims of the conflict, civil society members, government officials, and representatives of donor states and organizations.

In January 2010, after doing extensive background research into the conflict and efforts to help its victims, a four-person IHRC team travelled to Nepal and conducted seventy-two interviews. The team interviewed forty-six victims in several locations within the districts of Banke, Bardiya, Dolakha, Kavre, and Kathmandu. These districts represented different regions of the country, including the *terai* (southern lowlands), the mountains, and the capital and its environs. IHRC also met with members of eleven local and international nongovernmental organizations (NGOs) working on conflict victims' needs through direct service or policy advocacy. The team interviewed several representatives of donor states and organizations, including the World Bank. Finally, IHRC researchers spoke with local and national political leaders, including officials involved in the Interim Relief Program (IRP) and representatives of the National Human Rights Commission (NHRC), Ministry of Peace and Reconstruction (MoPR) and the Office of the Prime Minister.

In November 2012, a member of the original IHRC team returned to Nepal and conducted an additional forty interviews. She met with some interviewees from the previous trip to see how their situations had evolved as well as with many new individuals. On this field mission, the IHRC researcher interviewed fourteen victims, thirteen representatives of local and international NGOs, and several representatives of donor states and organizations, including the World Bank. Finally, she interviewed local and national political leaders, including officials administering the IRP and representatives of the NHRC, MoPR, and the Office of the Prime Minister. Although she was not able to meet with every individual interviewed on the previous trip, it was evident that the needs and expectations articulated by victims in 2010 remained largely unmet almost three years later and that their requests for further assistance persisted.

In addition to doing field investigations, the IHRC team engaged in extensive desk research to supplement and contextualize information gleaned from interviews. The team kept abreast of relevant developments, including through media accounts, reports by NGOs and international organizations, and government documents. It also closely analyzed Truth and Reconciliation Commission and Disappearances Commission bills submitted to the Constituent Assembly and Ordinance 2069, which calls for a joint commission.

IHRC has withheld the names of interviewees who requested confidentiality.

Center for Civilians in Conflict provided extensive support with the planning and direction of IHRC's research as well as analytical and editorial assistance with the production of this report.

Table of Acronyms

DEO	District Education Office
ICTJ	International Center for Transitional Justice
ICRC	International Committee of the Red Cross
IHRC	Harvard Law School Internationnal Human Rights Clinic
INSEC	Informal Sector Service Center
IRP	Interim Relief Program
MoPR	Ministry of Peace and Reconstruction
NGO	Nongovernmental organization
NHRC	National Human Rights Commission
OHCHR	Office of the High Commissioner of Human Rights
RNA	Royal Nepalese Army
UNICEF	United Nations Children's Fund

Map of Nepal


HIMALAYA MOUNTAIN RANGE
CHINA
INDIA
National Capital
District Capital
District Boundary
International Boundary
Himalaya Mountain Range
Districts Visited by IHRC
Kathmandu
Kavre
Dolakha
Gulariya
Bardiya
Nepalganj
Banke
Kathmandu
Charikot
Dhulikhel
N
0 20 40 60 80 100 km
0 10 20 30 40 50 60 mi

Summary

While engaged in a prolonged armed conflict from February 1996 to August 2006, the warring Nepali government and Maoist forces committed widespread atrocities against the civilians of Nepal. Together, the parties killed more than 17,000 people and disappeared at least 1,300.[1] They also perpetrated torture and sexual violence. The harm the warring parties inflicted has had a lasting impact, leaving victims with material needs, such as financial and in-kind assistance and services, and non-material needs, such as justice and truth.[2]

In 2008, the post-conflict government of Nepal established the Interim Relief Program (IRP) to provide immediate financial and in-kind assistance to those harmed by the conflict. The government has also been debating the creation of a truth, reconciliation, and disappearances commission that would deal with non-material issues. The combination of these programs has the potential to help many victims on numerous fronts. The IRP, scheduled to end in 2014, however, has not fully met victims' needs and expectations, and the commission as proposed would fall short as well.

1 "Recording Nepal Conflict: Victims in Numbers," *Nepal Monitor*, http://www.nepalmonitor.com/2011/07/recording_nepal_conf.html (accessed January 25, 2013). Before this update, other organizations had estimated 13,000 people killed. See, e.g., United Nations Office of the High Commissioner for Human Rights (OHCHR), *Nepal Conflict Report 2012,* 2012, http://www.ohchr.org/Documents/Countries/NP/OHCHR_Nepal_Conflict_Report2012.pdf (accessed July 13, 2013), 14 (citing Informal Sector Service Center (INSEC), *Conflict Victim Profile,* August 2010, www.insec.org.np/victim/ (accessed July 13, 2013)); Advocacy Forum and Human Rights Watch, *Waiting for Justice: Unpunished Crimes from Nepal's Armed Conflict,* September 2008, http://www.advocacyforum.org/downloads/pdf/publications/waiting-for-justice-sep-10.pdf (accessed July 13, 2013), 3. There are no reliable numbers for how many people each side killed or how many victims were civilians.

2 For the purposes of this report, "justice" refers to prosecution of perpetrators for violations of human rights or international humanitarian law, which is the type of justice emphasized by most victims interviewed by the International Human Rights Clinic (IHRC). "Truth" refers to the provision of information about what happened to victims of the armed conflict and why.

This report assesses—based on victims' needs and expectations—the government's actions to date and its future plans for responding to civilian harm. It finds that Nepal's response to the armed conflict and civilian harm has been inadequate. The Harvard Law School International Human Rights Clinic (IHRC) and Center for Civilians in Conflict call on the Nepali government and international community to hold further, meaningful consultations with victims and civil society, and to be guided by their perspectives in developing a more comprehensive and enduring solution. In particular the organizations recommend the creation of a long-term program for material assistance that would ultimately replace the IRP and the creation of a more credible and effective commission that addresses non-material needs, such as justice and truth.

Nepal's ten-year armed conflict had a dramatic effect on civilians and left victims with a host of needs and expectations.

While other organizations have written compelling reports about the human rights abuses experienced by the Nepali people or the obstacles they have faced to relief and reparations, this report takes a somewhat different approach.[3] Rather than analyzing the information primarily through a legal lens, the report assesses government programs and proposals according to the criteria of how well victims' needs and wants have been or could be met. This approach derives from the goal of recognizing human dignity embodied in human rights and humanitarian law. The concept of making amends, transitional justice, and victim assistance all promote the principle of humanity, yet they seek to help victims harmed during armed conflict in different ways.[4] Instead of relying on just one of these doctrinal frameworks, this report focuses on the cross-cutting aim of recognizing and assisting victims post harm. It therefore highlights victims' experiences and concerns through substantial use of testimony. It also centers its analysis on victims rather than, for example, society at large, the state, or specific institutions. The report defines the term "victim" broadly to encompass all individuals and family members who experienced physical, psychological, or socioeconomic harm.[5]

The Civilian Impact of Nepal's Armed Conflict and Victims' Resulting Needs

Nepal's ten-year armed conflict had a dramatic effect on civilians and left victims with a host of needs and expectations. In September 1995, Nepal's recently created parliament

3 See, e.g., International Center for Transitional Justice (ICTJ), *From Relief to Reparations: Listening to the Voices of Victims*, January 2012, http://ictj.org/sites/default/files/ICTJ-NPL-Relief-to-Reparations-Report-2011-English.pdf (accessed July 13, 2013); OHCHR, *Nepal Conflict Report 2012*; International Committee of the Red Cross (ICRC), *Missing Persons in Nepal: Updated List—2012, 2012*, http://www.icrc.org/eng/assets/files/2012/missing-persons-nepal-2012-english.pdf (accessed July 13, 2013); Advocacy Forum and Human Rights Watch, Waiting for Justice; Human Rights Watch, *Between a Rock and a Hard Place: Civilians Struggle to Survive in Nepal's Civil War*, vol. 16, no. 12(c), October 2004, http://www.hrw.org/sites/default/files/reports/nepal1004.pdf (accessed July 13, 2013).

4 The concept of making amends calls on warring parties to recognize and dignify victims of lawful harm by making public apologies, providing monetary payments, or funding livelihood assistance programs. Transitional justice includes judicial and non-judicial measures to redress human rights abuses. Victim assistance adopts a human rights approach in which an affected state provides assistance to victims within its territory. See, e.g., Center for Civilians in Conflict, *Guiding Principles for Making Amends*, June 14, 2013, http://civiliansinconflict.org/uploads/files/publications/Making_Amends_Principles.pdf (accessed July 13, 2013); ICTJ, "What is Transitional Justice?" http://ictj.org/about/transitional-justice (accessed July 21, 2013); Convention on Cluster Munitions, adopted May 30, 2008, entered into force August 1, 2010, art. 5.

5 This definition draws on those in Article 2 of the 2008 Convention on Cluster Munitions and in Nepal's Ordinance 2069, which outlines a proposed Commission of Inquiry on Disappeared Persons, Truth, and Reconciliation. Convention on Cluster Munitions, art. 2(1); Ordinance 2069, Commission on Investigation of Disappeared Persons, Truth, and Reconciliation Commission, 2012, http://www.simonrobins.com/missing/wp-content/uploads/2013/02/Nepal-TRC-Ordinance.pdf (accessed July 13, 2013) (unofficial translation), § 2(h).

dissolved the country's communist government, which had been in power for nine months. In response, the Communist Party of Nepal (Maoist) campaigned for the establishment of a people's republic and the total abolition of the monarchy. On February 13, 1996, claiming that their demands had been ignored, the Maoists declared a "people's war," which they framed as a battle between the lower classes of society and high-caste elites. The declaration sparked an armed conflict that would last for a decade.

During the conflict, forces from the government of Nepal and the Maoists targeted civilians with impunity, frequently accusing individuals of politically supporting their enemy. The Maoists often executed civilians publicly to create fear, while the government routinely eliminated its perceived enemies through enforced disappearances. Both sides committed torture and severe beatings as well as rape and other forms of sexual violence. The perpetrators carried out these crimes in particularly violent ways, and families often experienced multiple incidents of abuse.

Goma Thami's story exemplifies that of civilians caught in the middle of Nepal's armed conflict. Maoist forces stole his food and demanded shelter. Government soldiers accused him of being a Maoist and beat him. Lingering injuries and lack of assistance have made it difficult for Thami to support his family or pay for his children's education. Photograph by Rebecca Agule

The harm inflicted during the conflict has had lasting impacts on the physical, psychological, and socioeconomic well-being of civilians. Summary executions have traumatized many of those left behind. The death of a breadwinner has usually also placed a heavy burden on families and especially on widows, who are culturally discouraged from working outside of the home and who may not be supported by in-laws. Enforced disappearances have generally left relatives with not only comparable financial burdens but also the pain of not knowing whether their loved ones are alive or dead. Survivors of torture and severe beatings have often continued to struggle with permanent physical disabilities and psychological trauma that have made it difficult for them to support their families and move on with their lives. Victims of sexual violence have endured social stigma; their communities have sometimes blamed them for their situation and made it difficult for them to remarry.

Victims told IHRC they require different types of support to deal with these effects of the armed conflict. Victims asked for financial aid to meet their basic needs. Looking to the future, they also spoke of the importance of job training and employment opportunities, educational support for their children, and assistance with medical expenses for both physi-

cal and psychological harm. In addition, victims repeatedly identified non-material as well as material needs and expectations. Many saw justice as a way both to punish perpetrators and to prevent similar harm from being perpetrated in the future. Others prioritized a desire for truth, even though it can be in tension with justice in the form of prosecutions. For example, families of the disappeared often wanted to learn the truth about the fates of their loved ones, and other individuals wanted to know why they were targeted.

Government Response

Drawing from a US$50 million World Bank grant for post-conflict recovery, the government of Nepal created the IRP in 2008. As its name indicates, the program aims to provide interim humanitarian assistance. The IRP was designed to help some, but not all, categories of victims of the armed conflict. The IRP has given cash grants to families of the deceased or disappeared and to some of those disabled during the conflict. It has also offered scholarship money for up to three children of the deceased, disappeared, or disabled and vocational training for a limited number of victims. People with the most serious physical disabilities have received certain health care benefits. The government originally promised assistance to internally displaced persons and to those who lost property during the conflict as well; however, these groups have received minimal aid.

The IRP has helped thousands of victims and can be commended to a degree, but it has proved inadequate as a comprehensive tool for meeting victims' needs in both its design and implementation. The amount of financial aid provided and the process for distributing it have fallen short of expectations. For example, the program has allocated no assistance at all to certain groups, notably victims of torture and sexual violence, and it has staggered the dispersal of aid to other categories of victims, creating confusion. The IRP has failed to provide widespread vocational training and employment opportunities, its scholarships have been limited in size and number of recipients, and it has offered medical care only for those with the most serious physical disabilities, ignoring those who suffer psychological effects. In operationalizing the IRP, the government has also created obstacles to access through limited reach, bureaucratic inefficiencies, and politicization and corruption that have given some individuals, especially those with political party connections, preferential treatment.

In addition to being too narrow in the scope and nature of its interim assistance, the IRP has not accounted for persistent future needs. For example, the program's one-time cash grants have not provided sustained assistance. The IRP has also not guaranteed extended medical care. If care is not available locally, it entitles victims to only a single trip to a government hospital with no follow-up visits. Furthermore, the limitations of its scholarships and vocational training mean that the program has not provided enough help for victims to rebuild their lives for the future. As a result of the IRP's flaws in design and implementation, the program has failed to meet victims' needs and expectations fully—and in some cases, it has not addressed their needs at all.

Because the IRP was never meant to be the ultimate response to the needs and expectations of conflict victims, an evaluation of Nepal's response to civilian harm from the armed conflict must also assess the government's long-term plan, which would deal with non-material as well as material needs. The 2006 Comprehensive Peace Agreement and the 2007 Interim Constitution obligate the government of Nepal to create a truth and reconciliation commission and a disappearances commission. In March 2013, through Ordinance 2069, the government adopted a combined institution—the Commission of Inquiry on Disappeared Persons, Truth, and Reconciliation (the Commission). The Supreme Court suspended it in response to a civil society petition so it remains a proposed body. If established, a commis-

sion could provide material reparations to different categories of victims, including those not covered by the IRP.[6] It could also deal with the non-material desires of victims that the IRP was not designed to address. A commission thus has the potential to benefit many victims.

Seen through a victim-centered lens, however, the body proposed in Ordinance 2069 has substantive and procedural shortcomings that could prevent it from fulfilling the needs expressed by victims. Substantively, the Ordinance does not give the Commission power to require the government to distribute reparations or prosecute perpetrators. It is also not adequately responsive to victims' perspectives on justice and truth. For example, it does not require that victims' wishes be meaningfully considered by the Commission and in the process could perpetuate impunity: the body could impose a form of reconciliation over the objections of victims and grant amnesty to repenting perpetrators who reveal the truth about their abuses, even if they committed serious international crimes. Procedurally, the Ordinance gives the Commission only two years to complete its work and does not ensure victims in remote parts of the country have access to the Commission. In addition, the minimal involvement of victims and civil society in the appointments process makes the Commission vulnerable to politicization at the expense of victims. A lack of transparency, including no obligation to make a final report public, could undermine justice and truth. While a commission could be an important response to the unmet, non-material needs and expectations of victims, Nepal should address these and other concerns, in consultation with victims and civil society, before moving forward with its creation.

Calls for Change

This report aims to infuse a more comprehensive victim-centered approach into government policy considerations. To do so, the report highlights the harm suffered by the victims of the Nepal's armed conflict, the needs and wants expressed by those victims, and the government's attempts to deal with the situation.

Based on the needs and expectations victims specified, the report recommends that the government of Nepal continue and broaden its material assistance. The existing IRP should distribute its promised assistance and carry on in a modified form until it can be replaced by a new, long-term and more complete program that provides enduring financial and in-kind assistance. Going forward, the government should ensure its assistance explicitly covers not only the deceased, disappeared, and disabled, but also victims of torture and sexual violence. It should provide greater support for physical and psychological medical care, education, and employment. In addition, it should increase efforts to overcome obstacles to access and to distribute assistance in a fair, non-discriminatory way.

The report also recommends the government create a commission (or commissions) on truth, reconciliation, and disappearances, but certain criteria must be met to ensure a victim-centered approach is central to the body's mandate. In particular, the government should grant the commission enough power to address victims' needs effectively, prohibit forced reconciliation as well as amnesties that promote impunity for serious human rights violations, and develop a process that is accessible and transparent and mitigates politicization. The government should coordinate the commission's reparations mechanism with any program that replaces the IRP in order to make sure that victims' material needs are met more completely.

Finally, the report calls on the international community to help fund these recommendations while using its leverage and creating incentives to ensure the country implements them properly.

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6 This report uses the term "assistance" to refer broadly to different forms of help provided to victims post harm. The term "relief" is used to refer to the aid given under the IRP. The report also discusses "reparations," which "recognize that rights have been violated and that the state is obligated to repair the consequences of the violation." For more on the definition of reparations, see ICTJ, *Relief, Reparations, and the Root Causes of Conflict in Nepal*, 2012, http://ictj.org/publication/relief-reparations-and-root-causes-conflict-nepal (accessed July 13, 2013), 5. Reparations are often distinguished from relief, but this report is less concerned with making that distinction than with bringing attention to the assistance flowing to victims, regardless of the type.

Recommendations

To meet the range of victims' needs and expectations more fully, the government of Nepal should expand and extend its response to conflict harm. While the IRP has helped address victims' immediate financial and in-kind concerns, it has not provided sufficient material assistance, and it has failed to encompass certain categories of victims, specifically those who experienced torture, severe beatings, or sexual violence. The government of Nepal should modify the IRP and ultimately replace it with a more comprehensive, long-term program. Nepal should also adopt a complementary truth, reconciliation, and disappearances commission (or commissions)[7] with the power and resources to address effectively non-material expectations, such as justice and truth. When designing and implementing both the assistance program and the commission, the government should consult with victims about their remaining needs and tailor its response to meet them. Such a victim-centered approach would help ensure these institutions achieve their intended goal of benefiting civilians injured by Nepal's armed conflict. International donors should urge the government of Nepal to realize these recommendations and provide support to facilitate the process.

7 The Interim Constitution and some recent proposals have called for two commissions, while Ordinance 2069 combines them into one commission. Whether the government ultimately creates one or two commissions, the recommendations of this report still apply.

Recommendations to the Government of Nepal

- Complete distribution of the financial and in-kind assistance promised under the existing IRP as quickly as possible.

The government should expeditiously distribute the remaining financial and in-kind assistance promised to the next-of-kin of the deceased and disappeared and those disabled during the conflict. It also should disburse the interim relief to which those who were internally displaced or lost property due to the conflict are entitled. If necessary, the government should extend the IRP, which is scheduled to end in 2014, so that it has time to complete distribution of its promised assistance.

- Provide additional material assistance that more comprehensively addresses victims' material needs and wants over the long term.

Even if its assistance is properly distributed, the IRP will leave many of victims' immediate needs unmet, and it was not designed to address future needs. The government should replace the IRP with a new program that delivers more complete and long-term assistance for those who need it and provides tools to help victims rebuild their lives going forward. To ensure there is no gap in assistance, until such a program is established, a modified IRP should fill that role. The government should take into account the specific recommendations discussed below when modifying the existing IRP and designing the new program.

- Grant both financial and in-kind assistance to victims of torture and severe beatings and victims of sexual violence.

The government should provide financial and in-kind assistance to individuals who experienced torture, severe beatings, or sexual violence as part of the armed conflict. These victims should receive the aid already promised to other victims, such as the families of the deceased and disappeared and disabled individuals, as well as the additional assistance recommended below.

- Reassess the sufficiency of financial grants to victims.

The government should address complaints that the money it has provided victims has been insufficient to make a major difference in their lives by reevaluating the amounts in consultation with victims and civil society.

- Provide vocational training for victims who request it.

The vocational training pilot program available in twelve districts should be evaluated, and if it is found adequate, the government should expand it to all districts in Nepal as planned. If it is not found adequate, the government should work with victims and civil society to develop a program that is more responsive to victims' needs and expectations and that strives for the generation of sustainable income.

- Ensure access to education for all children of eligible victims through a more comprehensive scholarship program.

Building on its existing program, which is limited to three children per family, the government should provide support for the education of each child of a victim through secondary school.

It should also increase scholarship amounts to ensure essential educational expenses, such as fees, books, and uniforms, are covered.

- Provide mental health care for victims who suffered psychological harm attributable to the armed conflict.

The government should explicitly supplement the assistance for physical health care allocated to disabled victims with psychological support. It should also provide for psychological care to families of the deceased and disappeared.

- Modify the process used to determine the amount of assistance allocated to disabled individuals.

A better informed and more encompassing process for determining the amount of assistance awarded to disabled victims of the armed conflict should replace the "disability percentage" system that has been in use. The government should consult with disabled victims and civil society organizations that work with them to design such a process.

- Ensure the distribution of assistance does not discriminate against female victims.

As mentioned above, the government of Nepal should provide financial and in-kind assistance to victims of rape and sexual violence. In addition, the government should change its written policy of revoking assistance once a widow remarries. It should also offer case-specific assistance options, such as offering in-kind assistance, rather than a lump-sum payment, to women who fear their in-laws will demand their money. Finally, the government should ensure women have physical access to assistance, given that it can be culturally difficult for them to travel to larger cities to obtain it.

- Ensure access to government assistance programs across the country.

The government should ensure that victims have access to the assistance programs by increasing outreach efforts. For example, the government could send officials to the more remote areas of Nepal to explain and administer the distribution process or pay for victims in those regions to travel to more urban distribution centers.

- Strive to minimize the inefficiency, politicization, and corruption within the assistance process.

The government of Nepal should recognize and reduce the influence of these negative forces. The government could, for example, ask an independent organization to audit its program for inefficiency, politicization, and corruption and then follow recommendations made to minimize these problems.

- Complete, in a timely fashion, the process of forming a commission (or commissions) that can recommend reparations and address non-material needs, such as justice and truth, in a way that responds to victims' perspectives.

The government should adopt a commission in the near future while ensuring that the body does not raise the same concerns as previously proposed commissions. It should base its design on meaningful consultations with victims and civil society. The government could

choose one or two commissions adopted through an amended ordinance or a new bill submitted after the election of a legislature. Regardless, to create a credible commission that effectively meets victims' needs and wants, the government should at a minimum:

  - » Ensure the commission's recommendations on material and non-material assistance will be implemented. For example, the commission could be given the power to require the government to implement its recommendations. The government could also seek and set aside funds to allow for implementation of the recommendations.
  - » Coordinate any reparations scheme with the material assistance program mentioned above to help avoid gaps and ensure maximum benefits and minimum duplication.
  - » Require the commission to consider victims' perspectives seriously when making decisions, including about reconciliation and apologies.
  - » Prevent the commission from allowing impunity through the granting of amnesties for international crimes such as enforced disappearance, torture, rape, and murder committed after taking custody of a person or in a cruel and inhumane way.
  - » Strive to develop a process that ensures there is adequate time for the commission to do its work, access for victims, freedom from politicization, and transparency.

- Seek funding to enable the needs and wants of victims of the armed conflict to be met.

The government of Nepal should seek the supplemental funding required to expand and continue a material assistance program and to allow any commission set up to function adequately, with the understanding that such funding may come with conditions relating to its use and transparency measures.

Recommendations to Donor States and Organizations

- Provide funding for long-term and comprehensive material assistance.

States and major donors should provide the government of Nepal with the necessary funding to extend the IRP if necessary and to create a new program to ensure the needs of conflict victims are more fully met. Such funding would contribute to the provision of material assistance for victims as well as help Nepal rebuild and move forward after its lengthy armed conflict.

- Use financial incentives to help ensure the government provides assistance to victims in an efficient manner, covers all categories of victims, and adequately meets the financial and in-kind needs and expectations expressed by victims.

When giving money to support programs to assist Nepali victims, donor states and organizations should create incentives for the Nepali government to use such money to address the needs and expectations of conflict victims more comprehensively.

- Provide assistance to Nepal to establish a commission, on the condition that the commission is responsive to conflict victims' needs and expectations.

The international community should provide funding for a commission on certain conditions. These conditions should include requirements that the commission be given the powers discussed above and that the commission seriously consider victims' views in its design, implementation, and decision making. The international community could also offer technical advice on how to design and implement such a commission.

- Monitor the use of donated funds to ensure that the government of Nepal is using them adequately to meet victims' needs and expectations.

In order to meet the needs and wants of victims, donor states and organizations should ensure that supplied funds are used in conformity with the recommendations detailed above. In particular, donors should take care that funds are not subject to the negative effects of inefficiency, politicization, and corruption. A transparent auditing system could be implemented to track the donated funds.

Armed Conflict and Civilian Harm in Nepal

An armed conflict raged in Nepal from 1996 to 2006, causing human suffering across the country. Parliament's dissolution of the communist government in 1995 helped spark the Maoists' "people's war," an insurgency seeking to abolish the monarchy and re-establish communist rule.[8] Ten years of intense civil war followed.

Both parties to the armed conflict victimized civilians brutally and with impunity.[9] To inflict pain and incite fear, combatants frequently targeted civilians intentionally in violation of international humanitarian and human rights law.[10] While government forces attacked lawyers, journalists, and the impoverished, the Maoists focused their violence against suspected government informants, civil servants, local activists, and non-Maoist party officials.[11] The Maoists often demanded that local residents provide them with food and shelter, killing those who refused to accommodate them; most Nepali citizens felt they had no choice but to cooperate.[12] In turn, Nepali government forces would accuse civilians found to have housed or fed Maoists of supporting the rebellion and would torture or kill them.[13] By the end of 2006, killings attributable to the conflict had been recorded in all but two of Nepal's

8 Human Rights Watch, *Between a Rock and a Hard Place*, 10.
9 Ibid., 3.
10 While civilians were sometimes the victims of lawful attacks, such collateral damage was not the norm. IHRC heard only one firsthand account of such an incident from a victim.
11 Human Rights Watch, *Between a Rock and a Hard Place*, 19, 54. These methods resulted in the wounding or killing of many civilians.
12 Ibid., 27. The Nepali Army also forced civilians to house and feed their soldiers. See, e.g., Interview with Purnaman Shrestha, interview no. 32B, Kavre, November 5, 2012.
13 Human Rights Watch, *Between a Rock and a Hard Place*, 27.

75 districts.[14] Civilians bore the brunt of the hardship, and many endured repeated victimization. The types of unlawful acts committed by both sides included: summary executions; enforced disappearances; torture, severe beatings, and other cruel and inhumane treatment; and rape and sexual violence.

The harm inflicted by the Maoists and state security forces has had wide-ranging and long-lasting consequences for victims. The conflict compromised the physical and mental health of individuals, their families, and witnesses. In addition, the loss of breadwinners and the displacement of victims from their land caused social and economic impacts that have further entrenched poverty for many Nepali people. Individual victims, their families, and their communities have continued to suffer years after the cessation of violence.

After a brief background on the armed conflict, this chapter documents the types of harm experienced by civilians and their effects.

The Armed Conflict

In September 1995, five years after Nepal's 200-year-old monarchy had agreed to a new constitution and a democratic parliament, the Parliament used a no-confidence vote to dissolve the country's communist government, which had served for nine months.[15] Opposition parties accused the Communist Party of Nepal (Unified Marxist-Leninist), which did not have a majority in Parliament, of reneging on an agreement to pursue a market economy and of using a land reform program and civil service positions to reward supporters.[16] The newly established, more militant Communist Party of Nepal (Maoist) reacted by campaigning for the establishment of a people's republic and the total abolition of the monarchy.[17]

On February 13, 1996, declaring that their list of demands, including the abolition of the monarchy, had been ignored, the Maoists announced a "people's war," sparking a conflict that would last for a decade.[18] The Maoists framed the conflict as a struggle against high-caste elites, drawing support from the underdeveloped western areas of Nepal and the lower classes of Nepali society and capitalizing on dissatisfaction with the monarch due to extreme poverty and ethnic discrimination.[19] For five years, the Nepali government viewed the Maoist insurgency as a law enforcement issue for the police, rather than an armed conflict to be dealt with by the army.[20] The police, not being trained or equipped for counter-insurgency, lacked an effective response, and Maoists forces were able to spread quickly from remote strongholds to wider and wider control of the countryside.[21]

From 2001, following a short-lived truce and failed peace talks, the intensity of the violence escalated. The government declared a state of emergency, and human rights abuses, including summary executions and enforced disappearances, rose dramatically.[22] In November 2001, the Maoists attacked army and police posts throughout the country, prompting the

14 OHCHR, *Nepal Conflict Report 2012*, 15. According to OHCHR, the districts without recorded killings were Manang and Mustang.
15 "Communist Government Is Dissolved in Nepal," *The New York Times*, September 11, 1995, http://www.nytimes.com/1995/09/11/world/world-news-briefs-communist-government-is-dissolved-in-nepal.html (accessed July 13, 2013). See also "Nepal: Conflict Timeline," *Insight on Conflict*, http://www.insightonconflict.org/conflicts/nepal/conflict-profile/conflict-timeline-2/ (accessed July 13, 2013).
16 "Communist Government Is Dissolved in Nepal," *The New York Times*.
17 "Nepal Profile," *BBC News*, July 31, 2012, http://www.bbc.co.uk/news/world-south-asia-12499391 (accessed July 13, 2013).
18 Brad Adams, "Nepal at the Precipice," *Foreign Affairs* 84 (2005): 121, 128.
19 Stuart Gordon, "Evaluating Nepal's Integrated 'Security' and 'Development' Policy: Development, Democracy, and Counterinsurgency," *Asian Survey* 45 (2005): 581, 582-5.
20 "Misery in the Mountains," *The Economist,* February 26, 2000, http://www.economist.com/node/329919 (accessed July 13, 2013).
21 Human Rights Watch, *Between a Rock and a Hard Place*, 11-12.
22 Ibid., 1. See also OHCHR, *Nepal Conflict Report 2012*, 46.

government to alter its tactics and deploy the Royal Nepalese Army (RNA) against the Maoists.[23] The RNA operated a "Unified Command" over all Nepali government forces, including the RNA itself, the police, and the specially created paramilitary armed police.[24]

By the end of 2001, the Maoists were active in more than half of Nepal's seventy-five districts,[25] controlled parts of twenty-five districts, and had established de facto regional governments in six districts.[26] With an estimated 5,000 to 10,000 armed supporters,[27] the Maoist forces dominated the countryside. The RNA operated out of heavily fortified district headquarters, conducting periodic raids against Maoist forces.[28] Violence continued through 2002 and escalated again after another failed attempt at peace negotiations in 2003.[29]

After ten years of fighting, the two sides reached a peace deal—the Comprehensive Peace Agreement—on November 21, 2006.[30] An Interim Constitution promulgated in 2007 established the structure of the new Nepali interim government, comprised of a legislative body called the Constituent Assembly, a prime minister, and a president.[31] The Constituent Assembly abolished the monarchy and declared Nepal a secular state.[32] The Constituent Assembly, along with its legislative function, was to draft and promulgate a new Nepali constitution by May 2010.[33] It struggled to reach a consensus, however, and was dissolved in May 2012 by Maoist Prime Minister Baburam Bhattarai without having completed its task.[34] In March 2013, political parties forced Bhattarai to resign as head of a caretaker government and instead appointed Chief Justice Khil Raj Regmi of Nepal's Supreme Court as head of an interim unity government until the parties could agree on new elections.[35] As of July 2013, elections for the new constituent assembly were expected in late November.[36]

Types of Harm and Their Impacts

Both parties to the conflict perpetrated summary executions, enforced disappearances, torture or severe beatings, and sexual violence against civilians. This violence affected civilians physically and psychologically as well as socially and economically. The victims have continued to feel the impacts years after the end of the conflict.

23 Amnesty International, *Nepal: A Spiraling Human Rights Crisis*, April 4, 2002, http://www.unhcr.org/refworld/pdfid/3cac64654.pdf (accessed July 13, 2013), 5.
24 Human Rights Watch, *Between a Rock and a Hard Place*, 27. "The government created the Armed Police Force in January 2001, to help the police fight the insurgency movement." Ibid., 11, n. 20.
25 "Mao Lives on in Nepal," *The Economist*, April 21, 2001, http://www.economist.com/node/579235 (accessed July 13, 2013).
26 "Nepal's Week of Horror: After the Royal Massacre," *The Economist*, June 15, 2001, http://www.economist.com/node/647060 (accessed July 13, 2013).
27 "Nepal's Insurgency: Comrade Awesome," *The Economist*, December 1, 2001, http://www.economist.com/node/886273 (accessed July 13, 2013).
28 Human Rights Watch, *Between a Rock and a Hard Place*, 27.
29 "Nepal: Sinking Fast," *The Economist,* September 11, 2003, http://www.economist.com/node/2058298 (accessed July 13, 2013); "Nepal: King and Country," *The Economist*, January 17, 2004, http://www.economist.com/node/2355782 (accessed July 13, 2013).
30 Somini Sengupta, "Nepal Rebels Sign Peace Accord with Government," *The New York Times*, November 21, 2006, http://www.nytimes.com/2006/11/21/world/asia/21cnd-nepal.html?_r=0 (accessed July 13, 2013).
31 Interim Constitution of Nepal, 2007, http://nic.gov.np/constitution (accessed July 13, 2013).
32 "Nepal Abolishes Monarchy as King Gyanendra Given Fortnight to Vacate Palace," *The Telegraph*, May 28, 2008, http://www.telegraph.co.uk/news/worldnews/asia/nepal/2044579/Nepal-abolishes-monarchy-as-King-Gyanendra-given-fortnight-to-vacate-palace.html (accessed July 13, 2013).
33 Interim Constitution of Nepal, arts. 63, 83.
34 "Nepal Parties Resign as Constitution Deadline Passes," *BBC News*, May 28, 2012, http://www.bbc.co.uk/news/world-asia-18232606 (accessed July 13, 2013); "Nepal Enters Crisis Mode as Constitution Talks Fail," *BBC News*, May 28, 2012, http://www.bbc.co.uk/news/world-asia-18234114 (accessed July 13, 2013).
35 "Chief Justice to Lead Nepal's Interim Government to Elections," Reuters, March 13, 2013, http://www.reuters.com/article/2013/03/13/us-nepal-politics-government-idUSBRE92C1BL20130313 (accessed July 13, 2013).
36 "Nepal Blames UPN Stance for Delay," *The Himalayan Times*, May 30, 2013, http://www.thehimalayantimes.com/fullNews.php?headline=Nepal+blames+UCPN-M+stance+for+delay&NewsID=378336 (accessed July 13, 2013).

Summary Executions[37]

By the 2006 ceasefire, the state and the Maoists together had killed an estimated 17,265 Nepalis, including civilians and combatants, according a report by a Ministry of Peace and Reconstruction (MoPR) task force.[38] Both parties committed summary executions throughout the country, with the highest rates of such killings occurring in the western districts that began as Maoist strongholds.[39] A report by the UN Office of the High Commissioner of Human Rights (OHCHR) found that the majority of summary executions were committed by the Maoists, with the state security forces following closely behind.[40] In addition to causing loss of life, the killings had a profound psychological and material impact on families and communities.

Maoists practiced summary executions openly, frequently publicizing killings as part of a terror campaign that bred fear among potential victims and heightened the trauma of survivors.[41] The Maoists "have no problems admitting the people they killed," Swiss Ambassador to Nepal Thomas Gass told IHRC.[42] State forces were less open, often forcibly disappearing people instead of publicly executing them.[43] When state forces did commit summary executions, they frequently claimed the victims were supporting the Maoists.[44] For example, one man told IHRC that a group of fifteen state security force members executed five unarmed field laborers, including his son and brother-in-law, as they were working in their field in Sonpur, in the south of Nepal, in April 2004.[45] "The owner of the field said, 'No, they aren't Maoists, they are working for me,' but [the security forces] didn't listen to him," the man explained.[46]

Gruesome methods of execution amplified civilian fears.[47] In December 2002, for example, Maoists dragged one woman accused of being an informant from her home in Bardiya, as her family—including her two young sons—watched. The woman's father, who saw her taken away, heard her cry as the Maoists killed her. "I found her dead body in front of the courtyard in front of the house," he said. "When I saw her dead body, I could see she had been beaten by iron rods and spears had pierced her legs. Her eyes were badly beaten."[48] A man from Kavre told IHRC that his brother had been "hacked to death [by the Maoists] on

37 This report uses the term "summary executions" to apply to the intentional killing of civilians by both parties, an action that could be considered an extrajudicial killing if committed by the state. This term does not apply to civilians killed unintentionally during a lawful attack on a legitimate military target.
38 "Recording Nepal Conflict," *Nepal Monitor*. Before this update, other organizations had estimated 13,000 people killed. See, e.g., OHCHR, *Nepal Conflict Report 2012*, 14; Advocacy Forum and Human Rights Watch, *Waiting for Justice*, 3. There are no reliable numbers for how many each side killed or how many victims were civilians.
39 Interview with international organization official (name withheld), interview no. 23, Banke, January 10, 2010. Even those districts closer to Kathmandu suffered such casualties. For example, Kavre alone suffered from eighty-eight confirmed summary executions of civilians. Interview with Bhojraj Timalsina, Kavre District Representative, INSEC, interview no. 21, Kavre, January 15, 2010.
40 In some cases perpetrators were unknown. OHCHR, *Nepal Conflict Report 2012*, 72.
41 Ibid., 88.
42 Interview with Thomas Gass, Swiss Ambassador and Country Director for the Swiss Agency for Development and Cooperation, interview no. 8, Kathmandu, January 21, 2010.
43 Adams, "Nepal at the Precipice."
44 See, e.g., Interview with victim (name withheld), interview no. 58, Dolakha, January 18, 2010 (Security forces exacted retribution on civilians after Maoists set off a bomb.); Interview with Goma Shahi, interview no. 47, Banke, January 12, 2010 (Shahi was arrested and beaten while being accused of supporting Maoists); Interview with victim (name withheld), interview no. 43, Bardiya, January 11, 2010 (While torturing him, police repeatedly asked this man where the Maoists were and what they were doing.); Interview with victim (name withheld), interview no. 27, Banke, January 10, 2010 (Security forces accused his family of supporting the Maoists and killed his wife and other family members.); Human Rights Watch, *Between a Rock and a Hard Place*, 27; OHCHR, *Nepal Conflict Report 2012*, 81-82.
45 Interview with victim (name withheld), interview no. 28, Banke, January 10, 2010.
46 Ibid.
47 See, e.g., Interview with representative (name withheld), INSEC, interview no. 20, Kathmandu, January 20, 2010 (reporting that Maoists were known for their "heinous" killing methods); Interview with Purnimaya Lama, interview no. 60, Kavre, January 15, 2010 (Maoists "peeled [her] husband's skin" and buried him alive.); Interview with Bhojraj Timalsina, Kavre District Representative, INSEC, interview no. 21, Kavre, January 15, 2010 (reporting that victims were buried alive); Interview with Ram Chandra Sapkota, interview no. 62, Kavre, January 15, 2010 (His brother was beheaded.); Interview with victim (name withheld), interview no. 45, Bardiya, January 11, 2010 (This victim's daughter's body showed signs of severe torture.).
48 Interview with victim (name withheld), interview no. 45, Bardiya, January 11, 2010.

the way to the Village Development Committee. [His] body was found 100 feet away from where the head was."[49]

Such killings have had profound consequences for survivors and eyewitnesses. Many survivors have suffered severe psychological trauma since the deaths of their loved ones. Sita Raut, the wife of a government postman from Dolakha, recalled in 2010, "I wasn't in my senses after I heard the news [that Nepali army forces killed my husband], and it still affects me. I have had headache problems since then."[50] Raut could not remember telling her children of their father's death, explaining, "They might have been told by some other person because I was not in my senses."[51] Similarly, the 2004 killing of a fifteen-year-old boy by security forces in Nepalgunj so deeply scarred his mother that the family took out loans to pay for her psychological care.[52]

Individual victims, their families, and their communities have continued to suffer years after the cessation of violence.

In addition to causing psychological suffering, a breadwinner's death has often had financial implications for survivors. In Nepal, a married eldest son generally supports his own wife and children as well as his aging parents, so his death can be both emotionally and economically devastating. A man from Banke told IHRC how he could not replace his dead son's salary and struggled to provide for his extended family.[53] Shyam Lal Kurmi explained that his life and his daughter-in-law's life changed dramatically in 2004 when security forces killed his son, Mehendra Verma, who had been "taking care of most things in the family."[54] Upon Verma's death, these responsibilities transferred to his widow, creating a heavy burden. Kurmi told IHRC in 2010, "Even now [Verma's widow] is still stressed. She still has a lot of problems because she has a daughter to marry. . . . She is taking care of a lot of family members."[55]

The impact on widows has been especially profound. Often unable or unaccustomed to working outside the home, widows have struggled to provide for their surviving family members.[56] According to Rajin Rayamaji, staff lawyer at Women for Human Rights, a Nepali nongovernmental organization (NGO), widows as well as other single women have few options: "[Single women] don't have an education, so they are forced into the informal sector, like massage shops, restaurants, and the sex trade."[57] Compounding these financial burdens, widows have often been ostracized by their communities and bound by social mores that reject remarriage.[58] In-laws have sometimes blamed a widow for her husband's

49 Interview with Ram Chandra Sapkota, interview no. 62, Kavre, January 15, 2010.
50 Interview with Sita Raut, interview no. 53, Dolakha, January 17, 2010.
51 Ibid.
52 Interview with victim (name withheld), interview no. 28, Banke, January 10, 2010. Another victim explained that when he lost his daughter, his wife "couldn't eat properly for three years. She used to speak in her sleep and mumble." Interview with victim (name withheld), interview no. 45, Bardiya, January 11, 2010.
53 Interview with victim (name withheld), interview no. 28, Banke, January 10, 2010.
54 Interview with Shyam Lal Kurmi, interview no. 35, Banke, January 13, 2010.
55 Ibid. Manju Gautum was unable to pay for her daughter's schooling after her husband was killed. Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012.
56 It is difficult for a single woman to travel without a man in Nepal, and when a male traveling companion is not her husband people assume they are having sex, further marginalizing the woman in her community. Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012.
57 Interview with Rajin Rayamji, Assistant Regional Coordinator, District and Documentation, Women for Human Rights, interview no. 26, Kathmandu, January 21, 2010.
58 Ibid. Advocacy Forum and ICTJ, *Across the Lines: The Impacts of Nepal's Conflict on Women*, 2010, http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/AdvocacyForum_NepalCEDAW49.pdf (accessed July 13, 2013), 28-32; Sunny Shrestha, "Discrimination and Hardships Plague Nepali Widows," *Global Press Institute*, October 2, 2009, http://globalpressinstitute.org/asia/nepal/discrimination-and-hardships-plague-nepali-widows (accessed July 13, 2013).

death, treating her with deep resentment and hostility.[59] In Nepali culture, even a widow's own family may shun her, making returning to her childhood home impossible.[60] In certain communities, this attitude has extended to calling a widow a witch, refusing to allow her or her children to participate in local festivals or rituals, and even attacking or beating her.[61]

Summary executions have posed particular hardships for children as well as for women. According to the United Nations Children's Fund (UNICEF), the armed conflict orphaned more than 8,000 children.[62] Many children were forced to leave school, either because the family could no longer afford the required fees or because the children themselves had to begin supporting the family.[63] Others have carried lasting trauma. According to Hari Tripathi, executive director of Advocacy Forum, a Nepali NGO that works with conflict victims, one mother whose husband was killed when her children were three and four years old said she could not persuade them to stay in school. Her sons responded that "their father was educated and yet was brutally killed; to get things in Nepal you need force, not an education."[64] Children whose widowed mothers remarry have often been forced to stay with their father's family. If they remain with their mother, their new family may abuse them.[65]

Enforced Disappearances[66]

Unlike the Maoists, who often publicly executed those they captured, the state commonly abducted victims and then failed to provide information regarding their fate. Therefore, the state bears responsibility for the majority of disappearances,[67] now estimated at more than 1,300.[68] For example, a woman told IHRC that government security forces seized her twenty-two-year-old son on August 16, 2002, while they were shopping together in Katarniya, a small town close to their home.[69] After the forces beat the man in front of his mother, the

59 Interview with Manju Gautam, interview no. 70, Kavre, January 19, 2010; Interview with Rajin Rayamji, Assistant Regional Coordinator, District and Documentation, Women for Human Rights, interview no. 26, Kathmandu, January 21, 2010; Shrestha, "Discrimination and Hardships Plague Nepali Widows."

60 Shrestha, "Discrimination and Hardships Plague Nepali Widows."

61 See, e.g., Interview with Rajin Rayamji, Assistant Regional Coordinator, District and Documentation, Women for Human Rights, interview no. 26, Kathmandu, January 21, 2010; "NEPAL: Women Tortured for Being 'Witches,'" *IRIN Global*, November 11, 2012, http://www.irinnews.org/Report.aspx?ReportId=75311 (accessed July 13, 2013); Shrestha, "Discrimination and Hardships Plague Nepali Widows."

62 UNICEF, *Child Poverty and Disparities in Nepal: Nepal Report 2010*, 2010, http://www.unicef.org/nepal/Child_Poverty_and_disparities_in_Nepal.pdf (accessed July 13, 2013), 14.

63 Interview with Annette Lyth, Lead on Support to Conflict-Affected, UNICEF, interview no. 25, Kathmandu, January 15, 2010.

64 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.

65 See, e.g., Interview with Srijana Lohani, Women for Human Rights, interview no. 10B, Kathmandu, November 1, 2012; Interview with Anjana Shakya, Chairperson, HimRights, interview no. 15, Kathmandu, January 8, 2010.

66 "'Enforced disappearance of persons' means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time." Rome Statute of the International Criminal Court (last amended 2010), adopted July 17, 1998, entered into force July 1, 2002, http://www.unhcr.org/refworld/docid/3ae6b3a84.html (accessed July 13, 2013), art. 7(2)(i). This report adopts the Rome Statute's definition of enforced disappearance because it encompasses actions by political organizations, such as the Maoists in Nepal, as well as states. The International Convention for the Protection of All Persons from Enforced Disappearance uses a narrower definition of enforced disappearance that only refers to actions by a "State or by persons or groups of persons acting with the authorization, support or acquiescence of the State." International Convention for the Protection of All Persons from Enforced Disappearance, G.A. Res. 61/177, U.N. Doc. A/RES/61/177 (2006), adopted December 20, 2006, entered into force December 23, 2010, art. 2.

67 Adams, "Nepal at the Precipice." See also Senate Foreign Relations Committee, "The Human Rights Situation of Nepal: Testimony of Sam Zarifi, Human Rights Watch," May 18, 2006, http://foreign.senate.gov/imo/media/doc/ZarifiTestimony060518.pdf (accessed July 13, 2013), 3.

68 "Recording Nepal Conflict," *Nepal Monitor.* In 2012, the ICRC reported that 1,401 individuals were still "missing" after the conflict and that figure includes those who were disappeared. *ICRC, Missing Persons in Nepal,* 1, 3.

69 Interview with victim (name withheld), interview no. 42, Bardiya, January 11, 2010.

soldiers removed him, telling her nothing of his fate.[70] The family expended its few contacts in an attempt to locate him, but the state denied having taken him, and his fate remained unknown as of 2010.[71]

Purnaman Shrestha holds a photograph of his son Sagun who was disappeared when he was twenty-five years old. Purnaman, his wife, and his daughter-in-law have suffered from depression and financial hardship since government soldiers captured Sagun on his way from his Kavre home to Kathmandu. Photograph by Bonnie Docherty

Although disappearances and summary executions have affected families in similar ways, disappearances have also left them with the pain of uncertainty about the whereabouts of their loved ones. Families have struggled with the hope that their loved ones will return.[72] In December 2003, a truck full of government soldiers took Chandra Kala Upreti's husband from their shop in Nepalgunj for questioning.[73] As of January 2010, he had not returned. "It was difficult after that. We were thinking he would come today or tomorrow," Upreti said.[74] "[My husband's mother] had mental problems and would babble all the time that her son was going to come home."[75] Her children were also struggling with community questions and speculation regarding their father. Upreti explained, "Whenever anybody asks my children where their father is, it has a mental effect on them."[76] Her son's academic performance declined, and nightmares haunted her daughter.[77] Time has not lessened the pain many families feel. Manukamari Ranjit, whose husband was disappeared by the Maoists in Kavre in September 2005, was continuing to think of suicide in November 2012. She told IHRC, "Sometimes I feel that if I don't get the truth, I will poison myself in front of the ministerial offices."[78]

The disappearance of breadwinners has caused economic suffering similar to that caused by the death of breadwinners.[79] Manukamari Ranjit has struggled with loans her husband

70 Ibid.
71 Years later, the father continued to believe that he would find his son. "I am still searching for my son. I still have hope," he told IHRC. Ibid. In a similar incident, state soldiers dragged Dhan Bahadur B.K., the husband of Dew Sara and father of three, from his home and family late at night, accusing him of being a Maoist. Despite a family of witnesses, the government repeatedly denied responsibility for his disappearance. Interview with Dew Sara B.K., interview no. 46, Banke, January 12, 2010.
72 Thomas Gass, Switzerland's Ambassador to Nepal, explained, "The most complicated [of the affected families] are the disappeared ones because they are not acknowledged. The Nepal army refuses to acknowledge the ones they disappeared." Interview with Thomas Gass, Swiss Ambassador and Country Director for the Swiss Agency for Development and Cooperation, interview no. 8, Kathmandu, January 21, 2010.
73 Interview with Chandra Kala Upreti, interview no. 31, Banke, January 12, 2010.
74 Ibid.
75 Ibid.
76 Ibid.
77 Ibid.
78 Interview with Manukamari Ranjit, interview no. 26B, Kavre, November 3, 2012.
79 See, e.g., Interview with Purimaya Lama, interview no. 24B, Kavre, November 3, 2012 (Lama sold her jewelry and went into debt after disappearance of her husband.); Interview with Dew Sara B.K., interview no. 46, Banke, January 12, 2010 (This woman's family struggled without the income of a disappeared father of three.); Interview with Chandra Kala Upreti, interview no. 31, Banke, January 12, 2010 (Upreti struggled to pay for her in-laws and her children after her husband disappeared.); Interview with victim (name withheld), interview no. 42, Bardiya, January 11, 2010 (This man struggled to pay for basic necessities for the family of his disappeared son as well as for his own family.).

took out before he was disappeared as well as school fees for her children and normal household expenses.[80] Finding work has been especially difficult for the wives of the disappeared, as they live in a limbo without status as a wife or a widow, and they have therefore often been rejected by society. Ranjit said she "feels like a third class of women" without proof of the death of her husband.[81]

Torture, Severe Beatings, and Other Cruel and Inhuman Treatment[82]

According to the MoPR task force report, at least 4,305 people, including civilians and combatants, emerged from Nepal's conflict disabled, due in large part to the use of torture, severe beatings, and other cruel and inhuman treatment.[83]

As part of their campaign of fear, Maoist forces often publicly beat civilians.[84] For example, on February 14, 2001, Maoists removed one resident of Nepalgunj from his home at gun- and knife-point. Outside, they hit him repeatedly, breaking his first leg quickly and cracking the second over a log, while his family remained frozen inside, afraid to come to his aid. While chanting slogans, the Maoists tore off his clothes and then left him naked and unconscious. The victim recalled, "My mother came near me to try to feel if I was alive or dead."[85] While he remained in the hospital, Maoists returned to the family home and attacked his brother-in-law, his sister-in-law, his father, and his younger brother in order to gain information on the victim's whereabouts. His father suffered such severe injuries from these beatings that he died during treatment in the Nepalgunj hospital.[86] A resident of Shamshergunj said that in July 2002, Maoists took control of his entire village. They went house to house and took a man from each family, eventually rounding up about 200 men and forcing them to a clearing in the village. There they randomly chose seven people to beat in front of everyone, and they occasionally beat members of the crowd.[87]

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80 Interview with Manukamari Ranjit, interview no. 26B, Kavre, November 3, 2012.

81 Ibid.

82 The Convention Against Torture defines "torture" as: "[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions." Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc. A/39/51, adopted December 10, 1984, entered into force June 26, 1987, http://treaties.un.org/doc/Publication/UNTS/Volume%201465/volume-1465-I-24841-English.pdf (accessed July 13, 2013), art 1(1). According to Amnesty International:

> Cruel, inhuman or degrading (CID) treatment or punishment is a "lesser" form or act of torture. More specifically, cruel, inhuman or degrading (CID) treatment or punishment refers to:
> - any harsh or neglectful treatment that could damage a detainee's physical or mental health. Such a treatment may characterize, for instance, prison conditions.
> - any punishment intended to cause physical or mental pain or suffering, or to humiliate or degrade the person concerned.

Amnesty International and Council for the Development of Social Science Research in Africa, *Monitoring and Investigating Torture, Cruel, Inhuman or Degrading Treatment, and Prison Conditions,* 2000, http://www.amnesty.nl/sites/default/files/public/booklet_eng_torture_0.pdf (accessed July 21, 2013) (emphasis removed), 11.

83 "Recording Nepal Conflict," *Nepal Monitor.*

84 See, e.g., Interview with victim (name withheld), interview no. 38, Banke, January 13, 2010; Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010: Interview with victim (name withheld), interview no. 34, Banke, January 12, 2010; Human Rights Watch, *Between a Rock and a Hard Place*, 56.

85 Interview with victim (name withheld), interview no. 34, Banke, January 12, 2010.

86 Ibid.

87 Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010. The state perpetrated similar acts, with equally grave results. One man from Nepalgunj, whose son and brother-in-law were both killed by security forces, told IHRC, "Security forces raided the village a couple of times. Though there were not Maoists in the village, the people were tortured and beaten. Even women were beaten with the butt of rifles." Interview with victim (name withheld), interview no. 28, Banke, January 10, 2010.

State forces acted less publicly but equally violently, often committing torture against detainees in their custody.[88] For example, Raj Kumar Gautam, a student of rural development living in Pokharichauri, told IHRC that state forces arrested him on November 29, 2004. The security forces hung him by his legs, beat him to the point that he urinated blood, and tortured him with electric shocks.[89] Gautam added that state forces later tortured his father and murdered his uncle as Gautam sat in a cell with his brother-in-law, asking himself, "Why haven't they killed me yet?"[90]

Torture, severe beatings, and other cruel and inhuman treatment have had lasting impacts on victims and their families. In addition to causing physical injury that often led to permanent disability, such conduct frequently has had psychological effects on both the injured individual and his or her family.[91] Focused on the incident and on retribution, some victims have been unable to move forward with their lives. For example, one torture victim who had spent six years in and out of the hospital and had had eight surgeries told IHRC, "I try to forget the incident, but I am not able to do so. When I remember the incident, I feel angry toward the Maoists. I feel that they should be treated in the same way that I was treated."[92] The wives and children of torture and beating victims have struggled similarly with the changes in their own lives. As this same torture victim explained, "My [five] children feel that because their father was harmed [and is now unable to work and pay for private school], they are not able to get a good education, and that they are having a difficult life because of it."[93]

As in the case of executions and disappearances, the physical and mental disabilities of a breadwinner have had financial consequences. On December 5, 2002, security forces came to Charikot in Dolakha and arrested Krishna Prasad Phunyal. They interrogated him harshly and administered electric shocks, which left him physically unable to support his family. "I have become very weak because of the incident. Therefore I cannot work as before. . . . In the village, you have to carry loads. I can't do that," he said.[94] Many victims of physical abuse have spent time hospitalized, resulting in large medical bills and, at a minimum, an interruption in earning. One man stayed almost four years in hospitals and nursing homes after security forces beat him with a hammer, doused him with acid, and broke his knees over a log on July 9, 2002 in Shamshergunj.[95] Even as his pain and treatment continued, he had already accumulated medical fees he could not cover. "I borrowed money from everybody, all of my relatives," he said.[96] Though selling off his land enabled him to pay off much of this debt by 2010, he still could not work to pay for his family's other needs, such as education and proper shelter. "Now it is hard because the children have to go to school, and my house is in bad condition, but I am not able to rebuild or renovate it."[97]

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88 See, e.g., Interview with Dev Bahadur Maharjan, interview no. 5B, Kavre, October 31, 2012 (beaten with sticks and tortured with electric shocks while in custody); Interview with Krishna Prasad Phunyal, interview no. 52, Dolakha, January 17, 2010 (tortured with electric shocks "for hours at a time" while in custody); Interview with Goma Shahi, interview no. 47, Banke, January 12, 2010 (severely beaten while detained); Interview with victim (name withheld), interview no. 43, Bardiya, January 11, 2010 (beaten severely by six of seven policemen while in custody); Human Rights Watch, *Between a Rock and a Hard Place,* 67.

89 Interview with Raj Kumar Gautam, interview no. 71, Kavre, January 19, 2010.

90 Ibid.

91 State police held and tortured Rajjab Ali Bagwan, accusing him of being a Maoist. Bagwan spoke of his altered attitude and continued anger. "I'm mentally changed. Some people like me were mistreated by police and nothing was done to [the police]," he said. Interview with Rajjab Ali Bagwan, interview no. 40, Banke, January 13, 2010. Many other torture victims also reported psychological difficulties. See, e.g., Interview with Dev Bahadur Maharjan, interview no. 5B, Kavre, October 31, 2012 (Maharajan said that he always feels scared of people around him and that he is unable to remember things, make decisions, and concentrate enough to teach as he used to.); Interview with Raj Kumar Gautam, interview no. 71, Kavre, January 19, 2010 (Gautam said, "Remembering the incident would make me faint." He also reported having severe headaches and being severely affected when he hears of others' sorrow and pain.).

92 Interview with victim (name withheld), interview no. 34, Banke, January 12, 2010.

93 Ibid. A villager from Shamshergunj who suffered similar brutality said, "Now even when there are festivals where people are wearing new clothes and going to the fair, my son says, 'You know my father's legs are broken and we don't have money, so we can't go.'" Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010.

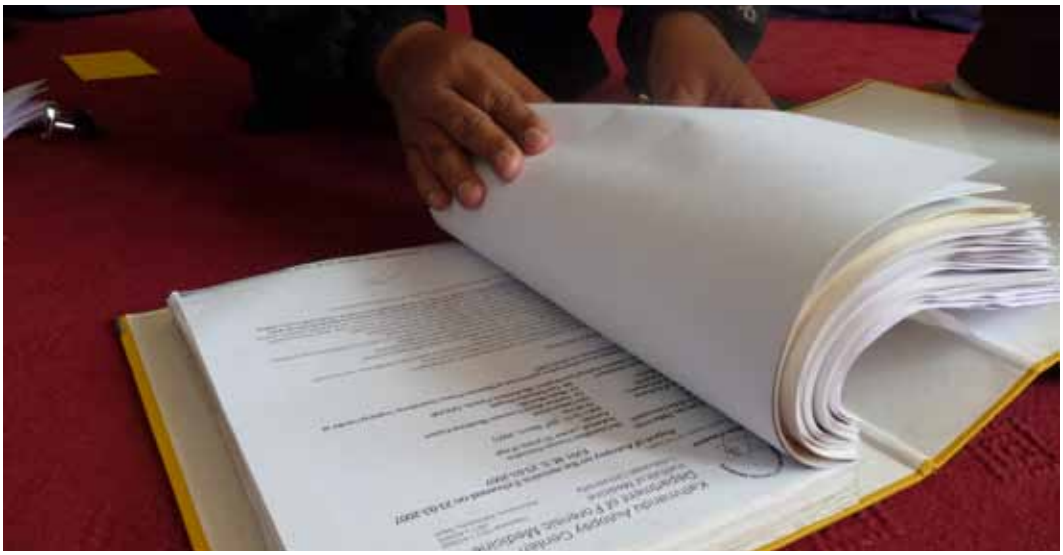
94 Interview with Krishna Prasad Phunyal, interview no. 52, Dolakha, January 17, 2010.

95 Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010.

96 Ibid.

97 Ibid.

Families of the tortured have sometimes endured financial hardship even when no permanent physical disability resulted. For example, Dev Bahadur Maharjan, detained and tortured for ten months in 2003 by the army, had been a teacher before he was detained. When he was released, people were scared to hire him because he had been accused of being a Maoist, and employers were afraid his alleged affiliation would affect them. A friend finally helped him secure a job, but Maharjan could not remember things properly, could not make decisions, and was always scared of people around him, eventually causing him to decide that he could no longer teach.[98]



Victims' advocates have collected these documents seeking to obtain material assistance and justice for Maina Sunuwar's family. Security forces raped and killed the fifteen-year-old Sunuwar, which traumatized her family and may have led to her father's suicide. Photograph by Rebecca Agule

Rape and Sexual Violence

Both sides employed rape and sexual violence as a weapon against civilians.[99] Victims' organizations have described sexual violence, including gang rape, as pervasive during the armed conflict.[100] The exact number of incidents is difficult to determine because victims of rape or sexual violence are often reluctant to speak about their experiences, whether or not the harm occurred during the armed conflict. When a rape victim survived, her family would often report the incident as a death to avoid using the language of rape, which has led to underreporting. "I don't know why people have so much of a problem saying a crime was a rape, but they do, and so they say that person was just killed," said Anjana Shakya, chairperson of HimRights, a Nepali NGO that has a special focus on women's rights.[101]

One woman from Dolakha told IHRC that when she was young she loved to dance and was often invited to perform in dance programs. The Maoists took notice and tried to force her to dance in their programs, a dangerous situation that prompted her to move to a different village to live with relatives. She recalled how one day, when she was only sixteen years

98 Interview with Dev Bahadur Maharjan, interview no. 5B, Kavre, October 31, 2012.
99 See, e.g., Advocacy Forum and ICTJ, *Across The Lines,* 609; OCHCR, *Nepal Conflict Report 2012*, 168-171; Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012; Interview with Gita Rasali, interview no. 63, Kavre, January 15, 2010.
100 See, e.g., Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012; Interview with representative (name withheld), INSEC, interview no. 20, Kathmandu, January 20, 2010.
101 Interview with Anjana Shakya, Chairperson, HimRights, interview no. 15, Kathmandu, January 8, 2010.

old, state forces arrested her while she was walking home from school. Accused of being a Maoist, she was taken to a dark room with no windows and kept there for seven days. She was beaten and raped twice while held there. Eventually she was moved to another prison, where she was detained for eighteen months before escaping with other inmates.[102]

Conflict-related rapes inflicted trauma upon victims that has lasted for years after the physical wounds have healed. After escaping prison, the young woman who had been raped by state forces when she was sixteen had to spend six months in a hospital for treatment of varied injuries and often woke up screaming in the middle of the night. She told IHRC in 2012 that since she returned home, her community has treated her coldly, and people have blamed her for what happened. She eventually married, but when her husband found out about the rape, he beat her and finally left her for another wife.[103]

Rape has also had a destructive impact on individual victims' families. In the Maina Sunuwar case, the most well-known legal action to emerge from the conflict to date, a board of inquiry convened by the Nepali army after sustained public pressure found that on February 17, 2004, security forces abducted, raped, and killed fifteen-year-old Maina Sunuwar in Kavre.[104] According to Sunuwar's brother, their mother's grief led to heart problems and even prompted the family to leave their home for Kathmandu.[105] Sunuwar's father later committed suicide, which has been attributed to grief for his daughter.[106]

Children born of rape have faced problems because they have often not been supported by either family or society. According to Shakya of HimRights, "There is no real support for [the children of rape victims], and that's why it's a problem."[107]

Additional Forms of Harm

IHRC focused its research on death and physical injury and its associated effects, but civilians also suffered from additional types of harm, including property loss and internal displacement. The Maoists and the security forces seized or destroyed civilian property, both for their own use and to incite fear. They would often forcibly enter a home, demanding food, water, and shelter and sometimes stealing civilian property for organizational and personal enrichment.[108] For example, after shooting Dhan Kumar Thami's father, Maoist forces confiscated the family's home, never returning it. "Once my father was killed, the Maoists stayed in his house," Thami said.[109] According to Thami, the death and the loss of their home pushed his mother toward alcoholism and thoughts of suicide.[110] Subodh Raj Pyakurel, chairperson of the Nepali NGO Informal Sector Service Center (INSEC) in Kathmandu, estimated that as of November 2012 Maoists still held eighty-five percent of the land they took, collecting rent and extorting the former owners.[111]

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102 Interview with victim (name withheld), interview no. 6B, Kathmandu, October 31, 2012.
103 Ibid.
104 Advocacy Forum, *Maina Sunuwar: Separating Fact from Fiction,* 2010, http://www.advocacyforum.org/downloads/pdf/publications/maina-english.pdf (accessed July 13, 2013).
105 Interview with Ram Sunuwar, interview no. 67, Kavre, January 19, 2010.
106 "Maina's Father Commits Suicide," *The Kathmandu Post*, October 14, 2009, http://www.highbeam.com/doc/1P3-1905302181.html (accessed July 13, 2013).
107 Interview with Anjana Shakya, Chairperson, HimRights, interview no. 15, Kathmandu, January 8, 2010.
108 See, e.g., Interview with Gopi Thami, interview no. 57, Dolakha, January 18, 2010; Interview with Dhan Bir Thami, interview no. 55, Dolakha, January 17, 2010; Interview with Ram Bahadur Kunwar, interview no. 56, Dolakha, January 17, 2010; Interview with Bhojraj Timalsina, Kavre District Representative, INSEC, interview no. 21, Kavre, January 15, 2010; Interview with victim (name withheld), interview no. 27, Banke, January 10, 2010.
109 Interview with Dhan Kumar Thami, interview no. 54, Dolakha, January 17, 2010.
110 Ibid.
111 Interview with Subodh Raj Pyakurel, Chairperson, INSEC, interview no. 12B, Kathmandu, November 1, 2012. See also Interview with Charan Prasai, interview no. 40B, Kathmandu, November 7, 2012 ("Maoists have settled their cadre on the land. They won't return it.").

Both the state and Maoists displaced civilians through forced evictions and ongoing violence, and as of December 2012, thousands of civilians remained unable or unwilling to return home.[112] In 2007, the government established a national policy for the return, integration, and settlement of internally displaced persons; however, the policy has covered only some transportation costs for returning people, leaving many, including women and children struggling to cover basic needs.[113]

Conclusion

The decade-long armed conflict in Nepal, which was characterized by direct attacks on civilians, ravaged the population. Both sides committed egregious acts of violence, including summary executions, enforced disappearances, torture and severe beatings, and rape. Beyond causing initial trauma, the harms have had lasting effects on civilians. The victims have endured physical, psychological, and socioeconomic hardships since the war ended. Relatives of the disappeared have also had to live with the uncertainty of the fate of their loved ones. This suffering has left civilian victims with a range of needs, which are discussed in the next chapter.

112 Internal Displacement Monitoring Centre, "Internal Displacement in South and Southeast Asia," December 31, 2012, http://www.internal-displacement.org/publications/global-overview-2012-south-southeast-asia.pdf (accessed July 13, 2013), 64.
113 Ibid.

The Needs and Expectations of Victims

While the majority of Nepal's impoverished population would benefit from increased humanitarian aid, civilian victims of Nepal's armed conflict have special immediate and long-term needs and expectations, resulting from the harm discussed above. During interviews with IHRC, these victims emphasized that material assistance, in the form of financial, employment, educational, and medical support, was essential for them to survive, recover, and rebuild. Victims also spoke of non-material needs and expectations, including for justice and truth.

Material Needs and Expectations

Financial Assistance

Victims have requested financial assistance to pay for basic necessities they can no longer afford after the harm they suffered.[114] Although many victims have expressed a desire for justice and truth, those whom IHRC interviewed overwhelmingly focused on other needs. For example, the father of a young Nepalgunj man who disappeared in August 2002 told IHRC in January 2010, "We are . . . having problems getting enough food and clothes. I don't have enough money to buy bread and coffee for my granddaughter."[115] Similarly, in November 2012, one mother whose husband was killed by crossfire said, "When it is cold, [my three children] need warm clothes, but I can't buy what they need."[116] Families have also struggled to cover expenditures expected by society, such as 400–500,000 NRS (US$4,600–5,750) for a daughter's marriage.[117]

114 For example, one victim said, "I want the government to provide . . . some financial assistance." Interview with victim (name withheld), interview no. 42, Bardiya, January 11, 2010. Some victims spoke indirectly of a need for financial assistance. See, e.g., Interview with Ram Sunuwar, interview no. 18B, Kavre, November 3, 2012 ("It is hard to take care of my brother alone and manage all of the expenses.").
115 Interview with victim (name withheld), interview no. 42, Bardiya, January 11, 2010.
116 Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012.
117 Interview with Shyam Lal Kurmi, interview no. 35, Banke, January 13, 2010.

Vocational Training and Employment Opportunities

Civilian victims have found vocational training and employment opportunities necessary to help them become more self-sufficient both in the short and long term.[118] In an attempt to preserve a sense of normalcy, some victims have wanted to return to their previous profession. For example, Rajjab Ali Bagwan said in 2010 he wished to resume teaching, a job he held before being beaten by state forces in the winter of 2005/2006.[119] Others have sought new skills, in particular because disability has prevented them from returning to their earlier work. A survivor of a brutal beating by the Maoists that left him with difficulty walking explained, "Compensation I would receive wouldn't help me forever. I'm disabled now. I need employment that suits the disabled."[120]

Sita Raut, whose husband was executed in the armed conflict, said she needs vocational training to help her support her family. She also called for educational support because one of her sons had to drop out of school and medical care because she experienced psychological trauma.
Photograph by Bonnie Docherty

Widows and the wives of the disabled, who rarely have employment experience from before the conflict, have also sought training programs that would teach them to provide for their families.[121] "After being economically empowered, [a woman] becomes confident. After getting a job . . . she will also be able to educate her children," said Rojina Shrestha of Women for Human Rights.[122] Sita Raut, whose husband was killed by the army even though he was a postman working for the government, echoed that sentiment. She told IHRC, "We have lost the person who was earning for our family. . . . I think if I could get some vocational training, or be a part of some income generation program so I could have income for my family, that might make me feel a bit better."[123] In 2010, Raut was working in a field to support her two young sons.[124] More recently, Shova Bhatta, whose husband was disappeared by the Maoists in October 2001, said, "[I] would be interested if someone offered [vocational training] to me or my children."[125]

118 See, e.g., Interview with Dev Bahadur Maharjan, interview no. 5B, Kathmandu, October 31, 2012 ("It would be helpful if I could start a small business or something."); Interview with Manju Gautam, interview no. 70, Kavre, January 19, 2010 ("If I could get some kind of employment, that would be good."); Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010 ("I am just hoping that the government [will] offer some job training.").
119 Bagwan told IHRC, however, that people would not hire him once they learned he had been detained by the police. Interview with Rajjab Ali Bagwan, interview no. 40, Banke, January 13, 2010.
120 Interview with victim (name withheld), interview no. 38, Banke, January 13, 2010.
121 See, e.g., Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012; Interview with Rojina Shrestha, Assistant Regional Coordinator, District and Documentation, Women for Human Rights, interview no. 26, Kathmandu, January 21, 2010; Interview with Sita Raut, interview no. 53, Dolakha, January 17, 2010.
122 Interview with Rojina Shrestha, Assistant Regional Coordinator, District and Documentation, Women for Human Rights, interview no. 26, Kathmandu, January 21, 2010.
123 Interview with Sita Raut, interview no. 53, Dolakha, January 17, 2010.
124 Ibid.
125 Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012.

Education

Education has been a major concern for victims with children.[126] "I think it's most important to give education to our children so they can have a better life," said a man from Bardiya who lost his arm after being beaten by the Maoists.[127] He told IHRC he hoped education for his children would enable the family to move beyond the conflict: "The incident has already happened to me, and I have already lost my hand, and I'm not going to get it back. We need help to get stationery and things so that they can go to school."[128] Manju Gautam, a single mother of three, saw the value of assistance with education. She said, "[T]he government should provide education for all conflict victims' children, so they can be what they want in the future."[129] Similarly, Uddhab Pokharel, district representative of INSEC in Dolakha, told IHRC, "The government should take responsibility for the overall education and health of children. . . . Money is not a long-term solution [for victims], no matter how much money they are given."[130]

Single mothers in particular have faced difficulties affording education for their children.[131] For example, in 2010, a woman whose husband was disappeared by the army explained, "It's been very difficult to look after my children, especially their education. It would be good if someone could help with their education. It's hard to pay for books and clothes. If someone could help me with that, I wouldn't have to go beg someone for help."[132] The situation has not improved with time. In 2012, Purnimaya Lama, a mother of six whose husband was disappeared by Maoists, said, "It has been very hard to afford [my children's] educations."[133]

As a consequence of this inability to pay fees, some students have left school.[134] After the army murdered Sita Raut's husband, she could no longer afford the 7,000 NRS (US$80) per month required for each of her two sons to attend school. When her younger son, who was eight when his father died, offered to drop out, she told him, "I can't pay, so it is better that you leave school."[135] Fearing the long-term consequences of her son leaving school because she could not afford the fees, Raut said, "I just wish that the government would help us, provide education for our children. Not only for me but for all victims like myself. All should be taken care of. Children should be given proper education."[136]

Medical Care

Victims have also needed and expected immediate and long-term medical care as they recover from physical and psychological harm.[137] Medical bills have strained the budgets of

126 See, e.g., Interview with Purnaman Shrestha, interview no. 32B, Kavre, November 5, 2012; Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012; Interview with Krishna Prasad Phunyal, interview no. 52, Dolakha, January 17, 2010; Interview with Abdul Kadhir Shekh, interview no. 39, Banke, January 13, 2010.
127 Interview with victim (name withheld), interview no. 41, Bardiya, January 11, 2010.
128 Ibid.
129 Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012.
130 Interview with Uddhab Pokharel, Dolakha District Representative, INSEC, interview no. 19, Dolakha, January 17, 2010.
131 See, e.g., Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012; Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012; Interview with Manakumari Ranjit, interview no. 26B, Kavre, November 3, 2012.
132 Interview with victim (name withheld), interview no. 64, Kavre, January 19, 2010.
133 Interview with Purnimaya Lama, interview no. 24B, Kavre, November 3, 2012.
134 Interview with Nav Raj Adikari, Executive Director, Transitional Justice Resource Center; Krishna Kandel, Board Member, Former Chair, Amnesty International Nepal; Deepak Pokharel, World Vision Advocacy Forum; and Claudia Maistrello, interview no. 1B, Kathmandu, October 29, 2012. See also Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012; ICTJ, *From Relief to Reparations*, 26.
135 Interview with Sita Raut, interview no. 53, Dolakha, January 17, 2010.
136 Ibid.
137 For example, disabled victims of the armed conflict have sought assistance to re-learn certain skills and manage their disability long term. See, e.g., Interview with victim (name withheld), interview no. 41, Bardiya, January 11, 2010. Several victims told IHRC they expected the government to cover medical care. See, e.g., Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012 ("[The] government needs to provide medical support, health care."); Interview with Krishna Prasad Phunyal, interview no. 52, Dolakha, January 17, 2010 ("The government should take responsibility to pay for medical expenses."); Interview with Shyam Lal Kurmi, interview no. 35, Banke, January 13, 2010 ("[Medical expenses] should be taken care of.").

many families,[138] and some have been unable to find the appropriate care within their own districts, or even within Nepal.[139] For example, state forces detained Krishna Prasad Phunyal and tortured him for hours at a time with electric shocks. In 2010, he continued to suffer from back pain, poor blood circulation, and memory loss. He traveled from his home in the Dolakha district to Kathmandu to see a neurosurgeon, who prescribed medication. After spending 60,000 NRS (US$695) on the drugs, however, Phunyal had to stop taking them because he could not afford the expense.[140]

Humanitarian aid and human rights organizations have also cited the provision of mental health services as a predominant need for victims, who, because of social stigma, have been less willing to speak about psychological problems than other health issues. Stigma has often prevented those suffering from trauma and mental illness from seeking and receiving necessary care, and victims were reluctant to discuss such issues with IHRC.[141] A representative of INSEC called psychological counseling a "very important component that hasn't been addressed seriously."[142] Anjana Shakya of HimRights remarked upon the high incidence of mental illness, adding, "Addressing physical needs is not enough."[143] Some victims have committed suicide because of their ordeals,[144] and during interviews, multiple

Government soldiers beat Gopilal Dahal and Ram Bahadur Thami, blaming them for a Maoist bombing. Both men lost teeth and have suffered from painful jaw injuries that have interfered with eating and doing physical labor. As of 2010, they had received no assistance for their medical needs. Photograph by Bonnie Docherty

138 See, e.g., Interview with Raj Kumar Gautam, interview no. 29B, Kavre, November 5, 2012; Interview with Greta Rasaili, interview no. 25B, Kavre, November 3, 2012; Interview with victim (name withheld), interview no. 6B, Kathmandu, October 31, 2012; Interview with Krishna Prasad Phunyal, interview no. 52, Dolakha, January 17, 2010. According to Anjana Shakya of HimRights, "Families often have to sell land to pay for medical care." Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012.

139 See, e.g., Interview with Chandra Kala Upreti, interview no. 31, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 34, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 48, Banke, January 12, 2010.

140 Interview with Krishna Prasad Phunyal, interview no. 52, Dolakha, January 17, 2010.

141 See, e.g., Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012; Interview with Rajin Rayamji, Assistant Regional Coordinator, District and Documentation, Women for Human Rights, interview no. 26, Kathmandu, January 21, 2010; Interview with Annette Lyth, Lead on Support to Conflict-Affected, UNICEF, interview no. 25, Kathmandu, January 15, 2010.

142 Interview with representative (name withheld), INSEC, interview no. 20, Kathmandu, January 20, 2010.

143 Interview with Anjana Shakya, Chairperson, HimRights, interview no. 15, Kathmandu, January 8, 2010. At least one government official agreed on the need for mental health care. See Interview with representative (name withheld), National Human Rights Commission (NHRC), interview no. 6, Kathmandu, January 7, 2010.

144 Interview with Bhojraj Timalsina, Kavre District Representative, INSEC, interview no. 17B, Kavre, November 3, 2012.

victims told IHRC they had had thoughts of suicide. One woman said in 2012, "Sometimes I feel lonely, sometimes I would rather commit suicide than to survive, but I think about my children and I keep going for them."[145] The physical and psychological harm that results from the violence of armed conflict can persist indefinitely and thus require ongoing medical care well into the future.

Non-Material Needs and Expectations

Justice

While victims have sought material assistance, many have also felt that justice is crucial for retribution and deterrence. Victims have tended to look to the formal justice system for satisfaction, pushing for trials and punishment of perpetrators.[146] In her interview with IHRC, Goma Shahi, who had been abducted, detained, and tortured by police forces, said, "I want legal action taken against those responsible. . . . I want those involved punished."[147] She and others expressed anger that perpetrators were promoted and that no one in government had taken responsibility.[148] Another victim, whose husband had been disappeared, said, "Because of [the Maoists'] actions, I am facing problems, and they should be punished. . . . They should be prosecuted through the law."[149] A man from Bardiya who survived an extended beating and several months of imprisonment by the police said, "They have killed people and violated the law, so they should be punished. I want them behind bars."[150]

While victims have sought material assistance, many have also felt that justice is crucial for retribution and deterrence.

IHRC found that relatively more victims and civil society representatives emphasized a need for justice in 2012 than in 2010.[151] The president of the Conflict Victims' Committee, a community-based organization comprised of victims, explained in 2010, "It doesn't mean [victims] don't want the perpetrator to be behind bars. But in terms of priority, economic help comes first."[152] Two years later, while people still voiced a need for material assistance, they often also exhibited anger at the lack of justice and even discussed the possibility of violence. Hari Tripathi of Advocacy Forum told IHRC, "[I]f [the] government will not give justice . . . , [some] may take up weapons. . . . [The government] need[s] to deal with pain and suffering of conflict victims. Until they feel their problems are being addressed and they have justice, there will be a rumbling anger, with the temperature always rising."[153] Hari Phuyal, a Supreme Court lawyer, said, "[There is a] possibility that these people [discontent victims]

145 Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012. Another woman said, "[I]f the situation continues the way it does, one day I will poison myself." Interview with Manakumari Ranjit, interview no. 26B, Kavre, November 3, 2012.
146 See, e.g., Interview with Ram Bahadur Kunwar, interview no. 56, Dolakha, January 17, 2010 (Kunwar, who had been abducted by the Maoists, said, "I am not in favor of tit-for-tat. Instead, they should be punished by the law.").
147 Interview with Goma Shahi, interview no. 47, Banke, January 12, 2010.
148 Ibid. See also, e.g., Interview with Suraj Kumar Neupane, interview no. 23B, Kavre, November 3, 2012; Interview with victim (name withheld), interview no. 43, Bardiya, January 11, 2010.
149 Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012.
150 Interview with victim (name withheld), interview no. 43, Bardiya, January 11, 2010.
151 Compare 2010 interviews in which victims asked about needs mentioned financial ones first (e.g., Interview with victim (name withheld), interview no. 69, Kavre, January 19, 2010; Interview with Chandra Kala Upreti, interview no. 31, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 28, Banke, January 10, 2010) with 2012 interviews in which victims mentioned justice immediately (e.g., Interview with Sundar Rayamajhi, interview no. 19B, Kavre, November 3, 2012; Interview with Suraj Kumar Neupane, interview no. 23B, Kavre, November 3, 2012; Interview with Greta Rasaili, interview no. 25B, Kavre, November 3, 2012).
152 Interview with Bhagi Ram Chaudhary, President, Conflict Victims Committee, interview no. 14, Bardiya, January 11, 2010.
153 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.

would take individual retaliation against individual perpetrators."[154] Such calls for violence illustrate extreme frustration at the lack of justice.

Some victims have presented justice as a way to prevent new violence.[155] According to Abdul Kadhir Shekh, whose brother was disappeared by the army, "Justice is important. If there is no punishment, then this might happen to another family."[156] Bishnu Parethi, who was tortured so severely by police and army personnel that he required spinal surgery, said, "Impunity should end, and the coming generation should not go through what we did."[157] Ram Sunuwar, a college student whose sister and father both died as a result of the conflict, told IHRC, "If the perpetrators are not brought under justice—if they are not put in jail—in the future, the same incidents will occur again. Relief comes only when the person is in jail."[158]

The traditional justice system has presented difficulties, however. According to the OHCHR as of October 2012, "no one in Nepal has been prosecuted in a civilian court for a serious conflict-related crime."[159] The Nepali government has routinely ignored the decisions of the Supreme Court of Nepal and the recommendations of the National Human Rights Commission (NHRC), and Nepal's police force and public prosecutors reportedly have often colluded to stall investigations.[160] A representative from the NHRC told IHRC, "[T]he government wants to close these cases [and] promote these people."[161] Purnimaya Lama, whose husband was disappeared by Maoists, had to file a case with Nepal's Supreme Court to force the police to begin an investigation into her husband's disappearance.[162] Although the Court decided in her favor, she said that as of November 2012, the perpetrators had yet to be punished. Lama added, "I hope that one day I will have justice. Until we die, we will always look for justice."[163]

Truth

Victims have also frequently voiced a desire to know the truth about the harm they suffered.[164] Manakamari Ranjit, whose husband was disappeared, echoed the feelings of many victims IHRC interviewed, saying, "Of course I want to know the truth . . . whether he is alive or dead."[165] Ram Kumar Bhandari of the National Network of Families of Disappeared and Missing Nepal said, "We won't forget. Even the next generation will seek the truth."[166] Truth can offer victims closure, helping them to lay the past to rest and move on with their lives.

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154 Interview with Hari Phuyal, Supreme Court advocate, interview no. 38B, Kathmandu, November 6, 2012. See also, e.g., Interview with Charan Prasai, interview no. 40B, Kathmandu, November 7, 2012 ("Victims are publicly saying that 'if things don't happen in the right direction, we will take justice into our own hands.'").

155 See, e.g., Interview with Abdul Kadhir Shekh, interview no. 39, Banke, January 13, 2010; Interview with Bishnu Parethi, interview no. 51, Dolakha, January 16, 2010; Interview with Ram Sunuwar, interview no. 18B, Kavre, November 3, 2012.

156 Interview with Abdul Kadhir Shekh, interview no. 39, Banke, January 13, 2010.

157 Interview with Bishnu Parethi, interview no. 51, Dolakha, January 16, 2010.

158 Interview with Ram Sunuwar, interview no. 18B, Kavre, November 3, 2012.

159 OHCHR, *Nepal Conflict Report 2012*, 24.

160 Asian Legal Resource Centre, *Nepal: Council Urged to Learn from Situation in Nepal when Addressing Impunity,* http://www.humanrights.asia/countries/nepal/news/alrc-news/human-rights-council/hrc18/ALRC-CWS-18-02-2011 (accessed January 24, 2013).

161 Interview with representative (name withheld), NHRC, interview no. 37B, Kathmandu, November 6, 2012.

162 Advocacy Forum, "Arjun Bahadur Lama," http://www.advocacyforum.org/emblematic-cases/2011/01/arjun-bahadur-lama.php (accessed July 13, 2013).

163 Interview with Purnimaya Lama, interview no. 24B, Kavre, November 3, 2012. One of those reportedly responsible for Lama's husband's disappearance subsequently became a member of the Constituent Assembly. Asian Legal Resource Centre, *Nepal: Council Urged to Learn from Situation in Nepal when Addressing Impunity.*

164 See, e.g., Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012 ("I just want to know the truth, the facts."); Interview with Greta Rasaili, interview no. 25B, Kavre, November 3, 2012 ("The first thing is truth."); Interview with Suraj Kumar Neupane, interview no. 23B, Kavre, November 3, 2012 ("Compensation is worthless without the truth."); Interview with Chandra Kala Upreti, interview no. 31, Banke, January 12, 2010.

165 Interview with Manakumari Ranjit, interview no. 26B, Kavre, November 3, 2012.

166 Interview with Ram Kumar Bhandari, National Network of Families of Disappeared and Missing Nepal, interview no. 15B, Kathmandu, November 2, 2012.

The kind of truth victims desire has depended on the nature of the harm they experienced. The families of the disappeared have often sought to learn the fate of their loved ones.[167] For example, a woman from Kohalpur continued to search for her son long after he was taken by the military. She told IHRC in 2010, "I have been looking for my son for years, but I am starting to lose hope. . . . I want to know if he is still alive or is dead. I pass my days remembering him."[168] Victims of torture and sexual violence and the families of those killed have generally focused on wanting to understand why they were targeted.[169]

Civilians with whom IHRC spoke placed the onus on the current government to provide information and clarify the past actions of both the former government and the Maoists. In 2010, Abdul Kadhir Shehk expressed his frustration regarding the fruitless search for his brother, who had been abducted by the army during the conflict: "The government should take responsibility and should explain that 'for these reasons, we arrested your brother.' They should make this public."[170] Victims shared similar sentiments two years later. Purnimaya Lama, whose husband was abducted by Maoists in early 2005, asked, "Why was it my husband? Why was he taken? Is he dead? The government must answer these questions."[171] She added that without any proof of her husband's fate she "[c]annot hold rituals and [hasn't] been able to mourn."[172] Shova Bhatta, another woman whose husband was disappeared by Maoists, said, "[I] just want to know the truth—the facts."[173] She emphasized, "[T]he government must tell us if he is dead or alive. If he is dead, give us the body. If is he alive . . . return him alive."[174]

While calls for justice and desire for truth are not mutually exclusive,[175] they can come in conflict. Justice-seeking processes, especially trials, can fail to yield truth because perpetrators often deny their roles in an incident. At the same time, efforts to find truth can interfere with justice because most perpetrators will speak freely only in exchange for reduced punishment. For the most part, the people IHRC interviewed did not discuss this tension or express opinions on whether they prioritized justice or truth.[176] The government should do further consultations with victims when determining how to balance needs for justice and truth.

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167 See, e.g., Interview with Manakumari Ranjit, interview no. 26B, Kavre, November 3, 2012 (describing the pain of not knowing if her husband is alive or dead); Interview with Ram Kumar Bhandari, National Network of Families of Disappeared and Missing Nepal, interview no. 15B, Kathmandu, November 2, 2012 ("Even the next generation will seek the truth."); Interview with Chandra Kala Upreti, interview no. 31, Banke, January 12, 2010 (saying that not knowing what happened to her husband has a "mental effect" on her and her children); Interview with victim (name withheld), interview no. 48, Banke, January 12, 2010 (saying that she spends her days remembering her son and wondering where he is). See also Interview with Srijana Lohani, Women for Human Rights, interview no. 10B, Kathmandu, November 1, 2012 (explaining that widows especially struggle in society without knowing the truth about their husbands and their status).

168 Interview with victim (name withheld), interview no. 48, Banke, January 12, 2010.

169 See, e.g., Interview with Greta Rasaili, interview no. 25B, Kavre, November 3, 2012 (stating that victims' families need to know why and where their loved one was killed); Interview with Suraj Kumar Neupane, interview no. 23B, Kavre, November 3, 2012 ("We need a process for truth—an inquiry questioning people's deaths—how, why, where."); Interview with Abdul Kadhir Shekh, interview no. 39, Banke, January 13, 2010 (declaring that the government should explain why they targeted his brother).

170 Interview with Abdul Kadhir Shekh, interview no. 39, Banke, January 13, 2010. Another victim said, "It's never going to be like it was before. But I think the government should take initiative in publicizing what are the conditions of the disappeared people. We don't know what has happened to [my brother]." Interview with victim (name withheld), interview no. 44, Bardiya, January 11, 2010.

171 Interview with Purnimaya Lama, interview no. 24B, Kavre, November 3, 2012.

172 Ibid.

173 Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012.

174 Ibid.

175 According to ICTJ, "the right to truth is complementary to all other aspects of an effective transitional justice strategy, such as judicial action and reparations." ICTJ, *Seeking Options for the Right to Truth in Nepal,* November 2012, http://ictj.org/sites/default/files/ICTJ-Briefing-Paper-Nepal-Ordinance-Dec-2012-ENG.pdf (accessed July 13, 2013), 2.

176 Indeed, at least one interviewee linked truth and justice, contrasting both with an apology. "We are more concerned about justice, getting perpetrators, knowing the truth about what happened. There should be action to put perpetrators behind bars, and then we will worry about apology," said Chandrakala Upreti, whose family has struggled since her husband was disappeared by security forces. Interview with Chandrakala Upreti, interview no. 31, Nepalgunj, January 12, 2010.

Apologies

Apologies were not of central concern to those victims with whom IHRC spoke, and there was opposition by some to apologies if they were not part of a larger justice effort. None of the victims IHRC interviewed on its two field missions discussed the possibility until specifically asked. The mere suggestion of apologies angered many civilians.[177] A woman whose son was killed by security forces said, "The government is like our enemy now. I have already lost my son. I don't need any apology."[178] Recognizing that apologies, like truth, can be in tension with justice, some interviewees said they believed apologies were unacceptable because they could promote impunity and degrade the rule of law.[179] For example, a man from Bardiya who saw his daughter's dead and mutilated body after Maoists attacked her said, "I would never accept an apology. Otherwise people will think they can do crime and keep apologizing for what is done."[180]

Despite common opposition to apologies, some victims IHRC interviewed saw their value in the broader context.[181] For example, Raj Kumar Gautam, a victim of imprisonment and torture, said, "[I]f the perpetrators are prosecuted it would be good, but from another side if we can have peace in society we can forgive them."[182] Those advocating this approach generally viewed apologies as part of a larger healing process and a means of preventing a return to conflict.[183]

Conclusion

The harm civilians experienced during Nepal's armed conflict has led to a range of associated needs and expectations, which are both immediate and long term. To help them deal with physical, psychological, and socioeconomic impacts, victims have sought material assistance, including financial support, job training, scholarships, and health care. They have also wished for justice and truth, which would contribute to recognition of the harm they experienced and help them move forward. The government should heed these calls as it designs and implements programs to help victims.

177 See, e.g., Interview with victim (name withheld), interview no. 6B, October 31, 2012 (This woman, who had been arrested, beaten, raped, and then imprisoned by the government for eighteen months, said that she "could not tolerate an apology," and added, "I don't want to hear that kind of thing.").
178 Interview with victim (name withheld), interview no. 29, Banke, January 10, 2010.
179 One victim said, "An apology is not acceptable. . . . Anyone can say, 'I'm sorry.' It's never enough. If they are not punished, there is no rule of law in the country." Interview with Manakumari Ranjit, interview no. 61, Kavre, January 15, 2010. Purnimaya Lama lost her husband when Maoists abducted him from a school near their home. She said, "I don't want any apology. . . . If those people tortured and killed [my husband], they must be punished. . . . All the people who knew him cried for him. An apology wouldn't do." Interview with Purnimaya Lama, interview no. 60, Kavre January 15, 2010.
180 Interview with victim (name withheld), interview no. 45, Bardiya, January 11, 2010.
181 See, e.g., Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012; Interview with Ram Sunuwar, interview no. 18B, Kavre, November 3, 2012; Interview with Shyam Lal Kurmi, interview no. 35, Banke, January 13, 2010.
182 Interview with Raj Kumar Gautam, interview no. 29B, Kavre, November 5, 2012.
183 "I want the culprit to come in front of society and apologize for that, say that it won't happen to anyone again." Interview with victim (name withheld), interview no. 38, Banke, January 13, 2010.

The Interim Relief Program and the Need for Additional Material Assistance

In 2008, Nepal created the IRP in an attempt to address identified immediate needs of those harmed by the former government or the Maoists. The IRP's guidelines state that the government felt it necessary to provide relief because of:

> the condition of people affected by the conflict . . . , demands raised by the affected people from time to time, recommendations and requests received from the organizations of affected people and the National Human Rights Commission and . . . the State's responsibility for making minimum services available on humanitarian grounds.[184]

Funding came from a US$50 million World Bank grant to facilitate the country's recovery process.[185] The program has improved the lives of victims to a degree.

184 ICTJ Translation of IRP Guidelines, 1.

185 Interview with Roshan Darshan Bajracharya, Senior Economist, World Bank, and Jasmine Rajbhandary, Sector Specialist, Social Protection/Social Development, World Bank, interview no. 9, Kathmandu, January 8, 2010. Initially the World Bank allocated US$23 million for the IRP and the rest to "reintegration allowances for former Maoist combatants in UN-monitored cantonments." ICTJ, *Relief, Reparations, and the Root Causes of Conflict in Nepal,* 11. The World Bank later stopped funding the latter program and shifted most of the remainder of its grant to the IRP, including to the newer vocational training program discussed below. For a recent breakdown of the World Bank's budget for what it refers to as the Nepal Peace Support Project, see World Bank, *Implementation Status and Results, Nepal: Peace Support Project,* report no. ISR8969, January 17, 2013, 1. International donors have also contributed to the IRP through the Nepal Peace Trust Fund and the UN Peace Fund for Nepal. ICTJ, *Relief, Reparations, and the Root Causes of Conflict in Nepal,* 11.

Testimony gathered by IHRC shows, however, that the IRP has not adequately met the immediate or long-term needs or expectations expressed by many of Nepal's conflict victims. When examined through a victim-centered lens, the program has fallen short, especially in the quantity, scope, and accessibility of its financial and in-kind assistance. This situation has resulted from both the IRP's failure to complete distribution of what it promised and flaws in its design. In addition, the program is scheduled to end in 2014, and future needs, such as for ongoing medical care, are likely to be left unaddressed as a result. Although the IRP was not intended to be a comprehensive, enduring solution, its shortcomings demonstrate that Nepal should create a new, long-term material assistance program that more fully satisfies victims' needs.

Description of the IRP

Instead of addressing Nepal's broader economic or development problems, interim relief has understandably focused on helping conflict victims with their material needs. For example, interim relief has entitled the next-of-kin of those killed or disappeared during the conflict to 300,000 NRS (US$3,450) in financial aid.[186] It has given supplementary financial assistance to wives of the deceased or disappeared[187] and scholarships to children of the deceased, disappeared, or disabled.[188] The program has also been designed to provide money to the disabled, the internally displaced, and those who lost property due to the conflict.[189]

The districts visited by IHRC shared a fairly uniform—albeit complex—interim relief application process. In general, a victim would bring a letter of recommendation from the Village Development Committee—the local government structure that exists in each village—to the chief district officer located in the District Administration Office.[190] There the victim would complete any necessary forms[191] and submit them along with various types of documentation.[192] A district committee comprised mainly of political representatives would assess each application[193] and forward those applications it found genuine to MoPR in Kathmandu. MoPR would then conduct its own evaluation of the legitimacy of each claim.[194] After the ministry had confirmed a victim's eligibility for interim relief and provided the necessary funds to district officials, the chief district officer would provide the victim with a bank account number. The victim could then withdraw the awarded funds whenever desired.[195]

186 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.

187 See ICTJ, *Relief, Reparations, and the Root Causes of Conflict in Nepal,* 3. See also, e.g., Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012 (She received an extra 25,000 NRS (US$290) because her husband was killed during the armed conflict.); Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012 (She received an extra 25,000 NRS because her husband was disappeared.); Interview with Purni Maya Lama, interview 24B, Kavre, November 3, 2012 (The Village District Committee told her to take an extra 25,000 NRS because her husband was disappeared.).

188 ICTJ, *From Relief to Reparations,* 6.

189 ICTJ Translation of IRP Guidelines, 1.

190 See, e.g., Interview with government official (name withheld), Kavre District Administration Office, interview no. 1, Kavre, January 19, 2010; Interview with Arbi Pandey, Assistant Chief District Officer of Nepalgunj, interview no. 2, Banke, January 13, 2010; Interview with victim (name withheld), interview no. 45, Bardiya, January 11, 2010. Not all victims mentioned the Village Development Committee recommendation; however, it seems to have been a common step in the process.

191 See, e.g., Interview with Shyam Lal Kurmi, interview no. 35, Banke, January 13, 2010; Interview with victim (name withheld), interview no. 48, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 44, Bardiya, January 11, 2010.

192 For example, victims are sometimes asked to provide death certificates. See, e.g., Interview with Sarita Sapkota, interview no. 68, Kavre, January 19, 2010; Interview with victim (name withheld), interview no. 45, Bardiya, January 11, 2010.

193 Interview with Arbi Pandey, Assistant Chief District Officer of Nepalgunj, interview no. 2, Banke, January 13, 2010.

194 Interview with Ganesh Prasad Upadhyaya, Acting Department Chief, Relief and Rehabilitation, MoPR, interview no. 4, Kathmandu, January 20, 2010.

195 See, e.g., Interview with victim (name withheld), interview no. 64, Kavre, January 19, 2010; Interview with victim (name withheld), interview no. 48, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 29, Banke, January 10, 2010.

Although much remains to be done, the program began to wind down in 2012. As of November 2012, the Nepali government was not accepting new applications for interim relief.[196] Furthermore, the World Bank's funding, which has been critical, is scheduled to expire in 2014,[197] and the government has shown little indication that it would seek additional money to extend the IRP's distribution of aid past that date. According to a joint secretary from MoPR, "Leaving this process open for all time is creating a lot of problems and takes away the 'interim' element."[198]

Shortcomings of the IRP

Nepal's IRP represents an important step toward assisting civilian victims of armed conflict and is to be commended in some regards. The World Bank reported in January 2013 that about ninety-five percent of one category of victims, the families of the deceased, had received the financial assistance to which they were entitled.[199] The International Center for Transitional Justice (ICTJ) wrote in early 2012 that overall more than 30,000 victims, plus 80,000 internally displaced persons, had benefited.[200] The Nepali government, however, designed the IRP with little consultation with victims,[201] and has had problems implementing it. As a result, while the IRP has provided a large number of civilian victims with aid, it has left unmet many victims' needs and expectations. The IRP has not addressed the harm suffered by certain categories of victims, namely those whose suffered torture or sexual violence.[202] The financial assistance provided by the IRP has proved insufficient in scope and size and been plagued with distribution problems. The IRP has also not dealt with some of the conflict victims' in-kind needs and expectations, and certain needs will continue after the IRP is scheduled to end. Finally, victims have sometimes faced practical and political roadblocks to accessing interim relief.

Inadequate Financial Assistance

The core of the IRP has been its financial assistance. Its exclusion of certain groups, delays in its distribution process, and the limited size of its cash grants, however, have left many victims without the money they need to help them recover and rebuild after the armed conflict.

196 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.

197 Interview with Jasmine Rajbhandary, Sector Specialist, Social Protection/Social Development, World Bank, interview no. 4B, Kathmandu, October 31, 2012. Although the World Bank has not taken part in identifying victims or distributing interim relief, its funding has made the IRP possible. Interview with Roshan Darshan Bajracharya, Senior Economist, World Bank, and Jasmine Rajbhandary, Sector Specialist, Social Protection/Social Development, World Bank, interview no. 9, Kathmandu, January 8, 2010.

198 Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012.

199 According to a World Bank report, 14,101 families of the deceased of 14,800 eligible had received IRP payments by November 2012. That percentage, however, only represents one category of victim. The World Bank report did not provide data on other categories of monetary relief recipients. World Bank, *Implementation Status and Results,* Nepal, 2.

200 ICTJ, *Relief, Reparations, and the Root Causes of Conflict in Nepal,* 1.

201 See, e.g., Interview with Suman Adhikari, Conflict Victim Orphan Society, interview no. 14B, Kathmandu, November 2, 2012; Interview with Nav Raj Adikari, Executive Director, Transitional Justice Resource Center; Krishna Kandel, Board Member, Former Chair, Amnesty International Nepal; Deepak Pokharel, World Vision Advocacy Forum; and Claudia Maistrello, interview no. 1B, Kathmandu, October 29, 2012; Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.

202 See, e.g., ICTJ Translation of IRP Guidelines, 1 (Non-disabled torture and rape victims are not included in definition of conflict-affected persons.); ICTJ, *From Relief to Reparations,* 13; Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012.

Excluded Classes of Victims. The IRP has denied financial assistance, as well as other aid, to some classes of victims altogether, most notably victims of torture and sexual violence. Anjana Shakya, chairperson of HimRights, said, "[The] government line is that there was no sexual violence [during the armed conflict]."[203] A joint secretary from MoPR acknowledged, "Torture and rape victims are . . . not being addressed."[204] He argued, however, that these victims would be included in the future by the proposed commissions for truth, reconciliation, and disappearances.[205] (These commissions are discussed in the next chapter.)

Nepali police forces severely beat Goma Shahi and told her she was going to die. She needs ongoing medical care, but as a torture victim, she is not entitled to interim relief. She has also sought justice for the perpetrators, but to no avail.
Photograph by Bonnie Docherty

Until such bodies are created, victims of torture and rape are not entitled to government aid, monetary or in kind. The lack of support has left many in hardship.[206] For example, Raj Kumar Gautam, who was tortured while detained by the state, has struggled to pay his medical bills without any government aid, requiring him to borrow money to pay for the treatment he needs.[207] As the executive director of Advocacy Forum said, "Victims of rape and torture are also demanding funds, but this is falling on deaf ears. . . . People are frustrated."[208]

Insufficient Amounts. Victims have criticized the cash grants provided by the IRP as too small to make a significant difference in their lives. In 2010, the IRP promised 100,000 NRS (US$1,150) in financial assistance to the next-of-kin of those killed or disappeared.[209] The amount was less than half of the average household income in Nepal in 2010–2011.[210] Several victims interviewed in early 2010 saw this amount as inadequate.[211] For example, Manju Gautam, whose husband was killed in crossfire in February 2004, said, "I'm happy they at least gave me 100,000 NRS, but it's not enough."[212]

203 Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012.
204 Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012. This is not because torture and rape victims have not been asking for assistance. "Victims of rape and torture are also demanding funds, but this is falling on deaf ears." Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.
205 Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012. See also Interview with an undersecretary of the Office of the Prime Minister and Council of Ministers (name withheld), interview no. 35B, Kathmandu, November 6, 2012.
206 See, e.g., Interview with Dev Bahadur Maharjan, interview no. 5B, Kavre, October 31, 2012; Interview with victim (name withheld), interview no. 6B, Kathmandu, October 31, 2012; Interview with Rajjab Ali Bagwan, interview no. 40, Banke, January 13, 2010.
207 Interview with Raj Kumar Gautam, interview no. 29B, Kavre, November 5, 2012.
208 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.
209 See, e.g., Interview with representative (name withheld), NHRC, interview no. 6, Kathmandu, January 7, 2010.
210 The average household income in Nepal for 2010/2011 was 202,374 NRS (US$2,318). National Planning Commission of Nepal, "Nepal Status Paper for UN Conference on Sustainable Development 2012 (Rio+20): Synopsis," http://www.npc.gov.np/new/uploadedFiles/allFiles/2012021312345.pdf (accessed July 13, 2013), p. 19. See also Nepal Central Bureau of Statistics, "Nepal Living Standards Survey 2010/2011 Vol. 2," November 2011, http://cbs.gov.np/wp-content/uploads/2012/02/Statistical_Report_Vol2.pdf (accessed July 13, 2013), 1.
211 See, e.g., Interview with Abdul Kadhir Shekh, interview no. 39, Banke, January 13, 2010 ("[100,000 NRS] isn't going to help."); Interview with victim (name withheld), interview no. 48, Banke, January 12, 2010 (This victim spent the 100,000 NRS she received "repaying loans [she] had taken out before" and desired more aid to help with her financial situation.); Interview with victim (name withheld), interview no. 45, Bardiya, January 11, 2010.
212 Interview with Manju Gautam, interview no. 70, Kavre, January 19, 2010.

Some officials involved with the IRP also recognized the insufficiency of the 100,000 NRS. Ganesh Prasad Upadhyaya, the acting department chief for MoPR Relief and Rehabilitation in January 2010, stated, "This 100,000 [NRS] is not enough. There must be some additional [funds]."[213] A district level official from Kavre—one of those closest to the victims themselves—echoed this opinion. He said the 100,000 NRS was "not adequate at all."[214]

In 2011 the interim government released an additional 200,000 NRS (US$2,300) of financial aid to the next-of-kin of killed or disappeared individuals.[215] This extra amount came close to the average annual household income for Nepal at that time.[216] Many victims IHRC interviewed found these extra funds helpful.[217] Individuals who received the first round of assistance and were qualified for the second round, however, have not always received the supplementary aid.[218] While there may be multiple reasons, Hari Tripathi, executive director of Advocacy Forum, blamed politicization for interfering with distribution of this sum.[219] Furthermore, for some the cumulative 300,000 NRS (US$3,450) remained insufficient to cover conflict losses. For example, after suffering a brutal beating by a group of Maoists, one man required multiple surgeries and the insertion of rods into both of his legs. Aware he faced the prospect of long-term hospitalization and rehabilitation, the victim's doctors referred him to Lucknow, India, for additional procedures, so he shuttled back and forth between treatment in India and his home in Nepalgunj. At the time he spoke with IHRC in 2010, he had already spent 700,000 NRS (US$8,050) on past surgeries and treatment and worried about the costs of his future treatment.[220]

Staggered Distribution. The distribution process for interim relief has presented additional problems. The government has distributed it in stages, providing assistance to some categories of victims before others. The government offered relief to the next-of-kin of the deceased before the next-of-kin of the disappeared. It did not clarify this approach to the public, however, and as a result families of the disappeared had an incentive to declare their relatives dead. In addition, although the IRP later increased relief to 100,000 NRS, it originally provided only 25,000 NRS for next-of-kin of the disappeared, creating another incentive for victims to register their kin as deceased rather than disappeared.[221] Such miscategorizations may lead to problems for families of the disappeared in the long run. The Swiss ambassador to Nepal noted that these families have lost in important ways—even if they ultimately received the same amount of interim relief as next-of-kin of the deceased. "The file is closed," the ambassador said. "[The victims] don't really know [the truth about the disappearance], and there is no justice." These victims received financial assistance more quickly but may have missed the opportunity for truth and justice.[222]

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213 Interview with Ganesh Prasad Upadhyaya, Acting Department Chief, Relief and Rehabilitation, MoPR, interview no. 4, Kathmandu, January 20, 2010.

214 Interview with government official (name withheld), Kavre District Administration Office, interview no. 1, Kavre, January 19, 2010.

215 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012. According to a joint secretary from MoPR, the government has planned to distribute an additional 200,000 NRS (US$2,300) to victims in installments as well as to provide 500,000 NRS (US$5,745) as an equity share in a hydro-electric project. The joint secretary did not say when such funds would be distributed and stressed that first the Finance Ministry must release them and that there "has to be a proper energy policy in place to issue the certificates." Even if the project were realized, it is unclear whether the hydroelectric project would ever generate enough revenue to benefit the holders of any equity shares—or, if it did, how long the generation of such revenue would take. Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012.

216 As mentioned above, the average household income in Nepal for 2010/2011 was 202,374 NRS (US$2,318). National Planning Commission of Nepal, "Nepal Status Paper," 19.

217 See, e.g., Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012; Interview with victim (name withheld), interview no. 21B, Kavre, November 3, 2012; Interview with Purnimaya Lama, interview no. 24B, Kavre, November 3, 2012.

218 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.

219 Tripathi told IHRC that if a victim was "not political and not affiliated, [the individual] often wouldn't get relief." Ibid.

220 Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010. He continued to deal with ongoing pain and explained that the doctor "gave me an oil for massage that I can only get in Lucknow, so I have to go back there regularly to get it." Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010.

221 ICTJ, *From Relief to Reparations,* 16.

222 Interview with Thomas Gass, Swiss Ambassador and Country Director for the Swiss Agency for Development and Cooperation, interview no. 8, Kathmandu, January 21, 2010.

The staggering of interim relief has also meant that some victims covered by the IRP—notably the internally displaced and those who lost property—have generally had to wait years for support. While a joint secretary from MoPR said that programs existed within the IRP to help these two groups, others interviewed by IHRC disagreed.[223] Subodh Raj Pyakurel, chairperson of INSEC, said, "[N]o one is looking after [the internally displaced]."[224] Bishnu Bashyal, a project director with the Nepal Bar Association's Access to Justice Project, said that the government does not have accurate data on the internally displaced.[225] Likewise, those who had property destroyed during the conflict have been left largely without assistance. An official at the Kavre District Administration Office explained, "For the destruction of property, the government is not providing any compensation."[226]

Inadequate In-Kind Assistance

Victims with whom IHRC spoke usually sought not only financial but also in-kind assistance, including vocational training, educational support, and medical care. The IRP, however, has provided very little job support, and it has offered only limited scholarships and health care. The emphasis on cash grants appears to have distracted from a range of other material needs and wants of victims and their families. The IRP has also not made provisions for addressing those needs that will linger long term.

Vocational Training and Employment Opportunities. The IRP originally did not offer vocational training or employment opportunities.[227] Victims, however, wanted such assistance. For example, a man from the Banke district was unable to return to farming after Maoist forces alternately beat him unconscious and doused him with acid to rouse him. He has sought other means of supporting his family and told IHRC in 2010, "I am just hoping that the government [will] offer some job training for people like me who are disabled."[228]

In May 2011, the interim government began a pilot program in nine districts to provide vocational training and a range of technical assistance to start small businesses. This program has been made available to victims already eligible for financial compensation and their families.[229] As of November 2012, more than 3,000 victims had received aid through the pilot program,[230] but it existed in only twelve of seventy-five districts,[231] and not everyone who applied received training.[232] The interim government has had plans to expand the program. A joint secretary from MoPR said in November 2012 that the next phase of the project would include an additional forty-three districts, although he did not specify the date on which this next phase would begin.[233] A January 2013 World Bank report expressed concern,

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223 Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012.
224 Interview with Subodh Raj Pyakurel, Chairperson, INSEC, interview no. 12B, Kathmandu, November 1, 2012. See also Interview with Charan Prasai, interview no. 40B, Kathmandu, November 7, 2012; Interview with Vijay Mishra, Supreme Court advocate, Nepal Bar Association, and Bishnu Bashyal, Project Director, Access to Justice Project, Nepal Bar Association, interview no. 11B, Kathmandu, November 1, 2012.
225 Interview with Vijay Mishra, Supreme Court advocate, Nepal Bar Association, and Bishnu Bashyal, Project Director, Access to Justice Project, Nepal Bar Association, interview no. 11B, Kathmandu, November 1, 2012.
226 Interview with government officials (names withheld), Kavre District Administration Office, interview no. 33B, Kavre, November 5, 2012.
227 Interview with Ganesh Prasad Upadhyaya, Acting Department Chief, Relief and Rehabilitation, MoPR, interview no. 4, Kathmandu, January 20, 2010.
228 Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010. Another victim said, "If I could get some kind of employment, that would be good. . . . If [the government] could provide training that would be good as well." Interview with Manju Gautam, interview no. 70, Kavre, January 19, 2010.
229 Interview with Jasmine Rajbhandary, Sector Specialist, Social Protection/Social Development, World Bank, interview no. 4B, Kathmandu, October 31, 2012.
230 Ibid. IHRC did not have the opportunity to interview any victims who took part in the pilot program. Suman Adhikari of the Conflict Victim Orphan Society, however, said, that the skill-building program "is not effective—not what victims want." Interview with Suman Adhikari, Conflict Victim Orphan Society, interview no. 14B, Kathmandu, November 2, 2012.
231 Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012.
232 According to Jasmine Rajbhandary, Local Peace Committees have played a key role in choosing the beneficiaries of the program by setting priorities in each district. Interview with Jasmine Rajbhandary, Sector Specialist, Social Protection/Social Development, World Bank, interview no. 4B, Kathmandu, October 31, 2012. For example, a district might choose to focus on widows.
233 Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012.

however, that employment benefits would reach only 7,000 of the 15,000 people that were designated to receive such help over the course of the year. The total number of intended beneficiaries is 25,000, and the report noted, "This [shortfall] will risk the project['s] ability to reach to the overall target number of beneficiaries by the end of the project in June 2014."[234]

Education. The IRP has promised scholarships to three children of each deceased, disappeared, or sufficiently disabled victim,[235] with the amount granted corresponding to a student's grade level.[236] While partially responsive to victims' needs and expectations, the scholarships cover only a limited number of children and end once a student turns eighteen years old, even though many students in rural areas are unable to complete twelfth grade by that age.[237] According to a representative of the Kavre District Education Office (DEO), the interim government has had "no other plans for provisions for students above eighteen."[238]

The size of the scholarships has presented additional difficulties for victims. The scholarships have been distributed as cash, "which [students] use to pay for the school of their choice."[239] They have generally been insufficient, however, to cover school fees or such additional needs of schoolchildren as stationery, books, uniforms, and food. Suman Adhikari of the Conflict Victim Orphan Society, a Nepali NGO, said that the scholarship amount has "not [been] enough to pay for everything for a year of school."[240] As of November 2012, Manju Gautam, whose husband was killed in 2004, worked in a district post office to support her family.[241] She told IHRC, "I still have to arrange for books, stationery, everything from this [scholarship] money. This money is not sufficient."[242] She added, "[My s]mall daughter is always crying, 'If I had my father, I could go to a good school and become a nurse, but I can't do that.'"[243]

Scholarship funds have also not been adequately distributed in practice. According to the Kavre DEO representative, "The total amount of money is allocated at the national level and sent to the DEO, [which] then allocates it to the victims."[244] He added, however, that the amounts allocated by the national government have been insufficient, and the amounts received by DEOs to disburse have been less than the amounts allocated.[245] For example, for the April 2009–April 2010 school year, primary students in Kavre received 6,895 NRS (US$79), and lower secondary students received 8,168 NRS (US$94).[246] These amounts were significantly less than the 10,000 NRS (US$115) and 14,000 NRS (US$160) allocated,

234 World Bank, *Implementation Status and Results, Nepal,* 3, 6.
235 ICTJ, *From Relief to Reparations,* 16-17. The disability must be at least fifty percent under IRP guidelines. Ibid. Annette Lyth of UNICEF's Kathmandu office described the limitation of the scholarship program to only three children per family as short-sighted—the result of a purely economic decision by the government. Lyth explained that it tended to exclude girls. "If a family has more than three kids," she said, "then they will educate the boys first." Interview with Annette Lyth, Lead on Support to Conflict-Affected, UNICEF, interview no. 25, Kathmandu, January 15, 2010.
236 Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012.
237 ICTJ, *From Relief to Reparations,* 18. The age limit means the IRP encompasses fewer students than the Interim Constitution, which guarantees free education through grade twelve. The Interim Constitution states, "Every citizen shall have the right to receive free education from the State up to secondary level as provided for in the law." Interim Constitution of Nepal, art. 17. While this constitutional provision would seem to make the IRP funding for education unnecessary, the constitution by itself is not enough because it does not cover "hidden costs" discussed below, which can be difficult for conflict victims to afford. ICTJ, *From Relief to Reparations,* 18.
238 Interview with representative (name withheld), Kavre District Education Office, interview no. 31B, Kavre, November 5, 2012.
239 Ibid.
240 Interview with Suman Adhikari, Conflict Victim Orphan Society, interview no. 14B, Kathmandu, November 2, 2012.
241 Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012.
242 Ibid. Another victim said, "The scholarship is not enough to pay for [my children's] education." Interview with Manakumari Ranjit, interview no. 26B, Kavre, November 3, 2012.
243 Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012.
244 Interview with a representative (name withheld), Kavre District Education Office, interview no. 31B, Kavre, November 5, 2012.
245 Ibid.
246 Ibid.

respectively, to those students.[247] The next school year, the DEO representative explained, Kavre received so little scholarship funding that it could only give each student 2,000 NRS (US$23).[248] IHRC learned of a similar shortfall in the Dolakha district.[249]

Medical Care. Although the IRP has provided funding for the physical care of disabled victims,[250] it has placed limits on the type of care provided. It covers treatment only in government or non-profit hospitals even though they may not have the capacity to treat certain injuries and sometimes Maoist supporters fear going there. In addition, treatment has often not been available locally, but the IRP covers only one trip to a government facility and no follow-up appointments.[251] It thus does not allow for long-term care, which victims often need.

Victims have often had to choose between using their interim relief grant to support their families or to pay for physical and psychological treatment.

The IRP also has provided limited, if any, assistance for psychological care because harm to mental health is generally not considered enough of a disability.[252] The IRP treats psychological injury as an "invisible disability" and therefore does not cover it.[253] Sita Raut, struggling with headaches and restlessness years after her husband's death, said it would be "good to get support" for mental harm, but "I haven't received any support from anyone."[254] Another victim laughed when asked what kind of psychological support had been offered to her by the government. "Different organizations provided the counseling," she said. "The government doesn't take this as a serious issue, so they don't provide any support for it."[255] Victims have often had to choose between using their interim relief grant to support their families or to pay for physical and psychological treatment. They have frequently incurred debt to cover essential and ongoing medical care or decided to forego treatment altogether.[256]

Inadequate Access

Exacerbating the inadequacies of the financial and in-kind assistance, not all conflict victims have been able to access interim relief due to either their membership in a particular group or practical obstacles. The government's failure to accommodate the special needs of the disabled and female victims, for example, has prevented some individuals from obtaining

247 Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012; Interview with Suman Adhikari, Conflict Victim Orphan Society, interview no. 14B, Kathmandu, November 2, 2012.
248 Interview with a representative (name withheld), Kavre District Education Office, interview no. 31B, Kavre, November 5, 2012.
249 Dolakha has also received insufficient funding, with students sometimes receiving less than half of what they should be. Interview with Babita Karki and Rajendra Shrestha, Advocacy Forum, interview no. 11, Dolakha, January 16, 2010.
250 ICTJ Translation of IRP Guidelines, 8.
251 ICTJ, *From Relief to Reparations,* 21-22; ICTJ Translation of IRP Guidelines, 6.
252 See, e.g., Interview with Suman Adhikari, Conflict Victim Orphan Society, interview no. 14B, Kathmandu, November 2, 2012; Interview with Srijana Lohani, Women for Human Rights, interview no. 10B, Kathmandu, November 1, 2012.
253 ICTJ, *From Relief to Reparations,* 17.
254 Interview with Sita Raut, interview no. 53, Dolakha, January 17, 2010.
255 Interview with Greta Rasaili, interview no. 25B, Kavre, November 3, 2012.
256 Greta Rasaili, whose brother and sister were killed during the conflict, "spent almost all of the money [she received] on [her] parents' medical care." She had to take out a loan of 200,000 NRS (US$2300) as well. Her mother has suffered because of the killings and, as of November 2012, required 3,000 NRS (US$35) in medication per month. Ibid. See also, e.g., Interview with Krishna Prasad Phunyal, interview no. 52, Dolakha, January 17, 2010; Interview with victim (name withheld), interview no. 36, Banke, January 13, 2010; Interview with Chandra Kala Upreti, interview no. 31, Banke, January 12, 2010.

aid. In addition, a limited reach has left many victims—especially in rural parts of the country—without recourse. Bureaucratic inefficiencies have also created delays and frustration among victims. Finally, victims and advocacy organizations have alleged that politicization and corruption have tainted the IRP system and led to unfair results.

Specific Groups. Both disabled individuals and women have faced particular obstacles to accessing interim relief. Many disabled victims have not received interim relief at all because of the way that relief is calculated and distributed. The IRP has also failed to take into account the social realities experienced by Nepali women.

Disabled Victims. The IRP has used a system of disability percentages to determine the amount of assistance allocated to a disabled victim. This system has entitled an individual who is 100 percent disabled to 200,000 NRS (US$2,300),[257] with the amount dropping proportionately as the percentage of disability decreases.[258] The IRP has also promised to provide both scholarships to the children of those with more than fifty percent disability and funding for the care of disabled victims requiring medical treatment.[259]

While the range of assistance is beneficial, the method for calculating percentages has been problematic. According to ICTJ, "[t]he decision is made by three doctors based in Kathmandu, in consultation with [a government task force]."[260] The doctors are not required to meet the victim and rely on application forms that often lack sufficient details. In addition, the IRP does not have an appeals process if the victim disagrees with his or her categorization.[261]

Furthermore, some victims who need medical care have not received it because their physical injuries were not considered disabilities. For example, torture victim Raj Kumar Gautam said he "[n]ever got any medical support from the government" and had to pay about 30–40,000 NRS (US$340–455) in medical costs himself.[262] Government forces had detained Gautam for two months, during which time they repeatedly beat him, applied electric shocks, and threatened to kill him.[263] As of November 2012, he still suffered headaches and leg pains from his ordeal, but he was not found disabled by the IRP.[264] Likewise, a young woman from Dolakha who was arrested, beaten, and raped by the Nepali army, said in 2012 she had received no help with medical costs, although her injuries required her to spend six months in the hospital. Her sister paid for the resulting medical expenses with personal savings.[265] In addition, as mentioned above, the IRP has not covered psychological harm.

In the end, only the most severe injuries appear to have qualified for assistance. One victim who had been dragged by the army from his home and beaten so badly he required an operation to treat nerve damage in his spinal cord did not even apply for interim relief. He told IHRC his District Administration Office had discouraged him from doing so, saying that his injuries were not severe enough to make him eligible.[266] A flawed process combined with a narrow scope of coverage has interfered with access to adequate assistance for victims with serious injuries from the conflict.

Women. The government's decision to distribute interim relief as cash grants has failed to take into account Nepal's distinct gender roles and overlooked the particular needs

257 ICTJ Translation of IRP Guidelines, 8; "State Balm for War Wounds," *eKantipur,* March 18, 2010, http://www.ekantipur.com/2010/03/18/capital/state-balm-for-war-wounds/310507/ (accessed July 13, 2013).
258 ICTJ Translation of IRP Guidelines, 8.
259 Ibid., 4, 8.
260 ICTJ, *From Relief to Reparations,* 17.
261 Ibid. See also Interview with Jitendra Bohara, Advocacy Forum, interview no. 12, Kathmandu, January 6, 2010 ("There was no clear idea of what 100 percent versus fifty percent disabled would mean. It is not defined well and does not include all victims.").
262 Interview with Raj Kumar Gautam, interview no. 29B, Kavre, November 5, 2012.
263 Interview with Raj Kumar Gautam, interview no. 71, Kavre, January 19, 2010.
264 Interview with Raj Kumar Gautam, interview no. 29B, Kavre, November 5, 2012.
265 Interview with victim (name withheld), interview no. 6B, Kathmandu, October 31, 2012.
266 Interview with Bishnu Parethi, interview no. 51, Dolakha, January 16, 2010.

of and difficulties faced by female victims. The distribution of most interim relief as monetary payments—rather than as in-kind assistance such as the vocational training or scholarships often desired by female recipients—has facilitated abuse of the program by allowing in-laws and other relatives to demand the relief money from the women who received it. In-kind assistance, by contrast, cannot be transferred with the same ease and would be less vulnerable to expropriation. One widow expressed sadness and frustration, having been forced to give most of the money she received to her father-in-law and mother-in-law: "I can't do anything independently with the money because [my husband's] parents are into it. . . . We have to stay together because I don't have anyone else, and I'm not comfortable staying alone."[267]

Many victims in rural areas of Nepal have found it difficult to access interim relief. They often lack the means to travel to district capitals, such as Charikot, Dolakha (shown here), to obtain compensation for their injuries. Photograph by Bonnie Docherty

Women have faced further discrimination under the IRP because a widow who remarries loses her right to interim relief.[268] In such cases, the funds have generally shifted to the father of the deceased or disappeared. An official from the Kavre District Administration Office told IHRC that if the office processes interim relief for a remarried widow, it usually transfers the money to her father-in-law.[269]

Limited Reach. Practical issues such as lack of awareness and geographic distance have prevented certain victims from receiving assistance. Victims interviewed by IHRC learned about the IRP through a variety of channels, including: mass media, such as television, radio, and newspapers;[270] different levels of government and local Maoist groups;[271] NGOs, including victims' organizations;[272] and other villagers.[273] Nevertheless, many victims in rural areas, where televisions and newspapers are less common, have reportedly not heard of the program.[274] Janak Rawat of the Conflict Victims Society for Justice, a consortium of Nepali victims and victims' organizations, criticized the IRP because it provided "no special out-

267 Interview with victim (name withheld), interview no. 64, Kavre, January 19, 2010.
268 See ICTJ Translation of IRP Guidelines, 5.
269 Interview with government official (name withheld), Kavre District Administration Office, interview no. 1, Kavre, January 19, 2010.
270 See, e.g., Interview with victim (name withheld), interview no. 64, Kavre, January 19, 2010; Interview with Suraj Kumar Neupane, interview no. 65, Kavre, January 19, 2010; Interview with Purnimaya Lama, interview no. 60, Kavre, January 15, 2010; Interview with Dew Sara B.K., interview no. 46, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 27, Banke, January 10, 2010.
271 See, e.g., Interview with Manju Gautam, interview no. 70, Kavre, January 19, 2010; Interview with Gita Rasali, interview no. 63, Kavre, January 15, 2010; Interview with Shyam Lal Kurmi, interview no. 35, Banke, January 13, 2010; Interview with Dew Sara B.K., interview no. 46, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 49, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 28, Banke, January 10, 2010.
272 See, e.g., Interview with Purnimaya Lama, interview no. 60, Kavre, January 15, 2010; Interview with victim (name withheld), interview no. 38, Banke, January 13, 2010; Interview with Dew Sara B.K., interview no. 46, Banke, January 12, 2010; Interview with Chandra Kala Upreti, interview no. 31, Banke, January 12, 2010.
273 See, e.g., Interview with Sita Raut, interview no. 53, Dolakha, January 17, 2010; Interview with Purnimaya Lama, interview no. 60, Kavre, January 15, 2010; Interview with victim (name withheld), interview no. 29, Banke, January 10, 2010. Note that many victims heard about interim relief from more than one channel.
274 While all IHRC victim interviewees had heard of interim relief, interviews with NGOs indicated that victims from certain demographics or from isolated areas lacked access to such information. For example, Hari Tripathi of Advocacy Forum remarked that, as recently as early 2012, he had spoken to victims from remote areas who had had no idea the IRP even existed. Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012. An ICTJ questionnaire determined that 33.5 percent of victims surveyed did not know about the program. ICTJ, *From Relief to Reparations,* 19.

reach to far flung districts or the illiterate."[275] Advocacy Forum staff members in the mountain region of Dolakha said, "In most villages, there is no availability of newspapers and TV. . . . It is very difficult [for villagers to get information]."[276] A victim from Dolakha told IHRC that the government was neglecting "all the remote districts of Nepal."[277] A government official acknowledged that the IRP "hasn't been able to reach . . . remote parts of the country."[278] Reaching these areas is critical given that the nature of Nepal's armed conflict caused it to affect people in all corners of the country. Such gaps in awareness may have prevented some victims from applying for interim relief, or even from being placed on the official victim list.

Geography has created other roadblocks to interim relief. Victims must travel to their district capital to apply for aid and to access any granted funds.[279] A World Bank official told IHRC the use of banks to distribute interim relief has "ensure[d] that the identified beneficiary got the money" by requiring verification of the victim's identity.[280] An Advocacy Forum representative, however, explained that the distribution of money through a bank account has been "problematic for anyone not living in the district capital" because "there aren't banks in the villages" and the travel to district capitals can be lengthy and expensive.[281] According to Anjana Shakya, chairperson at HimRights, "For widows, [travel] is especially difficult because they really need a man to help them travel, but if they do have a man with them, people assume they are having sex with him."[282]

Ram Sunuwar, whose sister Maina was raped and killed during the armed conflict, received interim relief but found the process slow and complicated. He added, "Money only takes care of the outside. Inner pain and suffering is still there." Photograph by Neha Sheth

Bureaucratic Inefficiencies. Victims have also had to deal with procedural hurdles when applying for interim relief. Many victims remarked on the difficulty and complexity of the interim relief application process, which has been exacerbated by the low adult literacy rate of fifty-nine percent.[283] Ram Sunuwar, a victim who had received 200,000 NRS in interim relief at the time of his interview in November 2012, said, "Getting this money was really difficult—a very complicated process."[284] Another victim said, "It was

275 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.
276 Interview with Babita Karki and Rajendra Shrestha, Advocacy Forum, interview no. 11, Dolakha, January 16, 2010.
277 Interview with Dhan Kumar Thami, interview no. 54, Dolakha, January 17, 2010.
278 Interview with an undersecretary of the Office of the Prime Minister and Council of Ministers (name withheld), interview no. 35B, Kathmandu, November 6, 2012.
279 Interview with Uddhab Pokharel, Dolakha District Representative, INSEC, interview no. 19, Dolakha, January 17, 2010.
280 Interview with Roshan Darshan Bajracharya, Senior Economist, World Bank, and Jasmine Rajbhandary, Sector Specialist, Social Protection/Social Development, World Bank, interview no. 9, Kathmandu, January 8, 2010 (quoting Bajracharya). If the next-of-kin is a minor, the money is supposed to be held in the bank account until the beneficiary reaches the age of majority. Ibid.
281 Interview with Jitendra Bohara, Advocacy Forum, interview no. 12, Kathmandu, January 6, 2010. See also Interview with Uddhab Pokharel, Dolakha District Representative, INSEC, interview no. 19, Dolakha, January 17, 2010. One woman reportedly spent 51,000 NRS (US$585) traveling back and forth from her house to her local district headquarters to receive 100,000 NRS (US$1150) in interim relief. Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012. IHRC spoke with some victims who discussed the difficulty of traveling to and from the district capital; however, no one said it was prohibitively difficult.
282 Interview with Anjana Shakya, Chairperson, HimRights, interview no. 8B, Kathmandu, October 31, 2012.
283 See, e.g., Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012; Interview with Ram Chandar Sapkota, interview no. 20B, Kavre, November 3, 2012; Interview with Purnimaya Lama, interview no. 24B, Kavre, November 3, 2012. For literacy rate, see UNICEF, "Nepal: Statistics," http://www.unicef.org/infobycountry/nepal_nepal_statistics.html#67 (accessed January 23, 2013).
284 Interview with Ram Sunuwar, interview no. 18B, Kavre, November 3, 2012.

very hard preparing the documents. I needed help of lots of different people."[285] With limited help available from the government, victims unable to understand the system or fill out the paperwork have had to turn to family members,[286] fellow villagers,[287] or NGOs.[288]

After successfully filing an application, victims have still faced process inefficiencies. According to one member of civil society, the government would often only send part of the necessary amount of financial aid and would not explain why.[289] Local government officials have also criticized these delays. One member of the Kavre Local Peace Committee explained that the IRP process has sometimes taken years to distribute funds to an individual.[290]

Several victims told IHRC they experienced less difficulty when applying for the additional 200,000 NRS (US$2,300)—as opposed to the original 100,000 NRS (US$1,150)—provided by the interim government. Suraj Kumar Neupane, whose brother was killed by Maoists, said, "[Receiving] the [additional 200,000 NRS] was quite easy, especially compared to the first time."[291] Other victims echoed these sentiments.[292] Lekh Raj Gajamer, a member of the Kavre Local Peace Committee, explained that the second installment was easier to obtain because victims had already submitted all the required documents.[293] Some individuals, however, have had difficulty acquiring the additional 200,000 NRS. Shova Bhatta said, "When I was supposed to get this [additional relief], the bureaucrats treated me badly and said, 'All the money is gone. . . .' I ended up having to wait eight to nine months to get this money."[294]

Politicization and Corruption. Multiple victims and members of civil society told IHRC that the distribution of IRP funds has been highly politicized in many places.[295] The Local Peace Committees, which have been comprised of local political party members and have reviewed interim relief applications, have reportedly enabled party members to advocate for victims of similar affiliation.[296] An Advocacy Forum representative in Dolakha stated in 2010 that regardless of the party, those holding power tended to give "only to [their] party members."[297] Nav Raj Adikari, executive director of the Transitional Justice Resource Center, an NGO that promotes transitional justice in Nepal, told IHRC two years later that some relief funds have been distributed to false victims—often those with political connections.[298] A victim in Nepalgunj interviewed by IHRC said, "One person from my village who is still alive has received compensation from the government in the death category [despite not being deceased]. He got this because he is related to the Maoists."[299] By contrast, genuine victims lacking adequate political connections have sometimes struggled to receive

285 Interview with Manju Gautam, interview no. 22B, Kavre, November 6, 2012.
286 See, e.g., Interview with Gita Rasali, interview no. 63, Kavre, January 15, 2010; Interview with victim (name withheld), interview no. 29, Banke, January 10, 2010.
287 See, e.g., Interview with victim (name withheld), interview no. 48, Banke, January 12, 2010; Interview with victim (name withheld), interview no. 49, Banke, January 12, 2010.
288 See, e.g., Interview with victim (name withheld), interview no. 44, Bardiya, January 11, 2010.
289 See, e.g., Interview with Suman Adhikari, Conflict Victim Orphan Society, interview no. 14B, Kathmandu, November 2, 2012.
290 Interview with Lekh Raj Gajamer, Member, Kavre Local Peace Committee, interview no. 30B, Kavre, November 5, 2012. Officials in the Kavre District Administration Office agreed with this time frame. "The process should be completed in one to two months, [but] for some people it has taken . . . years." Interview with government officials (names withheld), Kavre District Administration Office, interview no. 33B, Kavre, November 5, 2012.
291 Interview with Suraj Kumar Neupane, interview no. 23B, Kavre, November 3, 2012. See also Interview with Suraj Kumar Neupane, interview no. 65, Kavre, January 19, 2010.
292 See, e.g., Interview with Ram Chandar Sapkota, interview no. 20B, Kavre, November 3, 2012; Interview with Purnimaya Lama, interview no. 24B, Kavre, November 3, 2012.
293 Interview with Lekh Raj Gajamer, Member, Kavre Local Peace Committee, interview no. 30B, Kavre, November 5, 2012.
294 Interview with Shova Bhatta, interview no. 28B, Kathmandu, November 4, 2012.
295 See, e.g., Interview with Raj Kumar Gautam, interview no. 29B, Kavre, November 5, 2012 ("Only those close to the parties . . . get compensation."); Interview with Purnaman Shrestha, interview no. 32B, Kavre, November 5, 2012 ("The people who get money are the people close to the high power."); Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012 ("[The] distribution of money to victims [is] very political.").
296 Interview with victim (name withheld), interview no. 41, Bardiya, January 11, 2010.
297 Interview with Babita Karki and Rajendra Shrestha, Advocacy Forum, interview no. 11, Dolakha, January 16, 2010.
298 Interview with Nav Raj Adikari, Executive Director, Transitional Justice Resource Center; Krishna Kandel, Board Member, Former Chair, Amnesty International Nepal; Deepak Pokharel, World Vision Advocacy Forum; and Claudia Maistrello, interview no. 1B, Kathmandu, October 29, 2012.
299 Interview with victim (name withheld), interview no. 34, Banke, January 12, 2010. IHRC could not confirm this allegation.

interim relief. According to Bhojraj Timalsina of INSEC Kavre, "civilians [in Kavre] without any affiliation with political parties" have not received compensation.[300] Even the distribution of scholarships has become tainted by politicization. Janak Rawat of Conflict Victims Society for Justice explained that children without political connections have sometimes been excluded from school rolls and thus have not received any scholarship money.[301]

Victims have reportedly also had to deal with corruption within the IRP process. Hari Tripathi, executive director of Advocacy Forum, alleged that some government officials have been siphoning relief funds from victims for their own personal gain.[302] Suman Adhikari of Conflict Victim Orphan Society also told IHRC about possible embezzling. "In some districts," she said, "some percentage of the [relief] money is taken by the political parties."[303] According to Nav Raj Adikari of the Transitional Justice Resource Center, these amounts sometimes rise to fifty percent of granted assistance.[304]

Two officials acknowledged to IHRC that politicization may have affected the IRP. A representative from Nepal's NHRC said, "Those who have political connections can get [interim relief] faster and in larger amounts."[305] An official from the Kavre District Administration Office said, "[S]ometimes the political parties give a recommendation, saying, 'This person was from our party and was killed.'"[306] Other members of the government, by contrast, have discounted claims of politicization or corruption. An undersecretary in the Office of the Prime Minister and Council of Ministers said, "[C]ivil servants are not biased. They are very committed to the needs of victims—committed to implementing laws and guidelines."[307] If the politicization and corruption claims of civil society and victims are true, however, they represent a major deficiency in IRP's ability to address adequately and meaningfully the needs and expectations of victims of the armed conflict.

Recommendations

While an important program that has provided assistance for thousands of victims to a degree, the IRP has been an inadequate mechanism for meeting many victims' needs and expectations. It has been deficient in the amount of financial aid and the process of distribution. It has not offered sufficient vocational training and employment opportunities, educational assistance, and medical care. The IRP has suffered from problems of access, due to its treatment of the disabled and female victims, limited reach especially to remote rural areas, bureaucratic inefficiencies, and politicization and corruption. The IRP is also scheduled to end in 2014 without provision for meeting long-term needs.

Guided by the needs and wants voiced by victims, the government should ensure that provision of assistance is more comprehensive going forward. First, the government of Nepal should, as quickly as possible, finish distributing the financial and in-kind assistance already promised under the IRP. This step will provide assistance for victims already entitled to it, including the next-of-kin of the deceased and disappeared, those disabled during the conflict, and those who were internally displaced or lost property due to the conflict. It will also help the IRP meet its stated goal of addressing the conditions and demands of victims and "making minimum services available on humanitarian grounds."[308]

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300 Interview with Bhojraj Timalsina, Kavre District Representative, INSEC, interview no. 17B, Kavre, November 3, 2012.
301 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.
302 Ibid.
303 Interview with Suman Adhikari, Conflict Victim Orphan Society, interview no. 14B, Kathmandu, November 2, 2012.
304 Interview with Nav Raj Adikari, Executive Director, Transitional Justice Resource Center; Krishna Kandel, Board Member, Former Chair, Amnesty International Nepal; Deepak Pokharel, World Vision Advocacy Forum; and Claudia Maistrello, interview no. 1B, Kathmandu, October 29, 2012.
305 Interview with representative (name withheld), NHRC, interview no. 37B, Kathmandu, November 6, 2012.
306 Interview with government official (name withheld), Kavre District Administration Office, interview no. 1, Kavre, January 19, 2010,
307 Interview with an undersecretary of the Office of the Prime Minister and Council of Ministers (name withheld), interview no. 35B, Kathmandu, November 6, 2012.
308 ICTJ Translation of IRP Guidelines, 1.

Second, the government should ultimately replace the IRP with a broader, long-term program, avoiding a break in assistance by continuing the IRP in a modified form until the new program is established. The new program and modified IRP should encompass victims of torture and sexual violence, who have experienced comparable suffering to other victims yet have been excluded to date. The programs should reevaluate the size of monetary payments in meaningful consultation with victims of the conflict. In addition, they should look to the future, by increasing educational support and vocational training opportunities, which will help make individuals more self-sufficient. They should also cover long-term medical care for psychological as well as physical wounds. The government should coordinate these material assistance efforts with any reparations mechanisms adopted by Nepal (see next chapter) to avoid gaps in or duplication of assistance.

Finally, the government should ensure greater access to its material assistance. It should provide all forms of assistance in a manner that takes into account the special circumstances of specific groups, namely the disabled and women. The government should also increase efforts to reach victims in remote areas of the country and to develop a more effective and less political process of distribution that does not unfairly favor certain individuals.

Even if government adopted the above recommendations, it never intended for the IRP to be the complete and final form of assistance to conflict victims.[309] For example, the program does not seek to deal with justice or truth at all. Therefore, a thorough analysis of Nepal's approach to victim assistance requires the examination of the proposed Commission of Inquiry on Disappeared Persons, Truth, and Reconciliation that appears in the next chapter.

309 Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012.

The Proposed Commission of Inquiry

While Nepal created the IRP as an immediate effort to meet some of the material needs of conflict victims, it has planned to respond to other needs through different mechanisms. The Comprehensive Peace Agreement calls for the formation of a truth and reconciliation commission that would have a broader scope than the IRP.[310] A joint secretary of MoPR said that victims' "expectations for justice and reparations have not been met . . . but these are things that must come from the [truth and reconciliation commission]."[311] The Interim Constitution obligates the government to form a disappearances commission as well as a truth and reconciliation commission.[312] Over the past several years, there have been multiple proposals for these two commissions in the legislature and a more recent proposal from the executive branch for a combined commission. As of July 2013, none of these options had been realized.

Despite setbacks, political and civil society leaders have continued to call for the formation of a commission or commissions.[313] With the appropriate mandate, resources, and legitimacy, such a body could serve as a valuable supplement to the IRP or a long-term material assistance program. In coordination with such programs, it could help extend material assistance to victims the IRP has not covered or has failed to reach in the form of reparations

310 Comprehensive Peace Agreement Held between Government of Nepal and Communist Party of Nepal (Maoist), November 21, 2006, http://reliefweb.int/report/nepal/full-text-comprehensive-peace-agreement-held-between-government-nepal-and-communist (accessed July 13, 2013), § 5(2)(5).

311 Interview with a joint secretary of MoPR (name withheld), interview no. 36B, Kathmandu, November 6, 2012. According to an undersecretary in the Office of the Prime Minister and Council of Ministers, the government is "waiting for the Commission" to address sexual violence and believes that any such investigations should "run through the Commission." Interview with an undersecretary of the Office of the Prime Minister and Council of Ministers (name withheld), interview no. 35B, Kathmandu, November 6, 2012.

312 Interim Constitution of Nepal, art. 33(q) and (s).

313 See, e.g., Ram Kumar Bhandari, "Alliance against Amnesty," National Network of Families of Disappeared and Missing Nepal, April 28, 2013, http://nefad.wordpress.com (accessed July 13, 2013); "Let TRC Try Conflict-Era Cases: Gajurel," *The Himalayan Times,* January 21, 2013, http://www.thehimalayantimes.com/fullNews.php?headline=Let+TRC+try+conflict-era+cases%3A+Gajurel&NewsID=362869 (accessed July 13, 2013); "Govt Must Form Credible TRC, Says NHRC," T*he Himalayan Times,* January 18, 2013, http://www.thehimalayantimes.com/fullNews.php?headline=Govt+must+form+credible+TRC,+says+NHRC&NewsID=362475 (accessed July 13, 2013); "Minister Shrestha Stresses on Need of TRC," *The Himalayan Times,* January 14, 2013, http://www.thehimalayantimes.com/fullNews.php?headline=Minister+Shrestha+stresses+on+need+of+TRC+&NewsID=361817 (accessed July 13, 2013); ICTJ, *Seeking Options for the Right to Truth in Nepal.*

that recognize the harm the warring parties inflicted.[314] It could also address non-material needs and expectations, such as justice and truth. An evaluation of the most recent proposal's ability to meet victims' needs and wants, however, illuminates several substantive and procedural concerns that could undermine a commission's potential. The government should adopt a commission(s),[315] but only if the body can address these concerns by having certain powers, being sensitive to victims' interests, following a fair and effective process, and being designed in consultation with victims and civil society.

Overview and Current Status

The founding documents of Nepal's post-conflict government mandate the establishment of bodies to deal with transitional justice issues. As part of the negotiated ceasefire, the 2006 Comprehensive Peace Agreement requires the parties specifically to form a truth and reconciliation commission.[316] The 2007 Interim Constitution calls for the formation of both a truth and reconciliation commission and a commission to investigate disappearances.[317]

Through early 2012, the Nepal Constituent Assembly debated bills to create two separate commissions.[318] The government claimed the bills incorporated many recommendations that had emerged from community consultations although the bills were criticized for being drafted without more engagement with victims.[319] The mandate of the proposed Truth and Reconciliation Commission was to investigate gross human rights violations, make reparations to victims, "end impunity," and "create an environment of conciliation," while the mandate of the proposed Disappearances Commission was to investigate disappearances, make reparations to the families of the disappeared, and "punish" those responsible for the disappearances.[320] The major political parties had reportedly almost reached a deal to combine the bills into one commission, but the bills were still pending when the Constituent Assembly dissolved on May 27, 2012.[321] Without a legislature to pass them, as of July 2013, these bills remained frozen.

After the dissolution of the Constituent Assembly, the caretaker government operated by ordinance.[322] On August 28, 2012, the Council of Ministers forwarded Ordinance 2069 to the president of Nepal, seeking approval to establish a combined Commission of Inquiry on Disappeared Persons, Truth, and Reconciliation (the Commission).[323] On March 14, 2013, Nepal's interim president approved the Ordinance. Only two weeks later, however, on April 1, 2013, a justice on Nepal's Supreme Court ordered a suspension of the Ordinance, pending further review.[324] The suspension order was in response to a petition brought by a coalition of victims' organizations. The petition confirms that victims' groups want a truth commission, but it challenges proposed amnesty and forced reconciliation provisions in the Ordinance and calls for deeper consultation with victims and civil society regarding the terms of the Commission.[325]

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314 This report uses the term "assistance" to encompass both reparations in acknowledgement of wrongdoing and relief to victims of armed conflict for humanitarian purposes.
315 This report does not take a stand on whether there should be one commission or two.
316 Comprehensive Peace Agreement, § 5(2)(3)-(5).
317 Interim Constitution of Nepal, art. 33(q) and (s).
318 Nepal Secretariat of Legislative Parliament, A Bill Made for Making Provisions Related to a Truth and Reconciliation Commission (unofficial translation), § 25(2) (hereinafter TRC Bill); Nepal Secretariat of Legislative Parliament, A Bill Relating to Providing for the Disappearances (unofficial translation), § 6 (hereinafter Disappearances Bill).
319 Interview with Sadhu Ram Sapkota, Joint Secretary, Information and Communication Division, MoPR, interview no. 5, Kathmandu, January 20, 2010; ICTJ, *Seeking Options for the Right to Truth in Nepal,* 10.
320 TRC Bill, preamble; Disappearances Bill, preamble.
321 Ananta Raj Luitel, "Government Preparing for TRC through Ordinance," *The Himalayan Times,* June 29, 2012, http://www.thehimalayantimes.com/fullNews.php?headline=Govt+preparing+for+TRC+through+ordinance&NewsID=337671&a=3 (accessed July 13, 2013).
322 Interim Constitution of Nepal, art. 88.
323 Ordinance 2069, § 24(1).
324 International Justice Resource Center, "Truth and Reconciliation Commission for Nepal Continues to Face Criticism," April 9, 2013, http://www.ijrcenter.org/2013/04/09/flawed-truth-and-reconciliation-commission-for-nepal/ (accessed July 13, 2013).
325 Petition Filed in the Supreme Court of Nepal, "Pray to Promote Transitional Justice by Issuing an Order of Certiorari Mixed Mandamus," March 24, 2013 (hereinafter Supreme Court petition, March 24, 2013). See also Bhandari, "Alliance against Amnesty."

Ordinance 2069's proposal closely resembles the Constituent Assembly bills, the major differences being that the Ordinance combines the two commissions into one and grants greater amnesty powers. As a result, much of the discussion in this chapter could apply to those bills as well. Commentators have said that in some way a merged body reduces redundancy, but in other ways the proposed institution is a step backwards.[326] This report focuses its analysis on the Ordinance 2069 Commission because it is the most recent version on the table. It critiques the Ordinance according to the needs and expectations of conflict victims, highlighting issues that the series of recent proposals has raised.

Addressing Victims' Material Needs and Expectations

The Ordinance 2069 Commission would have the potential to help address victims' continuing needs and wants for financial and in-kind assistance by making recommendations to the government to provide monetary reparations, as well as free education and health care, skills trainings, loans, housing, and employment.[327] The assistance would be allocated specifically to victims of serious human rights violations, defined as any of the following acts

> carried out systematically or targeting [an] unarmed person or civilian population:
>
> 1. Murder
> 2. Abduction and hostage taking
> 3. Disappearance
> 4. Causing deformities or disablement
> 5. Physical or mental torture
> 6. Rape and sexual violence
> 7. Looting, seizure, breaking or arson of private or public property, or
> 8. Forceful eviction from house and land or displacement by any other means, or
> 9. Any types of inhuman act committed against international human rights or humanitarian law or other crimes against humanity.[328]

The Commission's jurisdiction would cover violations committed during the armed conflict between February 13, 1996 and November 21, 2007.[329]

The Ordinance 2069 Commission could help provide more material assistance for additional categories of victims. Unlike the IRP, the Commission would cover victims of torture and sexual violence.[330] It could also recommend further aid for education, vocational training, and health care and new in-kind assistance opportunities, such as housing and psychosocial support.[331] All of this assistance would be granted, not for humanitarian purposes, but as reparations in recognition of the unlawful acts perpetrated against victims by the former government or the Maoists. It would thus offer an added benefit to victims who have sought acknowledgment of the harm they suffered as well as the fulfillment of their material needs.[332]

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326 See, e.g., ICTJ, *Seeking Options for the Right to Truth in Nepal,* 1. This ICTJ briefing paper provides a detailed analysis of the proposals for both separate and joint commissions through the lens of the right to truth. ICTJ's critiques overlap in some respects with those of IHRC, which are based on victims' needs and expectations.
327 Ordinance 2069, § 24(1)-(2).
328 Ibid., § 2(j).
329 Ibid., § 2(n).
330 Ordinance 2069 includes "physical and mental torture" and "rape and sexual violence" in the mandate of violations the Commission should investigate. Ibid., § 2(j).
331 Ibid., § 24(2).
332 For a compelling case for Nepal to adopt a reparations mechanism, see ICTJ, *Relief, Reparations, and the Root Causes of Conflict in Nepal*.

The Ordinance is silent, however, on whether the Commission's recommendations on reparations would be binding on the government, which could diminish the body's effectiveness in meeting victims' needs. Other bodies that have relied on the government to implement recommendations have found it is not always compliant. The NHRC (an independent constitutional body with the power to investigate the "violation or abetment of violation of the human rights of any person or a group of persons"[333]) has depended on the government to execute its recommendations, but the government has often failed to do so.[334] This pattern raises concerns that the Commission as proposed would experience similar obstacles. Indeed, the NHRC has criticized the Ordinance's weak provisions on implementation and called for it to "ensure . . . implement[ion of] the recommendations made by the transitional justice mechanism."[335] Unless the Commission has the power to require the government to act or the Commission has designated funding to ensure its recommendations are implemented, the body's ability to meet victims' needs could be at the mercy of the political will of government officials.

Addressing Victims' Non-Material Needs and Expectations

Ordinance 2069 grants the Commission authority to promote justice and engage in truth finding. Because the IRP was not designed to meet victims' non-material needs and expectations, as of July 2013, they remained largely unfulfilled. The Commission represents a potentially valuable tool to fill that gap, but as proposed it falls short.

Justice

The Ordinance 2069 Commission would have the mandate to investigate the serious violations of human rights defined above.[336] It would be able to recommend prosecution[337] or "undertak[e] reconciliation" of perpetrators and victims.[338] In doing the latter, it "may ask" a perpetrator to apologize to a victim and require the perpetrator to pay compensation.[339] In addition, the Commission "may, if deemed reasonable," recommend amnesty for a perpetrator.[340] To apply for amnesty, a perpetrator would have to reveal the truth of his or her deeds during the armed conflict and write a letter of repentance to the Commission.[341] While supportive of a commission in theory, critics have described the proposed Commission as a "veneer of justice" and stated that it "serves to protect perpetrators of human rights violations rather than support victims' needs for truth and justice."[342]

Ordinance 2069 does not fully address victims' calls for justice in the form of prosecution in several ways. For example, it does not grant the Commission the power to require prosecution of a perpetrator. Instead, it would only be able to recommend that the attorney general consider prosecution.[343] A coalition of NGOs explained that, as a result, "[t]he final decision on whether to prosecute can be made only by the attorney general, a political appointee

333 Interim Constitution of Nepal, art. 132(2)(a). See also NHRC Nepal "Introduction," http://www.nhrcnepal.org/nhrc_about.html (accessed January 22, 2013).
334 According to one NHRC representative, the problem has been more significant regarding recommendations for prosecution. "Despite the strong recommendations of NHRC to bring the perpetrators to justice, the Government has granted amnesty and withdrawn hundreds of cases of from the court. Legally speaking, NHRC recommendations are mandatory to the Government; however, nearly 17% of total recommendations are not respected by the Government in reality." Email from representative (name withheld), NHRC, to IHRC, June 21, 2013. If the Commission were unable to enforce recommendations for justice, it could have the same kind of trouble ensuring the government heeded its recommendations for reparations.
335 NHRC, "NHRC Comments on TRC Related Ordinance–2069," *e-Newsletter,* vol. 9, issue 3, March 2013, http://reliefweb.int/sites/reliefweb.int/files/resources/e-NewsletterVol9-Iss3.pdf (accessed July 13, 2013), 4.
336 Ordinance 2069, § 13(1)(a).
337 Ibid., § 29(1).
338 Ibid., §§ 22, 13(1)(b).
339 Ibid., § 22(2)-(3).
340 Ibid., § 23(1).
341 Ibid., § 23(3) and (5).
342 Asian Centre for Human Rights, Human Rights Watch, International Commission of Jurists, and TRIAL, "Nepal: Truth & Reconciliation Law Betrays Victims," press release, March 22, 2013, http://www.hrw.org/node/114432 (accessed July 13, 2013); Bhandari, "Alliance against Amnesty."
343 Ordinance 2069, §§ 25(3), 29.

of the government, instead of an independent entity."[344] This process is worrying because Nepal's criminal justice system has failed to address ongoing impunity for serious crimes committed during the armed conflict, largely due to a lack of political will.[345] The provision is also problematic because while the threat of prosecution may interfere with perpetrators' willingness to come forward with the truth about wartime incidents, the Ordinance provides no guarantee prosecution will go forward. The potential for impunity could affect not only victims who participated in the Commission's process, but also those who did not because it would give the latter little incentive to turn to the Commission for help.

Furthermore, although reconciliation is a worthy goal, it can undermine justice if it is used to prevent accountability. Ordinance 2069 allows the Commission to compel victims to reconcile with perpetrators; neither party need request reconciliation and victim consultation is optional.[346] The Ordinance also fails to clarify the definition and implications of "reconciliation." A forced process might not lead to true reconciliation, and the lack of specifics leaves open the possibility that a unilateral decision by the Commission to create reconciliation could prevent victims from pursuing prosecution if that were their preferred course. A coalition of NGOs "expressed concern about the Ordinance's heavy emphasis on reconciliation at the possible expense of justice for victims."[347] Hari Tripathi of Advocacy Forum said that until perpetrators of serious crimes are held accountable in some way other than a simple letter of repentance and apology, reconciliation is "useless, meaningless."[348]

Finally, the amnesty powers that Ordinance 2069 grants are too great and could promote impunity. The Constituent Assembly bills, following recommendations from civil society, included a list of crimes—murder committed after taking control of a person or committed in an inhumane manner, enforced disappearance, rape, and cruel and inhumane torture—that would not be eligible for amnesty.[349] This provision has been omitted from Ordinance 2069.[350] Instead, using characteristically vague language, the Ordinance says the Commission would be able to grant an amnesty if it is "deemed reasonable."[351] It then prohibits amnesties for "serious crimes which lack sufficient reasons and grounds for granting amnesty following the investigation of the Commission, including rape," but it fails to define "serious crimes" and leaves uncertainty particularly about whether the provision encompasses disappearance and torture, which are not criminalized in Nepal.[352] To grant amnesty for international crimes contravenes both the Nepali Supreme Court's decision in the Dhakal case[353] and international law.[354] The Commission would also not be required to consult the victim before making a decision on amnesty, again ignoring victims' points of view.[355]

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344 Asian Centre for Human Rights et al., "Nepal: Truth & Reconciliation Law Betrays Victims."
345 "The apparent lack of political will on the part of the Nepali authorities and the political parties to prosecute those who may have been responsible for serious violations of human rights and international humanitarian law committed during the conflict has only encouraged further serious violations and risks continuing to do so." OCHCR, *Nepal Conflict Report 2012,* 28.
346 Ordinance 2069, § 22(1) and (5).
347 Asian Centre for Human Rights et al., "Nepal: Truth & Reconciliation Law Betrays Victims." For further criticism for forced reconciliation, see Bhandari, "Alliance against Amnesty."
348 Interview with Hari Tripathi, Executive Director, Advocacy Forum, and Janak Rawat, Conflict Victims Society for Justice, interview no. 3B, Kathmandu, October 30, 2012.
349 TRC Bill, § 25(2); Disappearances Bill, § 6.
350 Interview with Govinda Sharma, Supreme Court advocate, interview no. 27B, Kathmandu, November 4, 2012. See also Interview with Hari Phuyal, Supreme Court advocate, interview no. 38B, Kathmandu, November 6, 2012.
351 Ordinance 2069, § 23(1).
352 Ibid., § 23(2); NHRC, "NHRC Comments on TRC Related Ordinance–2069," 4.
353 The Supreme Court directed the government to criminalize enforced disappearance as a non-amnestiable crime. *Rabindra Prasad Dhakal on behalf of Rajendra Prasad Dhakal v. Nepal Government, Home Ministry and Others* (Case No. 3775/2055 / 1 June 2007).
354 This obligation is found in both international humanitarian law and international human rights law. See, e.g., Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 6 U.S.T. 3516, adopted August 12, 1949, entered into force October 21, 1940, art. 146; International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, adopted December 16, 1966, entered into force March 23, 1976, art. 2; Convention against Torture, art. 12. Nepal is a party to each of these conventions.
355 Ordinance 2069, § 23(3).

The Commission's amnesty powers have attracted widespread criticism from civil society, victims' organizations, and the NHRC. For example, in an NGO coalition statement, a representative of the International Commission of Jurists said, "Amnesties for serious rights violations are prohibited under international law and betray the victims, who would be denied justice in the name of political expediency."[356] The NHRC commented that the Commission was "inclined more towards blanket amnesty rather than justice deliver[ed] to the victims."[357] Such concerns about amnesties were highlighted in the petition that led the Supreme Court to suspend Ordinance 2069 until further review.[358]

Truth

The Commission Ordinance makes some provision for the finding of truth related to both individual cases of abuse and the root causes of the conflict. The Commission could help facilitate that process because it would have the option to grant amnesty to perpetrators who "express the details of the truth and facts to the full extent of his/her knowledge."[359] In addition, the Commission would have investigatory powers similar to a national court, such as the power to subpoena documents and witnesses, to carry out or direct others to perform on-the-ground investigations, and to procure the services of experts.[360] It could summon witnesses and record testimonies, order the submission of documents, and hold witnesses in contempt.[361] It could demand suspension of government officials who were undermining the investigation.[362] It could take measures to protect witnesses and reimburse their

Civilian victims need to know the truth about what happened to them or their family members, as indicated by this Nepali Times *headline. A new truth, reconciliation, and disappearances commission could help provide that information, but only if there is political will to back its work. Photograph by Rebecca Agule*

356 Asian Centre for Human Rights et al., "Nepal: Truth & Reconciliation Law Betrays Victims."
357 NHRC, "NHRC Comments on TRC Related Ordinance–2069."
358 Supreme Court petition, March 24, 2013. See also Bhandari, "Alliance against Amnesty." Bhandari's organization, the National Network of Families of Disappeared and Missing Nepal, was one of the petitioners.
359 Ordinance 2069, § 23(5). The Commission would also have to document the details that the perpetrator presented. Ibid.
360 Ibid., § 14.
361 Ibid., §§ 14-16.
362 Ibid., § 14(4).

expenses.[363] It would be required to submit a final report that not only details what cases it has covered and dismissed, but also what it has learned about the underlying reasons behind the conflict.[364]

These provisions hold promise for addressing victims' calls for truth, but limitations exist. The amnesty provision is vague: for example, it is not explicit about how the Commission would determine that the truth offered by perpetrators was legitimate. As a result, the provision does not guarantee truth will emerge in exchange for an amnesty, which may perpetuate impunity. Furthermore, implementation would still require government cooperation, which might be difficult to come by given the government's track record. The government has often refused to cooperate with national courts that order the appearance of accused perpetrators under the government's control.[365] Even with these promising truth-finding tools, the Commission may not obtain political will to back them.

Two years is almost certainly not enough time to hear and resolve the needs and expectations of thousands of victims.

Overarching Procedural Concerns

Like the IRP, the Ordinance 2069 Commission raises procedural as well as substantive concerns, including a short timeframe to complete its work, potentially limited access to victims, a danger of politicization, and a lack of transparency. These concerns would interfere with the Commission's ability to fulfill its mandate effectively.

Insufficient Time and Limited Access

Under Ordinance 2069, the Commission would dissolve only two years after its creation,[366] or even earlier if two-thirds of the legislature approved.[367] Two years is almost certainly not enough time to hear and resolve the needs and expectations of thousands of victims.

Foreseeable problems with access to victims would exacerbate the problems the already short timeframe causes. Many victims are "in rural areas, highly marginalized, and illiterate."[368] Furthermore, several of the remote areas of Nepal are difficult to access for large parts of the year. The Ordinance lacks any requirement for the Commission to make district visits or open satellite offices in remote areas, raising concerns that the same access issues the IRP experienced would be repeated for the Commission and that many victims would be excluded.

Politicization

Politicization is one of the greatest dangers any proposed commission faces, and Ordinance 2069's appointments process fails to minimize this danger. The members of the Commission would be chosen by a Recommendation Committee, comprised of (1) a former chief justice of the Supreme Court, chosen by the government; (2) a member of civil society, chosen by the government; and (3) the chairperson of the NHRC or his representative.[369] That

363 Ibid., § 17.
364 Ibid., § 27(1)(e). 365 Advocacy Forum, *Held to Account: Making the Law Work to Fight Impunity in Nepal,* December 2011, http://www.advocacyforum.org/downloads/pdf/publications/impunity/held-to-account-nov-30-2011-english-version.pdf (accessed July 13, 2013), 13-14.
366 Ordinance 2069, § 35(1).
367 Ibid., § 36(2).
368 Interview with Ram Kumar Bhandari, National Network of Families of Disappeared and Missing Nepal, interview no. 15B, Kathmandu, November 2, 2012.
369 Ordinance 2069, § 3.

the government would choose two of the three Recommendation Committee members is troubling, considering many of those serving in government after the armed conflict are accused perpetrators.[370] The Maoist party originally opposed the foundation of commissions, but it quickly proposed Ordinance 2069 once in power. Some commentators worry that this switch may reflect the Maoists' intention to use power over the Commission members to provide their members with quick amnesties.[371] Indeed, Nepal's history of politicized ad hoc tribunals suggests this fear is a real danger.[372]

Lack of Transparency

The lack of certain mandated transparency mechanisms raises concerns about whether victims will have access to the information necessary to achieve justice and truth. The Ordinance requires the Commission to be open and transparent,[373] but it makes the holding of public hearings discretionary.[374] While the Commission could justifiably keep confidential information that would threaten the safety of victims or witnesses, as proposed, its discretionary powers are not limited to such narrowly defined circumstances.[375]

Furthermore, the Ordinance does not guarantee the Commission's findings would be released. The Ordinance leaves the decision of whether to "publicize details related to its activities from time to time" up to the Commission.[376] In addition, the Ordinance does not ensure that the Commission's final report will be made available to the people of Nepal. While it requires the Commission to submit its report to the government, which must pass it on to the legislature within two months, it does not specify if or when the report will be disseminated to the public.[377]

Recommendations

Because the full range of victims' needs and expectations have not and cannot be met through the short-term IRP alone, a commission on truth, reconciliation, and disappearances would serve as a valuable supplement if designed effectively. It could provide additional material support in the form of reparations that acknowledge the serious violations of international law victims suffered. It could also address non-material needs, such as justice and truth. A victim-centered analysis of Ordinance 2069, however, illuminates several potential shortcomings that would interfere with its fulfilling its promise, including provisions that could perpetuate impunity, uncertain systems for uncovering the truth, the potential for politicization, and flawed procedural mechanisms. In addition, the Ordinance is repeatedly vague and often grants too much discretion to the Commission. Earlier proposals exhibit many of the same problems suggesting that they are endemic to the Nepal government's vi-

370 "Perpetrators are leading the transition. After eleven years, they are still in power and still being promoted." Interview with Ram Kumar Bhandari, National Network of Families of Disappeared and Missing Nepal, interview no. 15B, Kathmandu, November 2, 2012. The Supreme Court had to order the local police to investigate the killing of Arjun Bahadur Lama. In their first information report, the police named several Maoists as the perpetrators and Agni Sapkota as the one who gave the command to kill Lama. The police stated they could not find these perpetrators in their district. Two years later Sapkota served as Minister for Information and Communications and two other perpetrators were in the Constituent Assembly. OHCHR, *Nepal Conflict Report 2012*, 195-96.

371 Luitel, "Govt Preparing for TRC through Ordinance." See also Interview with representative (name withheld), NHRC, interview no. 37B, Kathmandu, November 6, 2012 ("The government wants to make the international community happy by forming the Commission, but they will just ask them to investigate, give a report, and then grant amnesty."); Interview with Suman Adhikari, Conflict Victim Orphan Society, interview no. 14B, Kathmandu, November 2, 2012 ("The Maoists really support the amnesty provisions.").

372 International Commission of Jurists, *Commissions of Inquiry in Nepal: Denying Remedies, Entrenching Impunity,* June 2012, http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/06/Nepal-Commissions-of-Inquiry-thematic-report-2012.pdf (accessed July 13, 2013), 2.

373 Ordinance 2069, § 19.

374 Ibid., § 18.

375 Ibid., § 19(2).

376 Ibid., § 19(3).

377 Ibid., § 27(3). See also ICTJ, *Seeking Options for the Right to Truth in Nepal,* 5, 10.

sion of a commission (or commissions). Regardless of whether it creates one or two commissions and does so through ordinance or statute, Nepal should eliminate these shortcomings in order adequately to meet victims' material and non-material needs and expectations.

Ultimately a commission should be viewed as part of a coordinated, long-term effort to provide victims with material and non-material assistance. It should be pursued expeditiously, but it should meet certain standards before adoption. Otherwise, the government could use it as an excuse to avoid taking more effective actions. For example, a commission should be given enough power to make a tangible difference. It should have the ability to require the government to implement recommendations, and the government should seek and set aside resources to implement its recommendations. A commission should seriously consider victims' perspectives when making decisions, including about reconciliation and apologies. It should not be allowed to grant amnesties that are inconsistent with international obligations and perpetuate impunity, especially without consulting victims. In addition, designers should develop a process that ensures the commission has enough time to complete its work, avoids politicization, and strives for accessibility and transparency.

Finally, the creation of a commission (or commissions) should involve widespread and meaningful consultations with victims and civil society. These groups can provide valuable input in how to deal with challenges in design, such as how to balance provisions on justice and truth. Victims can also clarify their needs and expectations to help guarantee the new body addresses them.

Next Steps

During Nepal's ten-year armed conflict, both parties brutally attacked civilians, perpetrating summary executions, enforced disappearances, torture and severe beatings, and rape. Tens of thousands of Nepal's citizens have continued to suffer the physical and psychological, economic and social effects of these atrocities. The government's immediate response, the IRP, has provided some assistance to victims, but it is winding down, leaving many of their needs unaddressed. To rectify the shortcomings of the IRP, the Nepali government should institutionalize a broader and longer-lasting plan. The plan should consist of comprehensive and integrated initiatives to address material and non-material needs of victims. It should include both the establishment of a long-term program for material assistance and the adoption of a commission (or commissions) on truth, reconciliation, and disappearances that meets certain criteria as soon as possible.[378]

The government of Nepal should extend and expand efforts to alleviate victims' material needs and wants. The Nepali government should continue the IRP in a modified form to facilitate distribution of the assistance already promised and to avoid a break in assistance while a better option is developed. The government should ultimately replace the IRP with a long-term, more complete program in order to address ongoing needs and expectations of victims and provide them with the tools to rebuild their lives for the future. This program should also help victims who have historically been denied interim relief—victims of torture and sexual violence—and increase the financial, vocational, educational, and medical assistance available.

378 The concerns with the proposed commission stand whether Nepal eventually decides to form one or two commissions.

A material assistance program should seek to ensure adequate access for victims. It should, for example, ensure that Nepali citizens are able to learn of, understand, and reap the benefits of the program. It should also include safeguards to protect against politicization and corruption. The IRP has helped many victims already, but in a new program, the government could create a more effective means by which to fulfill the material needs and wants of victims.

The government should coordinate the distribution of material assistance through such a program with any scheme for providing similar assistance through reparations, which would likely fall under the auspices of a truth, reconciliation, and disappearances commission(s). Coordination would help minimize duplication of efforts while helping ensure that no material needs are left unmet. Nepal should determine, in consultation with victims and civil society, from what source assistance should come and what form it should take.

The government should supplement its material assistance efforts with mechanisms that take on non-material post-conflict issues. The IRP was not designed to deal with these types of expectations, and they have been largely neglected. Whether adopted separately or jointly, the truth and reconciliation and disappearances commissions called for by the Comprehensive Peace Agreement and Interim Constitution could do much to address justice and truth. As discussed above, in conjunction with other programs, a commission could also provide financial and in-kind assistance as reparations that recognize the harm victims suffered.

The government of Nepal should strengthen existing proposals and overcome political gridlock to institute an effective commission (or commissions). A commission should be responsive to victims' desires and should avoid the substantive and procedural concerns Ordinance 2069 and the Constituent Assembly bills have raised. The government should ensure, for example, that the commission can require the government to implement its recommendations and that victims' wishes and the requirements of international law guide any reconciliation and amnesty measures. The government should also give the commission sufficient time to do its work, ensure access for victims, appoint members in a way that minimizes politicization, and mandate the commission maintain transparency. With the right commission, Nepal may finally be able to meet the full range of conflict victims' needs and expectations.

Any long-term plan to address material needs and desires for justice and truth would require significant resources. The Nepali government should therefore seek out willing donors in the international community to help defray the costs involved. Donors in turn should partner with the government of Nepal to fund this work. In doing so, however, donors should seek to ensure that such programs respond to the needs and wants of conflict victims.

Nepal's decade-long armed conflict left many victims in its wake. Seven years after the warring parties finally agreed to peace, individuals, families, and communities still feel the effects. The actions proposed here would help heal the wounds caused by the armed conflict and allow the people of Nepal to move another step forward with their lives.

During a ten-year armed conflict in Nepal, government and Maoist forces committed widespread atrocities against the country's civilians. The harm the warring parties inflicted has had lasting impacts, leaving victims with material needs, such as financial and in-kind assistance, and non-material needs, such as justice and truth.

This report assesses the government's response to this civilian harm according to the criteria of how well victims' needs and expectations have been or could be met. The report finds that the government's Interim Relief Program has failed to provide sufficient material assistance for many victims and has bypassed some groups of victims altogether. Furthermore, the program does not deal with long-term needs or give victims adequate tools to rebuild their lives.

A proposed truth, reconciliation, and disappearances commission is flawed as well. The body would not be required to give meaningful consideration to victims' wishes regarding reconciliation, and it could perpetuate impunity through its broad amnesty power. The commission as proposed would also have limited time to complete its work, lack transparency, and be vulnerable to politicization.

This report urges the government of Nepal to expand and extend its response to conflict harm. Nepal should create a more comprehensive and long-term assistance program to meet victims' material needs. In addition, it should design and adopt a commission that is informed by consultations with victims and civil society and has the power and resources to satisfy non-material expectations. To ensure implementation of these recommendations, the report calls on international donors to provide support for the initiatives.

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