

# REPARATIONS FOR SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE



## COUNTRY BRIEFING NEPAL

**Official Register of Survivors of conflict-related sexual violence (CRSV):** No.

**Official number of CRSV Survivors:** Officially, [308 CRSV complaints](#) have been filed with the Truth and Reconciliation Commission ([TRC](#)).

**Estimated Real Number of CRSV Survivors:** Up to 1,500-2,000.

**Domestic Legal Framework for Administrative Reparations Programme:** No, the [2008 Interim Relief Programme](#) does not include CRSV and torture survivors, nor does that programme constitute a reparations programme which should encompass measures of restitution, rehabilitation, satisfaction, and guarantees of non-repetition.

**Mechanism to implement Administrative Reparations Framework:** None of the aforementioned relief frameworks apply to CRSV survivors nor does the programme meet international standards for reparations. The TRC is mandated to investigate gross violations of human rights, including “*rape and sexual violence*” and to make “*recommendations on reparations*”. However, no hearing has been held and no final report has been issued.

**Domestic Avenues for Reparations through Courts:** Yes, but limited to rape and torture as ordinary crimes and no successful claims for CRSV (as an international crime) have ever been made.

**Approximate Number of Survivors having received any formal Reparations for CRSV:** 0

**Survivor Perception regarding state of Implementation of Reparations:** Survivors are disappointed at the lack of reparations and urgently call for a holistic approach to reparations to address the physical, psychological, social, and economic impacts of CRSV.

**Ongoing CRSV:** No, but non-conflict related sexual violence is ongoing and widespread.



## Nature and Scope of CRSV

Sexual violence was a common feature of the civil war in Nepal from 1996 to 2006. All branches of the military and police are alleged to have committed [acts of sexual violence](#) during the conflict. The Communist Party of Nepal (Maoist) and its military wing, the People's Liberation Army, are also alleged to have been responsible for many incidents of sexual violence.

[Sexual violence](#) included rape, gang rape, forced marriage, forced nudity, sexual torture, and sexual slavery. Largely due to a culture of silence around sexual violence, the exact number of victims is unknown, with estimates ranging from 300 to 1,500-2,000, the latter provided in interviews with government officials. Women were arrested and detained arbitrarily, sometimes for years, and some were forced into sexual slavery. In some instances, women were forced to marry the men who raped them.

Most incidents occurred in custody, although many were abused in their own homes or in public, usually at gun point. There are discernible patterns in the incidents of sexual violence, with security forces in particular targeting those living in poverty, indigenous peoples, and those believed to support the Maoists.

Many survivors of CRSV experienced other violations, such as torture, arbitrary arrest and detention, abduction, forced recruitment, and persecution. CRSV survivors also had family members killed, abducted, or forcibly disappeared. Like many other victims of the conflict, survivors of CRSV were also displaced, sometimes out of fear of violence or due to looting or the destruction of their homes.

### FACTS

It is said that 308 CRSV survivors are registered with the Truth and Reconciliation Commission.

Survivors are found in every province of the country and include victims of both government and Maoist forces.

Many were children when they suffered sexual violence.

Survivors represent a cross-section of educational backgrounds, religions, ethnicities, castes, and occupations.

Most victims come from low-income and marginalised populations, including indigenous communities.



## Harm caused to Survivors, Families and Communities

No aspect of survivors' lives remains untouched by CRSV. Although the war ended 15 years ago, survivors continue to report devastating consequences of the harms suffered including physical and psychological conditions, inability to support themselves and their children, and severe social stigmatisation.

The brutality of CRSV during the war resulted in serious and persistent physical injuries including torture-related physical trauma, gynecological symptoms, chronic pain, back problems, loss of vision or hearing, and other general ailments. Most survivors were young when the attack happened, but now their health is more *"fragile"* and doing *"heavy work"* is very hard or impossible, which further limits job options, as most involve physical labor. Consequences of past violations are worsened by the lack of available treatment.

Most survivors continue to suffer debilitating psychological symptoms including flashbacks, nightmares, anxiety, fear, difficulty sleeping, loss of self-esteem, social phobia, and other cognitive impediments such as forgetfulness or memory loss. Many survivors also suffered secondary trauma when family members were killed, abducted, or disappeared during the war. The cascading impacts of CRSV continue today. Survivors' social lives and community status continue to be disrupted by stigma, shaming by family, and ostracisation from communities. Some victims live as outcasts, estranged from their family, displaced from their homes, or facing domestic abuse.

Largely unacknowledged by the government and often blamed for what they have endured, there is no real possibility for survivors to move on. Many have been unable to continue their education after the CRSV, and given the lack of any coordinated skills-training program or other income-generating activities, survivors are particularly vulnerable to food scarcity. Natural events such as the 2015 earthquake or the COVID-19 pandemic only exacerbate these challenges and further prevent survivors from accessing a secure and dignified life.

CRSV in Nepal was fueled by strong patriarchal traditions rooted primarily in religion, as well as discrimination against children, women, and indigenous peoples based on class, ethnic, and caste-based distinctions that persist today. Strong cultural taboos around sexual violence and a continuing lack of accountability have impeded efforts to document events and continue to put survivors at risk of retaliation and ostracisation for speaking out. As a result, many CRSV survivors have stayed silent or have only reported other human rights violations.



## Survivors' Perspectives

### Needs and Expectations

CRSV survivors are still not fully recognised as conflict victims and are [excluded from the limited interim relief program](#) implemented by Nepal's government. In this context, survivors give high importance to reparations as the impact of the war remains very present in their daily lives, as does the demand for truth, justice, and redress. Survivors seek "multidimensional support" or "holistic reparations", which includes health care and economic assistance, but also truth and prosecutions. In ranking priorities, medical treatment remains a top concern, along with financial support (referred to as "regular income", "compensation", or "economic support"), educational support, and economic opportunity (described as "regular jobs" "income-generating activity" or "jobs with stable income").



Dodhara Chandari Suspension Bridge, Kanchanpur, Province 7 © ICTJ

Survivors also seek redress of the deep moral harms they have suffered, and restoration of the dignity they lost. Reparations for many includes the prosecution of perpetrators; formal recognition as conflict victims along with an apology, truth-telling, and measures to prevent a reoccurrence of future violence. Many of these measures are seen as a way of helping survivors reintegrating into their societies and addressing stigma. Survivors also seek "a safe space" where women can share their suffering with each other and perhaps speak to a counselor.

The desire for society to "understand" what happened and why is paramount for many survivors, as they are often blamed for the crime they suffered and face significant social stigma as a result. They hope to no longer be "blamed for being characterless" for an incident "which was not our mistake and choice." CRSV survivors who were associated with the Maoist movement also seek to be recognised for the contribution they made to bringing societal change. Responding to such demands would have the potential to prevent recurrence of similar violations, which is another hope expressed by survivors.

Time is of the essence for addressing these needs. After years of awaiting reparations, many survivors' hopes are low and their trust in government non-existent, as expressed by one survivor: "Actually, I don't have hope. Now we are almost at the age of our death. Until today, we haven't received any support...what is the use of providing this when we die? So, I don't have any hope. They should have given us compensation...They just left us alone."



## Survivors' Initiatives

For most sexual violence victims in Nepal, speaking publicly about their experience is not an option. A few had no choice because the crime occurred in a public place in front of witnesses. In some instances, family members or neighbors discovered what happened after noticing resulting physical injuries. Several have tried to file a formal complaint with the police but were denied that right and have [sought a remedy before the UN Human Rights Committee](#), under a pseudonym.

Most survivors are just trying to get by and to mitigate the harms suffered. For many, this includes keeping silent to avoid the stigma and discrimination against CRSV victims in Nepal. As a result, few survivors advocate for their rights as CRSV survivors, preferring to join with other types of conflict victims to advance initiatives in support of reparations and other transitional justice measures in respect of other violations of international human rights and humanitarian law, including torture, enforced disappearance, and killing.

Wider conflict-related victims have established various victim associations including the Conflict Victim's Common Platform – Nepal (CVCP), the Conflict Victim's National Alliance (CVNA), the Conflict Victim Women National Network (CVWN), the National Network of Families of Disappeared and Missing Nepal (NEFAD), the National Network of Disabled Conflict Victims (NNDCV), and the Conflict Victims' Society for Justice (CVSJ-Nepal). For years, these organisations have worked at the grassroots level to advocate on behalf of conflict victims, some including CRSV survivors' and have spearheaded efforts to advance transitional justice, including reparations across Nepal's conflict-affected districts, despite not being consulted by the government. Initiatives of some of these associations include international engagement, domestic litigation, research, advocacy and memorialisation.



## Reparations

### IN THEORY

Nepal has an obligation to provide reparations to victims of international human rights and humanitarian law violations under several international treaties including the [1949 Geneva Conventions](#), the [International Covenant on Civil and Political Rights](#) and the [Convention Against Torture](#). In 1996, Nepal also passed the [Compensation Relating to Torture Act](#) which allows victims to file a compensation request but does not provide for criminal accountability.

Nepal also committed to redress the wrongs of the war in the Comprehensive Peace Agreement reached in 2006, which states that “impunity will not be tolerated” and provides rights to relief for victims of conflict, torture, and the families of the disappeared.

The [Truth and Reconciliation Commission](#) (TRC), established in 2015, is mandated to find the truth about violations that occurred during the war, and to make recommendations on reparations. The commission recognises sexual violence and rape as a gross violation of human rights, but the act which created the TRC does not meet international standards and some of its provisions, including those relating to amnesties, have been [found unconstitutional by Nepal's Supreme Court](#).

### IN PRACTICE

Despite commitments to repair the harm done to CRSV survivors, the government of Nepal has consistently fallen short or failed entirely. Operations at the TRC have been stalled intermittently for years, and there is little hope it will ever release a final report regarding conflict-era violations, including CRSV. Even if a final report were issued, many survivors would likely be excluded as many were not able to file complaints due to the TRC's evidence requirements and lack of sensitivity measures during the collection of claims.

The [2008 Interim Relief Program](#), which provided benefits primarily to relatives of those killed or disappeared and internally displaced, excludes victims of CRSV and torture. While some survivors were eligible to participate as victims of other violations, many did not because of poor outreach, faulty data collection, politicisation, insufficient funding, and a lack of coordination. Similarly, CRSV survivors have not been eligible for other government relief and rehabilitation programs for victims of the war or under the [Compensation Relating to Torture Act](#).

There has been no meaningful accountability in Nepal for any crimes committed during the conflict, including those involving sexual violence. A few CRSV cases have come before Nepal's domestic courts and the UN Human Rights Committee, but none have ended in convictions or meaningful sentences.

Civil society has filled some of these gaps by providing legal, psychosocial, and rehabilitation support.

*"I have a hope to be established in my community. I want to initiate small programs to support my community. Local government should allocate a budget to help us. I also hope to do some small business together with other women."*

A CRSV Survivor



## Opportunities

The Nepalese government has been in an extended period of political crisis that began in early 2020. Over the course of 2020 and 2021, Parliament was dissolved twice and the Supreme Court has stepped in several times to attempt to resolve disputes between contending political parties. On July 12th 2021, the Supreme Court installed Sher Bahadur Deuba as prime minister, resolving the leadership battle, at least for the time being. The current coalition government has formed a taskforce to prepare a Common Minimum Program that prioritises, among other things, settling outstanding issues of truth and reconciliation, including by [amending](#) the [2014 TRC Act](#), and strengthening operations at the TRC. The tenure of the country's two transitional justice bodies, the TRC and the [Commission of Investigation on Enforced Disappearance](#) is due to expire in July 2022 unless extended.



## Key Challenges

- Lack of political will to advance reparations policies for conflict-affected victims, including CRSV and torture survivors.
- Insufficient resourcing of institutions responsible for advancing truth, justice, and redress in Nepal.
- Insufficient capacity to carry out victim-centered processes, especially in a gender-sensitive way that is sensitive to the particular vulnerabilities faced by CRSV survivors.
- Lack of trust in the government's ability to administer a reparations program in a way that is sensitive to survivors' needs and avoids retraumatisation.
- Fear of breaches of confidentiality in any process of registration or provision of reparations undertaken by government.
- Requirement to provide proof of the CRSV long after the event.
- Inaccuracies in the TRC's existing database of complaints.
- Literacy rates and the cost and length of domestic travel to participate in any reparations programme.

*"That incident should not have happened to me. I would have learned something and done something in life. When it was my age to do things that incident happened to me. Now no matter how much I try I can't change it and I can't do anything in life. I feel guilty about it. I don't know how I will look after my child. I am getting old every day and I can't do any work because of my physical limitations".*

A CRSV Survivor



## Recommendations

- Provide a permanent and comprehensive package of reparations on an expedited basis. This should include financial support, free health care, educational scholarships, discounted or subsidised services, and reimbursement of medical expenses; income-generating opportunities, including employment or business funding; psychosocial support; measures of acknowledgment; creating 'safe spaces' where survivors can meet, share their stories, and support one another; and initiatives for learning the truth about what happened during the war and raising awareness among Nepali society.
- Amend the 2014 TRC Act to remove blanket amnesties for gross human rights violations, accept statements by CRSV survivors as sufficient to file a case with the TRC, remove time limitations on filing cases related to sexual violence during the war, amend the definition of rape and other forms of sexual violence in accordance with international standards and codify rape as a crime against humanity.
- Ensure accountability for those who committed the crimes.
- Immediately lay the groundwork for a future reparations policy by taking the following preparatory steps:
  - Promote community understanding of CRSV in coordination with and assistance from civil society by facilitating a national dialogue on sexual violence and conducting awareness campaigns to end all forms of sexual violence and make clear that CRSV was a crime and not the fault of the victim.
  - Arrange for an official public apology to survivors from the Prime Minister or other high-level party representatives, including from the Maoist party, and commanders of the security forces.
  - Undertake consultations with civil society organisations working with CRSV survivors to explore approaches for confidentially reaching out to and registering CRSV victims.
  - Hold roundtable discussions with civil society organisations to discuss the feasibility of consolidating existing databases and lists of CRSV victims for a future reparations program.
  - Initiate training programmes for officials and staff at the TRC and in government offices, including at local level, to keep personally identifiable information obtained from victims, their families, witnesses, and sources confidential and to prevent re-traumatisation.
  - Reopen the application process for filing complaints with the TRC to allow victims who have not filed to do so and allow CRSV victims who have already filed to amend their complaints if they did not include CRSV violations.



Women with candle © Nagarik Aawaz



## Next Steps

Urgent action by the international community, Nepalese civil society organisations, and State authorities is needed to assist, support and sustain survivors' efforts to obtain the implementation of the above recommendations and achieve recognition and effective reparation. These include:

- Provide additional support to survivors, survivor groups, and civil society to advocate for reparations and to encourage broader membership in survivors' organisations and in future processes on reparations, especially for CRSV victims.
- Conduct research with survivors' groups and civil society organisations working with survivors to determine best practices for providing reparations on a confidential basis consistent with social dynamics in local communities.
- Support a mapping of LGBTQI+ victims of CRSV as they are underrepresented among victims.

