

NEPAL: LANDMARK CONFLICT ERA RAPE CASE FILED WITH UN

For immediate release

19 December 2012– Marking calls to end violence against women and to increase women’s access to justice made on International Human Rights Day, and the 16 days of Activism against Gender Violence, Advocacy Forum and REDRESS today filed a landmark case on sexual violence before the United Nations Human Rights Committee.

The case has been brought by Purna Maya (name changed to protect her privacy), a victim of multiple rapes by Nepali soldiers, after she failed to achieve justice in Nepal.

Her lawyers have asked the Committee to find Nepal responsible for the torture she suffered. In a significant move to the hundreds of other victims of rape during the 1996-2006 conflict, her lawyers also called on the Committee to find that a 35-day limitation period on bringing complaints of rape to police is discriminatory, and in violation of Nepal’s human rights obligations.

Purna Maya was dragged from her home to army barracks and raped by at least four soldiers in 2004, before being dumped on the street suffering severe injuries. Despite notifying officials about the crime and identifying at least one of the alleged perpetrators in 2006, there has been no investigation more than six years on.

In 2011 her lawyers and number of Nepali women’s rights organisations were barred from lodging a complaint with the police because of a law which states that complaints must be brought to the police within 35 days of the rape. An appeal to the Supreme Court calling for the registration of the case failed, leaving the victim without any remedies.

“This case concerns one victim, but highlights the experiences of the hundreds, if not thousands, of victims of sexual violence during the conflict in Nepal”, said Mandira Sharma, Chair of the NGO Advocacy Forum Nepal, which represents Purna Maya.

“Victims of horrific abuse have for too long been ignored, by both the state and society, leading to a situation of complete impunity for rape and other sexual violence that shows no respect for the rights of women and girls”, Sharma said.

“Despite their urgent medical and psychological needs, victims of sexual violence from the conflict have not even benefited from the limited support given by payments under the government’s Interim Relief packages – they have been marginalised from the peace process”, added Sharma.

“The failure to respond to these cases is a serious breach of international human rights law,” emphasised Sarah Fulton, a lawyer at the international NGO REDRESS, which worked with Advocacy Forum in bringing the claim. “It is clearly established that rape can amount to torture

under international law. There should be no limitation period on bringing complaints for crimes amounting to torture.”

“Even worse, by maintaining a barrier to prosecuting rape which does not apply to other crimes, and by its complete inaction on conflict-era sexual violence, Nepal is guilty of discrimination against women, which is contrary to the most basic of human rights principles”, Fulton continued.

According to Dr. Hari Bansh Tripathi, Director of Advocacy Forum, the Government should not wait for the Committee to make a finding as to whether Nepal is responsible for a violation of its obligations under the International Covenant on Civil and Political Rights. Rather, it should use this unique opportunity to take action long overdue to address the legacy of impunity for rape and sexual violence.

“If it wants to show it is genuine, the Government of Nepal must begin to investigate and prosecute these cases now, and provide support to the victims to help them put their lives back together. The Supreme Court has already found that the 35 days limitation restricts women’s access to justice and has ordered the government to amend the law. This jurisprudence clearly provides legal grounds for authority to investigate,” says Dr. Tripathi.

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Background

Nepal was locked in internal conflict between government forces and Maoist rebels from 1996 to 2006. Although many violations of humanitarian law and human rights were recorded by UN agencies and NGOs, data regarding sexual violence is scarce. Available evidence suggests, however, that there are a very large number of women victims. In 2009 the International Centre for Transitional Justice (ICTJ) and Advocacy Forum Nepal carried out a one-year study which indicated a high prevalence of such crimes (The report, *Across the Lines*, is available at: http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/AdvocacyForum_NepalCEDAW49.pdf).

Women have suffered unwanted pregnancies, gynecological and psychosocial problems. The grave consequences for women have been exacerbated by their difficulties in accessing health care. Many women have also faced huge social, cultural and economic pressures, and they have also often been ostracised from their families and communities.

However, it has not been possible to file criminal complaints in cases of rape, because the Nepali Country Code imposes a 35-day statute of limitation on the crime. Complaints were not accepted during the conflict period, so despite the widespread use of rape and other forms of sexual violence during the conflict, rape survivors have no prospect of achieving justice under the current law.

The Supreme Court of Nepal has twice ordered the revision of the statute because the limitation period is “unreasonable” and “unrealistic” (*Sapana Pradhan Malla v. Government of Nepal*) and has denied victims justice (*Mandamus order vs. Government of Nepal and others*). However, the statute of limitation for rape remains unchanged and reflects an insurmountable barrier to justice for survivors of rape.

Advocacy Forum Nepal is a leading NGO working to promote the rule of law and uphold international human rights standards in Nepal. Since its establishment in 2001, AF has been at the forefront of human rights advocacy and confronted the entrenched culture of impunity in Nepal.

REDRESS is a UK-based international NGO that seeks justice and reparation for survivors of torture and related international crimes. It fulfils its mandate through a variety of means, including casework, law reform, research and advocacy.