

UN orders Nepal to prosecute those responsible for Bardiya District disappearances

Kathmandu & London, 2 December 2015 – The United Nations’ Human Rights Committee has found Nepalese authorities responsible for the disappearance of eight youths from Bardiya District and called for criminal prosecution of the perpetrators.

Dhaniram Tharu, Soniram Tharu, Radhulal Tharu, Prem Prakash Tharu, Kamala Tharu, Mohan Tharu, Lauti Tharu and Chillu Tharu – aged between 14 and 23 at the time of their disappearance – were taken by soldiers from their homes in Nauranga Village, at around midnight on 11 April 2002. Their families have never seen them again or received any credible information from the authorities about what happened to them.

The ruling follows a case brought to the Committee by their families in 2011, represented by human rights organisations Advocacy Forum Nepal and REDRESS, after a long struggle for justice in Nepal.

The Committee found that – in addition to the crimes committed against the disappeared youths – Nepal committed serious violations of the rights of their family members by refusing to reveal the fate of their loved ones.

It is also insufficient for the case to be looked at by either Nepal’s soon-to-be-formed Truth and Reconciliation Commission or the Enforced Disappearances Commission, the Committee said. Instead, Nepal must begin a full investigation into the disappearances with a view to prosecuting those responsible. It must also locate the remains of the victims and return them to their families, should they be dead, and provide reparation to their families, including adequate compensation and appropriate rehabilitation services.

The Committee – which is responsible for monitoring countries’ compliance with the International Covenant on Civil and Political Rights (ICCPR) - also called on Nepal to amend its laws to criminalise torture and enforced disappearance and to ensure that those responsible for serious human rights abuses cannot escape criminal prosecution.

The disappearances took place during Nepal’s internal armed conflict (1996-2006), where both Nepal security forces and Maoist insurgents committed atrocities and enforced disappearances were common. Reliable reports indicate that a high number of enforced disappearances occurred in the Bardiya District and that members of the Tharu indigenous community (to which the youths belonged) were particularly targeted.

“Because authorities have not done anything to find out what really happened to our son, after they took him away from us 13 years ago, we have had to live all these years with the anguish of not knowing; not knowing if he is dead or alive; and if he is dead, how he died and where he was buried,” said Padam Tharu, father of Radhulal Tharu, one of the disappeared youths. **“I hope that now that the UN has found that the**

Nepalese Government has been wrong all these years, we finally get the justice and truth we have been waiting for.”

“The UN could not have spoken more clearly: although the families of these young victims promptly reported their disappearance to the authorities, more than 13 years later, the circumstances of their disappearance remain unclear and no credible investigation has been concluded,” said Om Prakash Sen Thakuri of Advocacy Forum Nepal. **“Sadly, this is not an isolated case. Advocacy Forum has worked with many other victims of the conflict who are still seeking justice. We urge the Government of Nepal to fully implement the recommendations of the Human Rights Committee in this case and to respond promptly to the calls for justice in all the other cases.”**

“Enforced disappearances are among the worst international crimes. They inflict acute suffering on the victims, who are cut off from all contact with the outside world, and on their families, who must carry on with their lives without knowing if their loved ones are dead or alive. It is urgent that Nepal puts an end to the suffering of these families. They deserve to know the truth about what happened and see justice done,” said Carla Ferstman, Director of REDRESS.

The Human Rights Committee has given Nepal 180 days to inform it of the measures taken to implement its views. The full decision of the Committee is available here: <http://www.redress.org/downloads/ccprc114d2038201124030e.pdf>

For more information, please contact: In Kathmandu, Om Prakash Sen Thakuri (English, Nepali), Advocacy Forum Program Coordinator on +977 9841275732; in London, Eva Sanchis (English, Spanish), REDRESS Communications Officer on eva@redress.org or +44 (0)2077931777.

Notes to editors

More on the case: The case concerned the disappearance of Dhaniram Tharu, Soniram Tharu, Radhulal Tharu, Prem Prakash Tharu, Kamala Tharu, Mohan Tharu, Lauti Tharu, and Chillu Tharu. Despite their young ages, six of the eight victims were the main breadwinners of their families at the time. Three were construction workers; one was a carpenter; one a tractor driver and another worked as a day labourer for a local landlord. They also worked as subsistence farmers. Three victims were married and two had children. One of the victims was a Grade 7 student who lived with her parents.

No news of the eight youths was received by their families for years despite repeated searches in all the army camps and police stations in a 50-kilometre radius and visits to the authorities. Advocacy Forum assisted the families of the victims to file habeas corpus petitions in the Supreme Court in 2003. All of the respondents denied detaining the eight young persons. In decisions reached between 2004 and 2005, the Supreme Court quashed all of the petitions on the grounds that the families could not identify where and by whom each young person was being detained.

In 2006, the army informed the Neupane Committee (created by the Government of Nepal to investigate the fate of allegedly disappeared persons); the International Committee of the Red Cross and the UN High Commissioner for Human Rights-Nepal that seven of the young people were killed in crossfire during an encounter with Maoists in the Manau nursery jungle. The families have refuted the army's allegations, because the victims left their houses unarmed and guarded by armed soldiers.

The families turned to the UN Human Rights Committee in 2011, after having exhausted all available domestic and administrative remedies in Nepal. The Committee adopted its views on 5 July 2015, but these have only just been made public. It found Nepal in violation of multiple articles under the ICCPR, including the right to life and the right to be free from torture and other cruel, inhuman or degrading treatment.

Other cases before the UNHRC: This is one of a series of cases relating to the internal conflict brought to the United Nations Human Rights Committee by Advocacy Forum-Nepal, REDRESS and other human rights organisations following lack of progress in Nepal. These cases have concerned serious human rights violations including extrajudicial execution, enforced disappearances, and torture, including rape. Nine of those cases have now resulted in decisions requiring investigation and prosecution through the criminal justice system but to date no effective action has been taken by the authorities, and only limited amounts of compensation have been paid to victims and their relatives.

The Government has repeatedly stated that instead of conducting criminal investigations, these cases will be investigated by the Truth and Reconciliation Commission and the High-Level Disappearances Commission. The passage of Acts to establish these bodies in 2014 was strongly criticised by the UN High Commissioner for Human Rights and other expert UN Human Rights bodies for their non-compliance with international human rights obligations, including the possibility that they will afford amnesty to perpetrators of serious international crimes.

Disappearances in the Bardiya District: According to reports by the UN Office of the High Commissioner for Human Rights (OHCHR) and national and international human rights organisations, Bardiya District had the highest number of disappearances carried out during the conflict. The OHCHR-Nepal received reports of 200 disappearances in the district; other human rights groups have put this number at 240. This figure would account for approximately 20% of all disappearances in Nepal. The Tharu indigenous group constitutes 52% of the population in Bardiya District. During the conflict, the Tharu community in Bardiya District appears to have been particularly targeted. Over 85% of the cases of enforced disappearance documented by OHCHR-Nepal in Bardiya District were from the Tharu community. Similarly, 109 of the 160 cases of enforced disappearance examined by the UN Working Group on Enforced or Involuntary Disappearances during its 2006 session were cases of members of the Tharu community disappeared at the hands of members of the security forces.