

Mandates of the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Working Group on discrimination against women and girls

Ref.: AL NPL 1/2022
(Please use this reference in your reply)

9 February 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 41/17, 42/16, 43/22, 43/20, 45/10 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **sexual violence against Ms. [REDACTED], perpetrated in 2001 by State agents, in the context of the armed conflict in Nepal (1996-2006), while she was 13 years old, and the failure to investigate, prosecute and punish any perpetrators in connection with these crimes, or to provide redress.**

The incident took place in the first week of September 2001 in [REDACTED] Kailali district, Nepal. Ms. [REDACTED] was 13 years old when the incident took place. Ms. [REDACTED] belongs to the indigenous Tharu community, a historically marginalized group.

At the time, Ms. [REDACTED] had just returned from Kathmandu to live at her home in Kailali with her younger brother. Her mother and father had died when she was around 6 and 12 years old respectively. Her older brother worked for the Nepal Police and lived in [REDACTED] a district in far west region of Nepal.

The incident took place during Nepal's internal armed conflict. In 2015, the Truth and Reconciliation Commission (TRC) and the Commission on the Investigation of the Enforced Disappeared Persons (CIEDP) were established to investigate the gross human rights violations committed during the conflict. In the report on her visit to Nepal in 2018 (A/HRC/41/42/Add.2), referred to in the Annex, the Special Rapporteur on violence against women noted that, since their establishment, the TRC had received more than 63,000 complaints and the CIEDP more than 3,000 complaints. Of these, only approximately 300 were reports of conflict-related sexual violence.

The 2014 Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act did not formally recognize as victims, women and girls who suffered conflict-related gender-based violence, including rape and sexual violence. As a result, women and girls affected by rape and other sexual violence during the conflict had not been able to formally register their cases as such or to gain access to interim relief packages, compensation, reparations and other support services. For this reason, on top of underreporting by victims because of fears of re-traumatization, reprisals or stigma, these cases have not been reported, recorded or investigated effectively.

On 26 February 2015, the Supreme Court of Nepal held that the Commissions and the Government of Nepal should act in accordance with the Nepali constitution, international human rights law and international humanitarian law, and held certain provisions of the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, primarily relating to granting amnesties, to be against international standards. As of yet, the Act has not been amended. In this regard, we would also like to recall previous communications from Special Procedures on this topic, including AL NPL 1/2020, OL NPL 4/2017 and JAL NPL 2/2014, and we thank your Excellency's Government for the replies received to the latter communications.

According to the information received:

On the day of the incident, in the first week of September 2001, Ms. [REDACTED] was grazing cattle in a field on the banks of Gauriganga river. The field was next to a jungle, which was around 2.5 kilometres away from her house. At around 11 a.m., about 10 small groups of army personnel, around 50 personnel in total, who were walking from a village named [REDACTED] passed Ms. [REDACTED] on their way through.

Two army officers arrived where Ms. [REDACTED] was sitting after all the other groups had passed. One of the two officers carried a handheld radio and the other had a gun. One of the officers addressed her as "baini" (younger sister) and asked her in which direction the other soldiers had gone. After she replied, the two soldiers started talking between themselves and accused her of being a Maoist, all of a sudden abusing her verbally. One of the two soldiers grabbed her hands and the other tied her hands behind her back. They pushed her to the ground. When she tried to stand, she was kicked to the ground again. One of the officers grabbed her hair, pulled her to stand and they made her walk towards the jungle. While being dragged to the jungle, she was beaten and had her eyes closed in pain.

When they reached the jungle, Ms. [REDACTED] fell on her back. The soldiers stood on her thighs and kicked her on her stomach. When one of the soldiers tried to force a kiss upon her, Ms. [REDACTED] bit him on his left cheek, from which he started bleeding. He then hit her face. Ms. [REDACTED] heard one of the soldiers saying to the other: "hit her or she will run away". She recalls one of the soldiers hitting her hard on the head, presumably with the gun he had been carrying. She felt blood oozing out of the wound and felt dizzy. She could hear the soldiers talking to each other, saying that they should not leave her. She could then feel one of them opening her belt and her top. She lost consciousness and does not remember what happened next.

At around 5 p.m., Ms. [REDACTED] regained consciousness. She saw that she was wearing nothing except a white vest on the upper half of her body. She saw some blood, mostly on the right side of her vest and some marks on her body. She had a bite mark on her right hand. The area around her thighs was swollen and covered in blue marks. She had a wound around her right breast, which later got infected leading to an abscess. As she saw a lot of blood, she bathed in the river before going home. She washed her clothes and wore wet clothes back home. She had great difficulties in walking. It took her around one and a half hour to reach home, while the same itinerary usually took her 15 minutes.

Health

Ms. [REDACTED] bled for a week and could not urinate properly for two months after the incident. She had difficulties in breathing for the next three to four months. She had stomach pains and excess vaginal discharge during this time. She could not carry heavy loads and vomited a lot after the incident.

Around 12 days after the incident, she got fever and everything started smelling bad to her. She did not have her period for the next two months after the incident. Two months after the incident, she went to a local hospital [REDACTED] to get herself checked. After examining her, one of the nurses at the hospital suggested her to go to a center specialising in sexual and reproductive rights in [REDACTED]. She returned home from the hospital after buying medicine to counter headache.

As Ms. [REDACTED] was 13 years old at the time, she could not understand why she had been suggested to go to a centre specializing in sexual and reproductive health services. She visited the centre three months after the incident, where she was told that she had been pregnant for three months. Staff at the centre asked her about her marital status and sex life, and explained sexual intercourse, conceiving and pregnancy to her. Ms. [REDACTED] told them that she had no idea about how she got pregnant and did not want any child. She was therefore suggested to terminate the pregnancy and underwent an abortion. She received a medical report of the abortion but burnt it, due to the fear of anyone discovering about her pregnancy or the termination.

Around a year after the incident, Ms. [REDACTED] underwent a minor surgery at Seti District Hospital to treat the abscess that had developed around her right breast. The healed scar was also noted in the medical report of the examination that Ms. [REDACTED] underwent on 17 November 2019.

Legislation relating to rape and sexual violence

At the time of the allegations described above, the applicable criminal law (Muluki Ain 2020) established a 35-day statute of limitation on reporting cases of rape and sexual violence, which was found to be in breach of international law.

The new criminal code, which entered into force on 17 August 2018, sets a 1 year statute of limitations for sexual violence.

Reporting and transitional justice mechanisms

On 6 June 2016, Ms. [REDACTED] registered a complaint as a “wounded” victim to the TRC through the Local Peace Committee (LPC). Over three and a half years have passed since she registered the complaint. Ms. [REDACTED] has never been contacted nor received any information about the status of her complaint since the day of its registration.

Initially, she had approached the LPC and requested to lodge the complaint as a victim of sexual violence. However, the LPC official told her that it required eyewitnesses to report a crime as sexual violence. Notably, no such provision is foreseen within the Truth and Reconciliation Commission Rules 2072 (2016), under which the complaints were registered. Ms. [REDACTED] eventually could not register the complaint as a victim of sexual violence.

Faced with the lack of progress from the TRC, on 15 December 2019, Ms. [REDACTED] attempted to lodge a First Information Report (FIR) to the District Police Office (DPO) in Kailali. The Superintendent of Police verbally informed Ms. [REDACTED] and her legal representative that the FIR could not be registered because no perpetrator was identified in it and the statute of limitations for sexual violence had expired. The police officer outright refused to prepare the FIR and informed her that she could not approach the office again for registration.

On the same day, Ms. [REDACTED] appealed against the inaction of the police to the District Attorney’s Office (DAO). She submitted a written application to the DAO requesting to direct the DPO to register the FIR and proceed with the investigation. However, the officer at the DAO, stated that he did not want to be involved in unnecessary discussions regarding the registration of a “subject difficult to deal with”, indicating conflict related crimes. He notified Ms. [REDACTED] verbally of his decision, as in Nepal no legal necessity reportedly exists to provide written legal reply to the complainant.

On 12 January 2020, Ms. [REDACTED] submitted an application to the High Court, Kanchanpur at Doti Bench, requesting the Court to direct the DPO to register the FIR and commence the investigation. However, the registrar at the High Court did not include the case in the list of cases to be presented before the Court. The registrar mentioned that the case could not be registered as the statute of limitations had expired.

As mentioned, Ms. [REDACTED] has never been approached by the TRC regarding any information on her complaint submitted around three and a half years ago. Further, it should be noted that no case of conflict-related sexual violence has been adjudicated by the Supreme Court of Nepal so far, while many cases regarding violations that occurred during the conflict are still pending before the Supreme Court. Ms. [REDACTED] expressed that taking up the case to the Supreme Court does not have any prospect of being successful and hence wishes not to take further legal actions on her case at the domestic level.

Without prejudging the accuracy of these allegations, we express our deep concern at the brutal crimes committed against Ms. [REDACTED] while she was a child, the life-long consequences of these crimes on her physical, mental and sexual and reproductive health, and the persisting impunity and lack of access to meaningful avenues of redress, justice and reparation for Ms. [REDACTED] and many other women and girls who are in a similar situation.

Particularly, while the applicable criminal law at the time of events was found in breach of international law and a new criminal code was adopted, we remain concerned about the narrow 1-year statute of limitation, which does not take into account the age of the victim and essentially precludes access to justice. Moreover, we are concerned about the reported general practice of refusing to register FIRs for crimes committed during the conflict, including sexual violence, and for police, attorney and court inaction on Ms. [REDACTED] various complaints and applications as well as for many women and girls who are in a similar situation.

Additionally, we express our deep concern at the government's apparent failure to formally recognize the occurrence of widespread incidents of sexual violence committed during the 10-year armed conflict and its consequences, the ensuing impunity for perpetrators and lack of compensation or other reparation or support measures for survivors of sexual and gender-based violence. Moreover, since their creation in 2015, both transitional justice commissions have failed to formally include in their mandates and to investigate conflict-related sexual and gender-based violence as specific crimes and as human rights violations, and to integrate a gendered and intersectional approach throughout their activities. Moreover, while plans were made to bring the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act in line with international standards, including to suspend the statute of limitation regarding sexual violence cases, no amendment has taken place so far.

We remain concerned that Ms. [REDACTED] complaint, together with the complaints of many women and girls in a similar situation, registered with the TRC, have not received follow-up of any kind.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on any measures taken in Ms. [REDACTED] case, in order to ensure effective investigation, prosecution and punishment of the perpetrators, and access to adequate and comprehensive redress and reparations for Ms. [REDACTED]

3. Please indicate which measures have been taken in follow-up to the recommendations issued by the Special Rapporteur on violence against women, after her country visit in 2018, particularly on access to justice to victims of sexual violence during the conflict.
4. Please specify if there are currently any provisions under the regulatory frameworks of the TRC and the CIEDP for registering a complaint of conflict-related gender-based violence, including rape and sexual violence.
5. Please indicate measures your Excellency's Government has taken to bring existing domestic criminal provisions, which set a one-year statute of limitation for sexual violence, in line with international standards. If no measures have been taken, please explain how this is compatible with Nepal's human rights obligations under the Convention on the Elimination of All Forms of Discrimination Against Women.
6. Please indicate whether any amendments to the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act are scheduled, to bring the Act in line with international law, as endorsed by the Supreme Court of Nepal's decision of 26 February 2015.
7. Have any measures been taken to raise awareness of the issue of conflict-related sexual and gender-based violence, to prevent gender-based violence, and to eradicate stigmatization of and discrimination against women survivors of gender-based violence, including sexual violence?

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary measures be taken to investigate the alleged violations and to provide interim relief to the victim, and, if the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

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Tlaleng Mofokeng

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Mama Fatima Singhateh

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Melissa Upreti

Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's attention to the Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly and states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia, (a) the right to life; (b) the right to equality; (c) the right to liberty and security of person; and (d) the right to equal protection under the law (article 3). In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its General Recommendation No. 19 (1992), updated by General Recommendation No. 35 (2017) defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency's Government on 22 Apr 1991), whether perpetrated by a State official or a private citizen, in public or private life.

The CEDAW Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes perpetrated against women and girls, to prosecute and punish perpetrators, and to provide effective reparations without delay. In General Recommendation No. 35, the Committee clarifies that States parties are responsible for acts or omissions of its organs and agents that constitute gender-based violence against women. This includes the acts or omissions of officials in its executive, legislative and judicial branches. Furthermore, States are responsible for investigating, prosecuting and applying appropriate legal or disciplinary sanctions, as well as providing reparation, in all cases of gender-based violence against women, including those constituting international crimes, and in cases of failure, negligence or omission on the part of public authorities. The Committee also indicates that gender-based violence against women, including rape, can amount to torture or cruel, inhuman or degrading treatment in certain cases, and that some forms of gender-based violence may constitute international crimes (see also General Recommendation No. 30 on this).

The Committee recommended that sexual assault, including rape, should be characterized as a crime against the right to personal security and physical, sexual and psychological integrity and time limitations, where they exist, should prioritize the interests of the victims/survivors and give consideration to circumstances hindering their capacity to report the violence suffered to the competent services or authorities. It also recommended to provide effective reparations to victims/survivors of gender-based violence against women, which should include different measures, such as monetary compensation, the provision of legal, social and health services, including sexual, reproductive and mental health services for a complete recovery, and satisfaction and guarantees of non-repetition, in line with previous recommendations (i.e., Nos. 28, 30 and 33).

Finally, the Committee recommended that States Parties should ensure effective access for victims to courts and tribunals and that the authorities should adequately respond to all cases of gender-based violence against women, including by applying

criminal law and, as appropriate, ex officio prosecution to bring alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties. In its General Recommendations 30 (2013) and 33 (2015), the CEDAW Committee additionally recommends that transitional justice mechanisms, including truth commissions and reparations, should encompass a comprehensive approach that is gender sensitive and promotes women's rights. States Parties should ensure that these mechanisms guarantee women's access to justice and that they are mandated to address all gender-based violations.

Moreover, we would like to bring to Your Excellency's attention article 4 (g) of the United Nations Declaration on the Elimination of Violence against Women which notes the responsibility of States to work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

In 2018, in its Concluding Observations (CEDAW/C/NPL/CO/6), the CEDAW Committee expressed its concern about the increasing rates of violence against women, the delay in the national strategy and action plan, and the lack of concrete measures to prevent sexual violence, including rape. Moreover, it conveyed its concern at the low level of awareness among women and girls of their rights and the mechanisms available for gaining access to justice and seeking remedies, and at the state of limitations for sexual violence, which fails to take into account the stigma that women and girls face when reporting cases of sexual and gender-based crimes and, therefore, fosters impunity for such crimes.

Moreover, regarding transitional justice, the Committee remained concerned at the delay in the adoption of the second national action plan on the implementation of Security Council resolution 1325 (2000) and at the lack of interim relief or full reparations for women and girls who are victims of the armed conflict, including victims of sexual violence. Regarding the transitional justice mechanisms, the Committee voiced its concern regarding the insufficient resources allocated to the two commissions and regarding the lack of independence of commissioners. Finally, the Committee's concern extended to the draft bill to amend the Truth and Reconciliation Commission Act, which impeded legal action for claims relating to sexual and gender-based violence, including as a war crime and a crime against humanity; to the lack of definitions of those crimes; the imposition of additional requirements for their prosecution; the substantial reduction in the length of sentences; the suspension of ongoing criminal investigations; and provisions allowing for amnesty and reconciliation.

The Committee on the Rights of the Child (CRC) also provides a framework for demanding legal accountability for all forms of violence and abuse, including rape and sexual abuse of children. Article 34 of the Convention on the Rights of the Child requires States to protect children from all forms of sexual exploitation and sexual abuse. This is complemented and extended by article 37, which requires States to ensure that no child shall be subjected to torture or other cruel, inhuman or degrading treatment

or punishment, encompasses as well as the prohibition of all forms of corporal punishment of children. Article 39 also requires States to take all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims of exploitation, abuse and torture, among others. Furthermore, the Optional Protocol to the Convention on the Rights of the Children on the sale of children, child prostitution and child pornography, ratified by Nepal on 20 Jan 2006, outlines the obligation of States to provide support services to child victims throughout the legal process (art. 8.1); and to ensure that child victims have access to adequate procedures to seek compensation (art. 9.4).

Moreover, the Working Group on discrimination against women and girls raised its concerns in its latest report on women's sexual and reproductive health rights (A/HRC/47/38) that while some progress has been made in investigating and prosecuting crimes of sexual violence in situations of conflict, many violations of sexual and reproductive health rights continue to be neglected or tolerated and occur with impunity. The Working Group recommended that States adopt and enforce clear and coherent legal and policy frameworks to guide the provision of services, in accordance with human rights obligations, and simultaneously address social norms and discriminatory stereotypes that obstruct implementation, including by establishing clear channels for reparations and accountability.

We would like to recall that pursuant to article 2 of ICCPR, and as established by the Human Rights Committee in its General Comment No. 31, States, have an obligation to investigate and punish serious human rights violations, such as torture, extrajudicial killings and enforced disappearances. Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties (paragraph 18) and can be an important element contributing to the recurrence of violations. States must also ensure victims and society know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes, as established in the updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of February 2005 (principle 2). Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations (principle 5). Furthermore, they should ensure that victims of human rights violations receive full reparation for the harm suffered and have access to relevant information on reparation mechanisms, as established in the Updated Set of Principles (articles 31-34) recall the duty of States to make reparation to victims. Similarly, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Victims should be provided with full and effective reparation, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (paragraphs 10, 11, 15, and 18).

Articles 2(1), 3, 7, 9, 10, 24, 26 of the International Covenant on Civil and Political Rights (ICCPR), to which your Excellency's Government adhered on 14 May 1991, are pertinent too. In particular, the Human Rights Committee, in *Fulmati Nyaya* (CCPR/C/125/D/2556/2015), a case presenting similar facts to the present communication, considered that the rape and other acts of sexual violence inflicted by the Royal Nepalese Army and the Armed Police Force in the case were acts of torture,

in violation of article 7 ICCPR. It also noted the generalized use of rape against girls and women during the conflict, owing to the particularly serious discriminatory consequences for girls and women victims of rape in the Nepalese society, and recalled that, particularly in times of conflict, States must take all measures to protect girls and women from rape, abduction and other forms of gender-based violence.

Furthermore, the Committee noted that, while in 2018 the State party amended its criminal code to extend the statute of limitations for filing complaints for the crime of rape and other sexual offences from 35 days to 1 year, even this new statute of limitations is not commensurate with the gravity of such crimes and prevents victims from accessing justice. Moreover, it held that the State party is under an obligation to take steps to prevent similar violations, by ensuring that its legislation: (a) criminalize torture and provide for appropriate sanctions and remedies commensurate with the gravity of the crime; (b) adapt the definition of rape and other forms of sexual violence in accordance with international standards; (c) guarantee that cases of rape, other forms of sexual violence and torture give rise to a prompt, impartial and effective investigation; (d) allow for criminal prosecution of those responsible for such crimes; and (e) remove obstacles that hinder the filing of complaints and effective access to justice and compensation for victims of rape and other forms of sexual violence against women and girls in the context of the Nepali armed conflict, as forms of torture, including by significantly increasing the statute of limitations commensurate with the gravity of such crimes.

The Special Rapporteur on violence against women, in her report on rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention (A/HRC/47/26), reminds States of their primary responsibility to effectively and with due diligence prevent, criminalize and prosecute rape in accordance with international legal standards which are applicable both in peacetime and during conflict. She recommended States to incorporate international human rights standards on rape into their national laws on the criminalization and prosecution of rape. In particular, she noted that the definition of rape should be comprehensive, including lack of consent at its centre; prosecution should be pursued *ex officio*; and statutes of limitation should be abolished for rape in times of peace or conflict, or, at the very least, child victims should be able to report rape after reaching adulthood. Moreover, she recommended States to provide adequate services and support to victims of rape, including rape crisis centres, protection orders and interim relief measures in the context of both peace and conflict, including reparations to victims, in accordance with international human rights standards and reports.

Moreover, we would like to remind your Excellency's Government that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law that must be respected and protected under all circumstances, including in times of conflict. Furthermore, in his report on gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment (A/HRC/31/57), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment confirms that rape constitutes torture when it is carried out by, at the instigation of, or with the consent or acquiescence of public officials (see also A/HRC/7/3). Moreover, he notes that:

“Reparations must be premised on a full understanding of the gendered nature and consequences of the harm suffered and take existing gender inequalities into account to ensure that they are not themselves discriminatory (see A/HRC/14/22, para. 32). They must address the context of structural discrimination in which violations occurred and aim to provide both restitution and rectification. Reparations must have a transformative impact, addressing the underlying causes and consequences of violations, and offer continued protection for and respectful engagement with victims (A/HRC/14/22). [...]”

In her report on her visit to Nepal (A/HRC/41/42/Add.2), the Special Rapporteur recommended your Excellency’s Government, to ensure that all cases of gender-based violence against women are effectively investigated and that perpetrators are prosecuted and adequately punished. Regarding legislation on rape and sexual violence, she recommended to take immediate measures to ensure that the statute of limitations for initiating any legal proceedings shall continue for a period of time that is sufficient and commensurate with the gravity of the offence in question, to allow for the efficient initiation of proceedings after the victim has reached the age of majority. In particular, in relation to victims of sexual violence during the conflict, she recommended your Excellency’s Government to (para. 83):

- a) Address any obstacles in legislation that prevent the prosecution of rape or sexual violence and torture during the conflict;
- b) Remove any statute of limitations for filing cases related to rape or sexual violence and torture perpetrated during the conflict, bring the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act of 2014 into line with the obligations of Nepal under international law, in consultation with civil society and victims and taking into account the ruling of the Supreme Court of 26 February 2015 that orders the amendment of the amnesty provisions of the Act, and guarantee the gender sensitivity of the Act;
- c) Guarantee as a matter of urgency the access of women and girl victims of the armed conflict to adequate interim relief measures, including immediate access to medical and psychosocial care, as well as the provision of full and effective reparations, including restitution, compensation, rehabilitation and guarantees of non-recurrence;
- d) Address the limited definition of torture provided for in the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act and the 35-day statutory limitation for filing a complaint, and amend legislation so as to guarantee to victims of torture and sexual violence the right to file criminal complaints and to ensure that State authorities launch investigations into the reported facts and that those responsible are prosecuted before ordinary courts;
- e) Expedite the adoption of the second national action plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security and include therein measures for women and girls who have been victims of rape or sexual violence during the conflict.

The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, noted the obligation of States to adopt gender-responsive transitional justice mechanisms in societies that have suffered serious and gross violations of human rights and international humanitarian law. A gender perspective requires that the complex experiences of sexual and gender-based violence, be consciously and duly recognized and captured by any transitional justice measures that have been designed and implemented, taking into account the criterion of intersectionality. Otherwise the processes of truth-seeking, justice, comprehensive reparation, guarantees of non-repetition and memorialization would be incomplete (A/75/174, paras. 92-93).

Finally, the Working Group on the Universal Periodic Review of Nepal, in its (A/HRC/47/10), in its report of 21 January 2021, recommended Nepal, among others, to strengthen its efforts in combatting gender-based violence against women; to eliminate the current statute of limitations on reporting cases of rape and sexual violence, including in the context of conflict, and ensure access to justice for victims/survivors; to ensure the speedy conclusion of investigations into allegations of gender-based violence that remain pending since 1996–2006; to bring the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act into compliance with the Supreme Court’s ruling and international standards and, in particular, include survivors of sexual violence and their families in the transitional justice process and all related government schemes; and to ensure that the transitional justice process takes a gender-sensitive approach and upholds international standards, with the transparent and timely conclusion of cases by commissions of inquiry, ensuring the rights of all victims to truth, justice and reparation.