

**Understanding How Nepal's Conflict has Affected Human Rights Past and Present**

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### **Abstract**

From 1996 to 2006, Nepal experienced a conflict that led to the deaths of more than 12,000 individuals and the displacement of at least 200,000 (Makisaka et al., 2017). The purpose of this paper is to provide a brief history of the country of Nepal, specifically what led to the conflict, and what human rights violations have occurred during and after the conflict within the country. These violations will then be reviewed with additional research to see what resources can be provided to the citizens of Nepal while also understanding what lessons can be taken away from the handling of more than 2,000 complaints. When looking overall at how Nepal can better support its citizens, a restorative justice mindset must be in place to support those who were victimized during the initial conflict, post-conflict, and while also providing closure to those who do seek investigations into their perpetrators.

## **Understanding How Nepal's Conflict has Affected Human Rights Past and Present**

Nepal is a country found in Asia directly above India and below China. It is most known for having the Himalayan Mountain Range, which brings in thousands of adventure tourists and ecotourists who have an interest in seeing the mountain ranges or biodiversity in the countless national parks, and for being the birthplace of Buddha. However, even with a beautiful landscape and being one of UNESCO's World Heritage Sites, the history of the country is not one without loss and pain.

Nepali government officials, rebels, and citizens faced displacement, death, and disappearances for ten years due to the civil war that had erupted between the government of Nepal and the Communist Party of Nepal (Maoist). Both parties have been found responsible for at least 9,000 violations of international human rights laws and international humanitarian laws (OHCHR, 2012), however, nothing has been done yet to provide closure for those who lost family members to death or disappearance in the conflict based on the research gathered thus far. The country has also continued to suffer from human rights violations and concerns since the ending of the conflict 16 years ago. Based on research, it seems that the government of Nepal has done little to enforce investigations for the human rights violations found during the conflict, and it is one concern that many should be aware of. It is with this in mind that the purposes of this paper will be to better understand the history of what led to today's Nepal, the conflict and post-conflict concerns that the country has faced, how these have been handled, and what can be done to better support the Nepali people.

### **Background**

#### **Country History**

Nepal became a sovereign country in 1923 after signing a treaty with Britain and the country joined the United Nations in 1955. In 1959, the country adopted a multi-party constitution, but in 1960, the first elected government fell in a coup d'état, which led to three more decades of absolute monarchy (Makisaka et al., 2017). It wasn't until 1990 that the country was able to restore democracy and reform the constitution, but these changes only came after the Nepali Congress Party (NCP) began civil disobedience campaigns to restore the multi-party system (Makisaka et al., 2017). In 1996, the Communist Party of Nepal, or Maoists, launched their armed insurgency in hopes that the monarchy would be abolished (Makisaka et al., 2017). This led to the country being sent into a 10-year long civil war that killed more than 12,000 individuals and displaced more than 200,000 (Makisaka et al., 2017). During the conflict, the country's parliament was dissolved, elections were put off, the royal family was massacred, and in 2005 when a truce was met, absolute monarchy was restored and the country was cut off from the outside world, though this was eventually reversed due to international pressure (Makisaka et al., 2017). By late 2005 and early 2006, the country had agreed on a program to restore democracy. The King had agreed to reinstate parliament (Makisaka et al., 2017). The government signed the Comprehensive Peace Agreement (CPA) with the Maoists in 2006

(Makisaka et al., 2017). This agreement not only ended the conflict between the government of Nepal and the Maoists but also allowed Maoist members to take part in the government in exchange for locking away their weapons and sending their fighters to UN-monitored camps until they were able to integrate the fighters into the Nepal Army (Makisaka et al., 2017).

Starting in the 1970s, Nepal also experienced its share of revolutions and movements from its citizens. First was the Nepali Student Revolution of 1979, which was just the start of a series of protests that students conducted (English News, 2021). Records from this movement note that eleven individuals were killed and 164 were left wounded (English News, 2021). Students presented a list of 22 demands as a precondition to ending the student movement, but campuses were instead closed, and the education minister resigned (English News, 2021). The second was the People's Movement I, or the 1990 people's movement, which put a complete stop to absolute monarchy in the state and led to the governance of multiparty democracy (English News, 2021; Rajopadhyaya, 2021). Then the People's Movement II in 2006 came forward with the end goal of restoring the parliament and abolishing the monarchy once again after the country had reached peace agreements (English News, 2021; Rajopadhyaya, 2021).

## **Human Rights Concerns**

### ***Conflict-Related Concerns***

During the country's ten-year conflict, approximately 20% of all fatalities accounted for were civilians. In addition, the United Nations Human Rights Office of the High Commissioner provided a Nepal Conflict Report which was published in 2012. The report published that the most serious violations that were committed during the conflict included unlawful killings, disappearances, arbitrary arrest, torture, and sexual violence (OHCHR, 2012). It is estimated that there could be approximately 9,000 "serious human rights or international humanitarian law violations [which] may have been committed" (OHCHR, 2012).

According to the CPA, both sides were responsible for providing details of the disappeared, those killed during the conflict, and guaranteed to provide relief to the families of the disappeared and torture victims (Selim, 2017). While it advocated for a Truth and Reconciliation Commission (TRC), it took the country until 2014 to pass the legislation required to create the Commission on Investigation of Disappeared Persons and the TRC (Selim, 2017). The commissions themselves though were not able to begin registering "conflict-related complaints" until 2016 due to the earthquakes in 2015 (Human Rights Watch, 2016; Selim, 2017). The commissions published their findings, sharing that 2,506 people were allegedly forcibly disappeared, however, the commissions have yet to determine what happened to these victims and have yet to hold anyone accountable for these disappearances (Human Rights Watch, 2021a)

### ***Post-Conflict – Concerns from 2015 to Today***

Since the official ending of the conflict in Nepal, the government has struggled to meet the demands and needs of the country. Starting in 2015, the country faced two massive earthquakes that devastated life, the government, and the economy of the country. The earthquakes left 9,000 dead, 20,000 injured, and hundreds of thousands displaced, mainly in rural communities (Human Rights Watch, 2016). During this time, women, children born out of wedlock, or children born of refugee or naturalized parents could not receive a driver's license, passport, bank account, higher education, or even voting rights due to the country's citizenship laws (Human Rights Watch, 2016). In 2016, the Human Rights Watch shared that when studying transitional justice in Nepal post-conflict, only families who have had a member killed or "disappeared" would be provided compensation, but not the victims of sex crimes or torture (Human Rights Watch, 2017).

Many concerns in the country are based around women and children. Data from 2016 shares that 41% of girls are married under the age of eighteen and 10% marry under the age of fifteen (Human Rights Watch, 2017). While child marriage is illegal in the country, it is harder to enforce in the more rural areas of the country which can be supported by the fact that child marriage is often impacted by a child's poverty level, lack of access to education, child labor, social pressures, or a dowry (Human Rights Watch, 2018). In 2017, *chaupadi*, a practice where menstruating individuals are forced from their homes into sheds or isolated dark rooms, was criminalized, but it is again harder to enforce for those who live in rural communities (Human Rights Watch, 2018). As of 2019, there has been no comprehensive legislation banning gender discrimination in the country and the country still maintains a one-year statute of limitations on cases of rape and sexual violence (Human Rights Watch, 2020). For children with a disability, there are still thousands who are not enrolled in school, or when they are, are segregated in separate classrooms from their peers (Human Rights Watch, 2020).

As seen in the above paragraph, many issues affect the rural areas of Nepal and those who live in these regions often have an intersectional impact regarding the discrimination that they face. Those who are a part of caste or ethnic minorities often face higher rates of excessive use of force and torture while in police custody as well as the underreporting and under-investigating of sexual violence and other crimes against family members (Human Rights Watch, 2020). The country, which is lush in biodiversity, also faces natural disasters such as seasonal flooding and earthquakes. Minority communities are more susceptible to living in areas where seasonal flooding is common, which means that they are less likely to be provided with the proper necessities for survival (Human Rights Watch, 2018 & 2020). Those who live in more underserved and under-supported communities also faced hardships during the wake of the coronavirus pandemic (Human Rights Watch, 2021). For example, the rate of neonatal deaths increased, and marginalized ethnic groups often struggle to access clinical services (Human Rights Watch, 2021b).

## **Approaches**

Since the end of the conflict, many victims' groups have been created to support the many citizens who were affected by the conflict. This included the Society of Families of Those Disappeared by the State (later renamed the Society of the Families of Warriors Disappeared by the State), the Maoist Victim Association, and the Conflict Victim Society for Justice (Selim, 2017). In addition, the country created the Conflict Victims Common Platform (CVCP) which provided a group of victims' associations the opportunity to be supported by the UN through public hearings, witness security, psychosocial training, and vetting of any personnel who is responsible for collecting complaints from victims (Selim, 2017). When asked what victims wanted now that the conflict has been officially over for 16 years, victims noted that they are focused on socioeconomic supports, such as providing compensation, education, health development, skills development, and training (Selim, 2017).

Most international organizations, such as the United Nations, Human Rights Watch, and Amnesty International, utilize conflict transformation to help understand the root causes of what has led to conflicts throughout Nepal. These organizations do not just stop at the initial conflict, but they continue to dive deeper to see how the conflicts continue and what societal norms are making certain ideologies or behaviors that lead to conflict acceptable. It should be noted that research completed by Selim explains in great depth the struggle of utilizing international courts of justice, such as that within the United Nations, as there is a lack of consistency in the terminology and requirements to be a "victim" or "perpetrator" of human rights violations. That being said, the international community would be a great aid, but could very easily become a new source of trauma for those who have already gone through the ten-year crisis.

## **Lessons Learned**

The major concern in Nepal at this time is that while complaints have been filed and gathered by the individual commissions set up to pursue transitional justice in the country, no investigations have been complete. The country has done well with providing acceptance and the opportunity for groups to gather for grieving and healing processes, seen in the multiple victims' groups that have formed across Nepal over the years. I would recommend that Nepal's government begin to make the push more serious to complete investigations. While the United Nations is always able to become involved in crises like that which happened in Nepal, now that the crisis has been over, there is a need to focus on the crises that are taking place today. Unfortunately, international systems such as the International Court of Justice, would not be the correct location for hearing conflict-related cases and investigations, and so the country truly must begin the investigations. With international support and pressure, there is always the potential the government could begin to take things more seriously.

Regarding the requests that have been made by those who were victimized by the conflict or who have dealt with the continuation of human rights violations, the government should consider outlining a budget that would specifically allocate money toward creating further

education opportunities, mental health facilities, and training, and further training for job opportunities. According to the World Health Organization, Nepal has “18 outpatient mental health facilities, three day treatment facilities, and 17 community-based psychiatric inpatient units” (Ministry of Health and Population Nepal, 2006). Researchers and psychologists know from working with people who have experienced trauma that the trauma from conflicts can be generational. Unfortunately, since mental health falls under the overall health budget in most countries, the only major way to solidify this problem would be to increase the funding provided to the health field with specific earmarks to be used for mental health support. Further education support is needed throughout the country, but with a target area of rural towns and communities where it is often difficult for families to both reach and afford education as seen in research found by the Human Rights Watch, Amnesty International, and the United Nations.

### **Conclusion**

Nepal has put in the work for the initial steps needed for restorative justice in their country. They have gone through a conflict, created something new for their government, created committees to help heal the pain that was caused during the ten years of fighting, and began collecting complaints. The country has allowed and supported victims’ groups that help with the immediate and generational healing that is needed, however, they have done little to hold those accountable for what was done. There is little deterrence, and while this is the focus of retributive justice, it needs to be kept in mind with human rights. Using a restorative justice framework, the country can easily begin to address multiple issues that have been noted across the paper relating to the field of human rights and equity, but the country itself needs to be ready to take on not only the work that comes with investigations but the publicity of who could be found guilty of violations. Victims have shared what they would like from the government of Nepal, but the government needs to put a focus on these requests. They cannot simply be taken as words of “wants”, but instead pleas for “needs” that are currently unfulfilled.

## Resources

Makisaka, M., Chingchit, S., & Bernard, V. (2017). Nepal - State of conflict and violence. *The State of Conflict and Violence in Asia*, 116–127.

Ministry of Health and Population Nepal. (2006). *WHO-AIMS report on mental health in Nepal*.

World Health Organization. Retrieved March 1, 2022, from [https://www.who.int/mental\\_health/evidence/nepal\\_who\\_aims\\_report.pdf](https://www.who.int/mental_health/evidence/nepal_who_aims_report.pdf)

*Nepal 2020 archives*. Amnesty International. (2021). Retrieved February 16, 2022, from

<https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/nepal/report-nepal/>

*Nepal conflict report questions & answers*. United Nations Human Rights Office of the High

Commissioner. (2012, October 8). Retrieved January 24, 2022, from [https://www.ohchr.org/sites/default/files/Documents/Countries/NP/OHCHR\\_Nepal\\_Conflict\\_Report\\_Q\\_A2012.pdf](https://www.ohchr.org/sites/default/files/Documents/Countries/NP/OHCHR_Nepal_Conflict_Report_Q_A2012.pdf)

*Nepal human rights history: Here are 6 key movements*. English News. (2021, December 10).

Retrieved February 16, 2022, from <https://english.onlinekhabar.com/nepal-human-rights-movements.html>

Rajopadhyaya, A. (2021, January 29). *History of social movements in Nepal: Political events from panchayat to republic that inspired social changes*. Online Khabar English News. Retrieved February 24, 2022, from

<https://english.onlinekhabar.com/history-of-social-movements-in-nepal-ii.html>

Selim, Y. (2017). Examining victims and perpetrators in post-conflict Nepal. *International Review of Victimology*, 23(3), 275–301. <https://doi.org/10.1177/0269758017710818>

*World Report 2016: Rights trends in Nepal*. Human Rights Watch. (2016, February 2). Retrieved February 24, 2022, from <https://www.hrw.org/world-report/2016/country-chapters/nepal>

*World Report 2017: Rights trends in Nepal*. Human Rights Watch. (2017, January 12). Retrieved February 24, 2022, from <https://www.hrw.org/world-report/2017/country-chapters/nepal>

*World Report 2018: Rights trends in Nepal*. Human Rights Watch. (2018, January 18). Retrieved February 24, 2022, from <https://www.hrw.org/world-report/2018/country-chapters/nepal>

*World Report 2020: Rights Trends in Nepal*. Human Rights Watch. (2020, January 14).



Retrieved February 16, 2022, from  
<https://www.hrw.org/world-report/2020/country-chapters/nepal>

*World Report 2021: Rights trends in Nepal*. Human Rights Watch. (2021, January 13). Retrieved  
February 16, 2022, from <https://www.hrw.org/world-report/2021/country-chapters/nepal#>