

Nepal: Carry Out Rights Panel's Recommendations

Report Reveals Weak Protections, a Wake-Up Call for Development Partners

(New York, November 3, 2020) – The government of [Nepal](#) should act without delay to carry out the National Human Rights Commission's recommendations, particularly those concerning Nepal's obligation to investigate and, where justified by the evidence, prosecute those accused of serious abuses, Human Rights Watch and the International Commission of Jurists (ICJ) said today.

On October 15, 2020, the National Human Rights Commission (NHRC) [published 20 years of data](#), naming 286 people, mostly police officials, military personnel, and former Maoist insurgents, as suspects in serious crimes. In particular, the information relates to cases where its investigators concluded there is evidence warranting investigation and prosecution for abuses including torture, enforced disappearance, and extrajudicial killing.

In addition to domestic use, the data should provide important guidance to the United Nations in vetting Nepali security forces for peacekeeping missions, and to other countries for efforts to ensure international justice, including in their obligations to prosecute or extradite individuals suspected of responsibility for crimes under international law. They will also be of use to the United States in carrying out vetting requirements under the "Leahy laws" that prohibit military assistance to military and security forces implicated in serious human rights abuses.

"The National Human Rights Commission has taken an important step in publishing this information, which will be an essential tool for the UN and foreign governments in their engagement with Nepali security forces," said [Meenakshi Ganguly](#), South Asia director at Human Rights Watch. "The report highlights just how little progress there has been to establish meaningful human rights protections to address conflict era violations and ongoing abuses."

The culture of impunity in Nepal is contributing to [ongoing serious human rights abuses](#), the groups said. There have been numerous credible allegations of extrajudicial executions, torture, and ill-treatment, sometimes resulting in custodial deaths, and deaths resulting from the unlawful and excessive use of force in policing demonstrations in recent years. In many such cases, the authorities have refused even to register complaints, much less carry out effective investigations or prosecutions.

International and foreign authorities, including prosecutors and judicial authorities, should be aware of the commission's data when considering targeted sanctions for people accused of serious violations, or preparing criminal cases under the principle of [universal jurisdiction](#) against those allegedly responsible for crimes such as torture and enforced disappearances, Human Rights Watch and the International Commission of Jurists said.

Particularly serious violations and abuses [were committed between 1996 and 2006](#) during an armed conflict between government security forces and Maoist rebel forces. The former Maoist party is now part of the government. Since the conflict ended, the former enemies

have effectively joined ranks to [successfully shield their supporters from accountability](#), fostering a culture of impunity that continues to protect those responsible for ongoing extrajudicial killings and deaths in custody allegedly resulting from torture.

The NHRC said in its report that the government had mostly failed to act against suspects, despite being informed of the commission's findings. Human Rights Watch and the International Commission of Jurists have not independently investigated all the cases documented, but the Nepal government is under an obligation to thoroughly and impartially investigate the allegations in the report with a view to bringing those responsible for these crimes to justice. Altogether the NHRC has recommended action against 98 police officers, 85 soldiers, and 65 members of the former Communist Party of Nepal (Maoist).

The NHRC presented and analyzed its findings and recommendations spanning two decades, since its establishment in 2000. It has registered 12,825 complaints and reached conclusions in 6,617 cases, making 1,195 recommendations to the government. The recommendations have been carried out fully in only 13 percent of cases, partially carried out in 37 percent, and not carried out at all in the remaining 50 percent. The government has often carried out recommendations to make payments to victims or their families but has very rarely investigated or prosecuted abuses.

In a March 6, 2013 ruling, the Supreme Court decided that the NHRC has the authority to refer these cases to the attorney general and prosecutors for investigation and prosecution, yet the NHRC has been unwilling to use that authority. The NHRC has also chosen not to use its prerogative to name those allegedly responsible for the abuses until now, waiting until the last days of the outgoing commissioners' terms to publish the report.

“While releasing this report is an important step toward addressing entrenched impunity in Nepal, it has exposed the fact that the commission has struggled with a lack of investigative capacity, failing in many cases to summon alleged perpetrators or demand documentation,” said Mandira Sharma, senior international legal advisor at the International Commission of Jurists. “Had the NHRC used its authority to request prosecution from the attorney general where it has gathered sufficient evidence, it would have made a real contribution in tackling impunity and in addressing police failures in investigating ongoing cases of rights violations.”

The NHRC has long been dogged by political interference in the appointment of commissioners, and [a widely perceived reluctance](#) to confront the government or other powerful institutions, such as the army and political parties, that oppose accountability for rights abuses. In 2019 the government [proposed amendments](#) to the 2012 [National Human Rights Commission Act](#) that would further undermine its independence.

On October 28, 2019, three United Nations [special rapporteurs wrote to the government](#) concerning the alleged extrajudicial killing of three men including Kumar Paudel who was shot on June 20, 2019. An NHRC investigation found Paudel had been the victim of a summary execution and recommended the prosecution of perpetrators. The [government responded to the special rapporteurs](#) on January 3, claiming that “extrajudicial killing in any

form and manner is categorically outlawed by Nepal.” But it later [asked the NHRC to revise its finding](#).

“It was the legal responsibility of the commission to make the list public and we have been able to do that at the last moment of our tenure,” said the outgoing chief commissioner, [Anup Raj Sharma](#), while releasing the report. “We should have done this before, but we couldn’t because of our own weakness.”

It is crucial that the process to appoint new commissioners to the NHRC is prompt, transparent, and credible, Human Rights Watch and the International Commission of Jurists said. The new commissioners should represent a diversity of backgrounds and be selected for their proven track records in human rights, not for their perceived loyalty to political parties.

Since the end of the conflict, Nepal’s international development partners, including the [UK](#), [US](#), [Switzerland](#), [Denmark](#), and [United Nations](#), have supported numerous projects to institutionalize human rights protections, including “capacity building” of the NHRC, and to strengthen the rule of law. The publication of the NHRC report should serve as a sobering wake-up call to donors that these projects have not been effective in ending impunity or preventing abuses, Human Rights Watch and the International Commission of Jurists said.

The government’s [often-stated commitment](#) to uphold human rights should be assessed in the light of its failure to carry out the NHRC’s recommendations, including at Nepal’s [forthcoming Universal Periodic Review](#) at the United Nations. The new human rights commissioners, when they are appointed, should pursue a strategy to make the NHRC more effective, including by using its authority to order the prosecution of alleged abusers.

“While impunity prevails, the rule of law and accountable governance are a pipe dream,” Ganguly said. “Fourteen years since the conflict ended, little has changed to prevent the recurrence of abuses, while Nepal’s development is held back by a culture of impunity.”

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