

**Gender Violence in Nepal: Report on rape cases**  
**Assessment Report submitted to Special Rapporteur on Violence Against Women**  
**Informal Sector Service Centre**  
**2008**

## **Background**

INSEC recorded 225 cases of rape and attempted rape in the period. One boy and 233 girls and women were the victims. In seven cases, the victims were killed after rape. In one incident, a woman was killed as she tried to resist the attempt. The victims were aged between 33 months to 63 years. Likewise, there were 24 rape attempts and 31 gang rapes.

## **Victims**

Most of the victims were under 16. The record shows 162 girls were the victims of rape or attempted rape. A 33-month-old girl of Damauti, Triyuga Municipality-9 of Udayapur district was raped by Bhote Burja Magar, 45 on 23 August. An 11-year-old girl of Jitlapur Kamaiya Camp in Gera VDC-3 of Kailali sustained serious injuries when she was raped on 27 May and succumbed the next day. An 8-year-old girl of Jamuniya VDC-3 in Nawalparasi was raped by Dinesh Yadav, 23 and Bijay Gaun, 26 on 11 March. The perpetrators were taken into custody following an FIR filed by the girl's family. But, the family was forced to flee the village on 8 September after the family received pressure to withdraw the case or face death of the victim and her mother.

64 children including a 7-year-old boy and 30 girls were below 10 years who became victims of rape and attempted rape in 63 incidents. There were 93 incidents where 97 children between 10 and 16 were raped or attempted. Likewise, 72 women above 16 were raped or attempted in 69 incidents. Four victims were killed while one was displaced.

Two mentally ill and two verbally impaired women also became victims. A 19-year-old mentally ill woman of Kapilbastu Municipality-1 was raped by local Radheshyam Kahar, 24 and Balli Pathan, 17 on 2 February 11 pm as the woman was sleeping outside an inn. The incidents were reported inside the Bhutanese refugee camps also. Tikaram Giri of Khudunabari camp tried to rape a 32-year-old woman of the same camp on 11 January.

## **Perpetrators**

Most of the incidents have occurred in victims' house or near the house. This fact shows that the girls and women are insecure in the house or in the neighbourhood. For instance, the case of a 4-year-old girl being raped for 15 days by her father army man Chet Bahadur Shrestha of Pathari VDC-1 in district of Morang came to light on 14 January 2008. Another three year old girl of Rampur VDC-3 was raped by her 79-year-old relative on 13 July when the girl was alone at home.

According to the statistics, most of the perpetrators aged between 13 and 79 were involved in above reported cases. In seven cases, army and police men were involved

among which one army man raped his own daughter and three were attempted rape by soldiers while in four incidents, policemen attempted to rape. A soldier of Kailali and deputed in Bawani Bax Gan, Dailekh district attempted to rape an 8-year-old girl of Ganeshchok, Dailekh on 11 February.

There were 31 incidents of gang rape where seven girls below 16 were victimised. For instance, four men raped a 13-year-old girl of Gagangauda of Lekhnath municipality-12 on 29 April. In Sunbal VDC-8 of Nawalparasi district, one 63-year-old woman was raped by unidentified armed gang at 11.30 inside her house on 30 April 2008. Victims of gang rape aged between 8 and 63.

In three cases, underage boys also perpetrated the crime. In Sagachok VDC-4, a 13-year-old boy raped a 9-year-old girl of ward number 8 of same VDC on 21 September while in Birendranagar Municipality-10 in Surkhet, a 15-year-old boy raped a girl aged 10 and a boy aged 7 of the same house on 3 October.

Most of the perpetrators were relatives or acquaintances of the victims including father, grandfather, father-in-law, brother-in-law, neighbour, teachers and also security force. In one incident, YCL cadre Durga Ghimire raped 26-year-old woman of Bharapa VDC-2 in Panchthar on 25 October.

### **Justice system**

The loopholes in the Nepalese criminal justice system allow most of the perpetrators of gender crime to escape punishment. The victims face range of problems including the refusal of the doctor to attend to them if they do not have police report, refusal of police to provide preliminary information when they do not have medical report and pressure on the victims and their families to withdraw complaint. It was found that Morang Area Police Office refuse to file an FIR because the family of the victim could not afford the fee to file the case. Investigations into the rape cases are weak. Though the victims are taken to the hospital for medical check up, lack of proper resources impedes hospitals' capability to confirm the act.

Women face many hurdles in their quest for justice. In some incidents the claim of rape is rebuffed but in most incidents, proper legal channel is avoided and the issue is settled at the local level. The victims of gender crime are unable to get justice because in many cases, the police encourage for out of court settlements rather than ensuring the perpetrators are put behind the bars. This kind of settlement enables the perpetrators to escape with payment of small amount of money in compensation to the victim. In one such case, police denied justice to victim by ordering the perpetrators Suresh Karki and Bhupal Karki to pay Rs 50,000 to a 17-year-old victim of Deurali VDC-5 in Bhojpur district whom they raped on 11 September. Likewise, in a rape of 3-year-old girl in Ramechhap VDC of Ramechhap district, the 79-year-old perpetrator was allowed to go free after paying Rs 90,000. Area Police Office Morang refused to register a complaint about the rape of a 35-year-old woman of Kadamaha VDC-3 saying case filing would require Rs 2,200.

Even regarding the registered cases, the police administration does not take initiative to arrest the accused. Instead, the victims face threats from the police for attempting to make the incident public. Assistant Police Inspector Mohan Bahadur Gharti threatened a family of a 12-year-old girl of Bamitaxar VDC-1 of Gulmi district when it approached Bami Police station to register a case naming Raj Rana, 26 of the same VDC for raping the girl near her house on 1 August.

In some cases, however, legal procedures have been forwarded. Bhojpur district court on 11 July sentenced Sane Darji, 44 to eight years in prison and pay compensation of Rs 10,000 for sexual assault of a 9-year-old girl on 15 January.

The police have taken action in many of the cases but slow investigation and justice system denies rightful justice to the victims. Only one perpetrator in the above mentioned cases has been sentenced to jail.

### **Existing Legal Provisions**

Lack of effective legal protection mechanism has contributed in increase in gender crime. There is a need for serious review and amendment of the legal provisions for the protection of the rape victims. Eleventh amendment of the National code changed the jail term for the perpetrators to five to 15 years in rape section from three to 10 years. Though, the new provision has an addition of five years of imprisonment if the victim is gang raped, pregnant or disabled, yet the definition is incomplete and narrow. The definition should comply with important decisions taken to ensure the women's role and participation in peace process and the international standard. Likewise, it is silent about the interim relief to the victim when the case is proceeding in the court.

Draft bill on domestic violence has also missed out several kinds of violence including gender violence. The preamble and the definition of the bill need to be revised because their sphere is very narrow. International standards on violence against girls and women include sexual violence, rape, beatings, killing, burning, discrimination in daily domestic matters and deprivation of rights in the name of tradition among others. UN Security Council has also recognised rape and other sexual violence as crime against humanity.

According to Article 20 of the Interim Constitution, no physical, psychological or other violent action would be taken against women and such violent acts would be punishable by law. Comprehensive Peace Agreement also expresses commitment towards ending all kinds of violence against women through special measures. The definition of the crime and the legal mechanisms to protect the victims should be compatible with the standard of human rights. The legal provisions drafted for proper and extensive protection of rape victims should include measures to end gender crime and improve women's rights.

Gender crime is one of the discriminations against women and it is prohibited by the Conventions to which Nepal is a state party. Specially, Article 2 of Convention on Elimination of All Kinds of Discrimination against Women says "States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means

and without delay a policy of eliminating discrimination against women". This provision should be incorporated in Nepali laws for the end of violence against women.

## **Conclusion**

Gender violence has directly affected the lives of girls and women in 2008. A girl of 33 months of age and 63 years-old woman, physically and mentally disabled women became victims. It is necessary to take steps to ensure elimination of violence against women by establishing gender justice. The government has made laws, policies and programmes to end the violence but they have not been adequate.

In the context of Nepal, violence against women should be perceived from social and psychological points of view along with the legal one. For this, a positive change in social system and male perspective and behaviour towards women is a prime requisite. Mere legal provisions are not sufficient to check the increasing number of gender crimes. Widespread civil awareness can be one answer to tackle the problem. Government can run awareness programme in coordination of non-governmental organisation for monitoring the violence in society and effective implementation of laws.

As a principle of gender equality and equal participation is must for development of democratic society, right to dignified life should also be guaranteed. To control social evil and heinous crime like rape, government should take the following steps:

- Redefine discrimination against women along with gender violence in the recently brought bill on domestic violence against women.
- Take action against anyone who encourages out of court settlement in rape cases, pressurises to withdraw, or offers or makes other offer incentive to withdraw the complaint.
- Take legal awareness programme on violence against women to every village, establish women's cell in each district or area police office and incorporate campaign of violence against women in secondary and higher secondary school text books.
- Establish family court in every district to deal with cases of violence against women.
- Introduce and implement tougher laws against the perpetrators of rape.
- Ensure life without social stigma for the rape victims.
- Make Women Commission powerful and effective by giving it complete mandate.