

**PROMISING DEVELOPMENTS  
PERSISTENT PROBLEMS**

*Trends and Patterns in Torture in Nepal during 2013*



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ADVOCACY FORUM-NEPAL  
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***Promising Developments, Persistent Problems: Trends and Patterns  
in Torture in Nepal during 2013***

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## FOREWORD

Advocacy Forum Nepal (AF) is a non-governmental organisation, which has acted to prevent torture and other ill-treatment in Nepal since its foundation in 2001. This report is specifically concerned with AF's work in preventing the abuse of detainees by the Nepal Police, and challenging the culture of impunity for such crimes.

We are pleased to report a decline in reports of torture in Nepal during 2013. But we would be foolish to jubilate about this positive development, as we cannot ignore the remaining underlying systemic problems.

Now, more than ever, is the time to address the human rights deficit in Nepal. Active engagement from the Nepali State, civil society, and the international community is required to defeat the culture of impunity.

The United Nations International Day in Support of Victims of Torture, in the words of former Secretary-General Kofi Annan, "is a day on which we pay our respects to those who have endured the unimaginable. This is an occasion for the world to speak up against the unspeakable." In honor of this important day in the international community, this publication documents the systematic practice of torture in Nepal. Our hope is that this report energizes the discussion on human rights violations and abuses in Nepal, particularly torture, so that policymakers and civil society alike address the lack of respect for human rights norms.

I would like to acknowledge the support of those police detention centres that have guaranteed their detainees' access to lawyers and have allowed AF lawyers to assess the treatment of detainees. I would also like to express my appreciation for the openness of the Human Rights Unit of the Nepal Police to engage with AF in addressing the problem of torture in police detention centres. Finally, I would like to thank colleagues at AF who wrote this report, in particular Kopila Adhikari, General Secretary of Advocacy Forum, Daniel Yeadon, Ingrid Massagé and Jessica Garcia and all the victims of torture who shared their experiences with us.

**Kamal Raj Pathak**

Acting Director

June 2014

## EXECUTIVE SUMMARY

Advocacy Forum (AF) has been visiting police detention centres for more than a decade; interviewing detainees, recording accounts of torture and other ill-treatment by state authorities, and helping victims bring cases against perpetrators. The evidence gathered is used to raise awareness among stakeholders and the public, and is presented annually on 26 June, to coincide with International Day in Support of Victims of Torture.

Data gathered by AF during 2013 have confirmed that use of torture has reduced but nevertheless still remains widespread throughout Nepal. Out of 3,662 detainees interviewed by AF lawyers, 16.7% claimed that they had been subjected to torture or other cruel, inhuman or degrading treatment during their detention (CIDT); a reduction from 22.3% in 2012. The torture and CIDT of juveniles remains a major concern, with 22.9% and 25.7% of juveniles below eighteen and sixteen years of age respectively reporting that they were tortured in detention. 5.7% of women in detention reported torture, a rate lower than other groups but still unacceptably high. Banke, Jhapa and Surkhet stand out as districts from where detainees have reported torture more frequently than others. In recent years, methods of torture utilised by police have become less severe, but brutal methods of physical abuse are still used.

The most recent Truth and Reconciliation Commission Act has been highly criticised for being ineffective in guaranteeing victims' rights to redress for past crimes. There are major concerns over the excessive

willingness of the Nepalese government to grant amnesty to perpetrators of gross human rights violations, including torture.

The improvement in the record of the Nepal Police on torture in the last year comes amid continuing condemnation from reputed international human rights mechanisms. The United Nations (UN) Human Rights Committee recently expressed concern during their examination of Nepal's second period report over "the official confirmation of the widespread use of torture and ill-treatment in places of police custody" as well as "the failure of the State party to adopt legislation defining and criminalising torture, ... and the impunity of law enforcement officials involved in such human rights violations".<sup>1</sup> To address these two shortcomings remains among the most important steps Nepal needs to take to improve its poor record on human rights, and in particular to bring an end to the systemic prevalence of torture by the Nepal Police.

Torture is forbidden as an investigation method by the Interim Constitution of Nepal, the Torture Compensation Act (TCA) and the UN Convention against Torture, of which Nepal is a signatory since 1991. Unless Nepal addresses the concerns repeatedly expressed by these UN bodies, it is at risk of further condemnation when it comes up for its second Universal Periodic Review by the Human Rights Council in November 2015.

This report also examines how procedural safeguards aiming to protect detainees from abuse by police and guarantee justice and compensation for torture and sexual violence are being upheld. It is found that these safeguards are routinely ignored by police, with high numbers of detainees denied their basic rights during detention. Significant numbers of detainees are not informed about the reason for their arrest or brought before a judicial authority within 24 hours, as required under the constitution. There are also serious concerns raised as to whether

<sup>1</sup> Human Rights Committee, Concluding Observations on the second periodic report of Nepal, 15 April 2014, para. 10. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en).

confessions are obtained lawfully, and whether there is adequate scrutiny of the circumstances under which confessions are obtained.

Finally, the following recommendations are reached:

1. Implement all CAT and HRC recommendations, including the criminalisation of torture, and the removal of a statute of limitations on crimes such as sexual violence.
2. Pending the criminalisation of torture, the Nepal Police Human Rights Unit to take steps to end the persistent culture of impunity by conducting more vigorous investigations into reports of torture.
3. Establish adequate mechanisms for reparations for victims of torture.
4. Immediately amend the TRC Act, to ensure that the commissions do not have power to mediate in cases involving gross human rights violations and that there is no possibility of recommending amnesty in such cases. There must also be an adequate system of referral to prosecutorial mechanisms.
5. The Human Rights cell of the Nepalese police force must conduct more robust investigations of allegations of torture, and impose more rigorous penalties, pending the criminalisation of torture.
6. The international community should engage in vetting practices of members of the Nepalese police force similar to those of the United States government and UN Department for Peacekeeping Operations.



## **1. INTRODUCTION**

This report aims to summarise the data gathered by AF during 2013, and analyse trends of torture by district, ethnic group, age and gender. Where possible, data is compared to that of previous years and long term trends are examined.

Progress made by Nepal in recent years is compared to recent observations and recommendations made by the Committee Against Torture and Humans Rights Committee, when they examined if Nepal is making progress in implementing the Convention against Torture and International Covenant on Civil and Political Rights respectively.

The recent Truth and Reconciliation and Torture Compensation Acts are also examined and analysed as to whether they are fit for purpose.

## **2. METHODOLOGY**

This report examines trends in the number of detainees reporting torture and other cruel, inhuman or degrading treatment (CIDT), and analyses how this data varies by caste, gender or age. AF gathers this data by visiting detainees in government detention centres, where detainees are requested to answer a questionnaire. In the period of January to December 2013, visits to 57 detention facilities in 19 districts were undertaken and AF lawyers conducted 3,662 interviews with detainees. This included 3,165 male detainees, 492 female detainees and 5 transgender detainees.

The questionnaire used when visiting detainees was designed with the support of national and international experts. During the visits to detainees AF lawyers explain the role of AF and the rights of detainees as guaranteed under the Interim Constitution of Nepal (IC), 2007 and international law. Ideally, interviews are carried out in interview rooms without police officers present. Unfortunately, it is not always possible to conduct interviews in this manner; the majority of interviews were conducted while standing at the gates of detention cells in the presence of police officers. This has almost certainly skewed the data to show fewer incidents of reported torture than would have otherwise been reported, due to detainees' fear of police reprisals if they openly accuse the police of torture or other ill-treatment. The data was processed with the Statistical Package for the Social Sciences (SPSS).

Visits to detention centres such as these encourage police to implement their constitutional obligations, such as ensuring that detainees have access to lawyers or legal practitioners. AF also represents victims in court, conducts awareness training on human rights with police, judges and public prosecutors, provides legal, medical and psychosocial support to torture victims and communicates cases to national and international bodies.

AF lawyers also conducted interviews with juvenile detainees. It must be noted, however, that there is a disparity between Nepalese and international law in whom is considered a juvenile. Under Nepalese law a juveniles is defined as an individual under sixteen years of age. This is in contrast to the UN Rules for the Protection of Juveniles Deprived of their Liberty and the UN Convention of the Rights of the Child (CRC) (ratified by Nepal is 1990) which state that a child is any person below eighteen unless the majority is attained at an earlier age under national law.<sup>2,3</sup> AF has conducted interviews with 848 juveniles (90.6% males and

<sup>2</sup> Convention on the Rights of the Child, Article 1. Available at: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>3</sup> UNGA, 'UN Rules for the Protection of Juveniles Deprived of their Liberty' (14 December 1990), UN Doc A/RES/45/113, Rule 11(a). Available at: <http://www.un.org/documents/ga/res/45/a45r113.htm>.

9.4% females) below eighteen, of which 404 juveniles (94.8% males and 5.2% females) were below sixteen years of age. It is important to note that when using the international definition for criminal liability the number of juvenile detainees more than doubles. Both definitions of juveniles are taken into consideration in this report.

### **3. TORTURE TRENDS AND PATTERNS IN NEPAL'S DETENTION CENTRES**

Out of the total 3,662 interviewed by AF lawyers, 611 detainees (16.7%) claimed that they had been subjected to torture or other cruel, inhuman or degrading treatment during their detention. For the purposes of this analysis, torture is defined as per Article 1.1 of the Convention Against Torture (CAT), and other cruel, inhuman or degrading treatment is defined as per Article 16 of CAT. This figure of 16.7% represents a 25% decrease in comparison to 2012, when 22.3% of detainees reported that they had been victims of torture. This torture rate is the lowest since AF started working on torture prevention in 2001, and has been decreasing more or less continuously since 2011. This may be due to an increase in vetting procedures carried out on members of Nepal's police force by the United States government and UN Department of Peacekeeping operations.

The minimum age for criminal responsibility in Nepal is ten years. The Committee on the Rights of the Child considers a minimum age below twelve years as unacceptable.<sup>4</sup> As the police in Nepal in practice arrests suspects before undertaking any age verification there are cases of children under ten being arrested, which our findings reflect.

<sup>4</sup> Para 32, CRC/C/GC/10.

In 2013, 5.7% (28 of 492) of female detainees, 26.4% (100 out of 379) of juvenile detainees under 16 and 22.9% (194 out of 848) of juvenile detainees under 18 reported torture.

AF is pleased to observe that these figures show a decreasing trend and sees this development as a success of its work in torture prevention. The above chart (Chart 1) shows the steady downward trend of torture rates since 2001, the year in which AF started its work on torture prevention. In the midst of the armed conflict in Nepal (1996 - 2006) torture was widespread, with almost half of all detainees reporting torture in custody. Towards the end of the conflict the figures began to decrease, a trend which has continued steadily to the present period.

## **4. TORTURE PATTERNS BASED ON DISTRICTS**

There are considerable differences in the prevalence of reported torture in detention centres between the 19 districts in which AF has visited detainees during 2013. Banke, Jhapa, Surkhet, Bardiya and Baglung were identified as having the highest rates of reported incidents of torture, and Kanchanpur, Dolakha, Lalitpur and Udhayapur with the lowest. Chart 2 shows the rate of each district and whether or not it is above or below average.

### **4.1 TORTURE TRENDS IN THREE DISTRICTS**

Three districts have shown an increase in torture from 2012 to 2013 (July to December 2012). These are Myagdi, Morang and Banke. These three districts all have torture rates already above the average across all districts, and are a cause for particular concern. As previously stated, there has been an average 25% decrease in torture rates across all districts, with the greatest improvements made in Kanchanpur, Udhayapur and Dolakha, showing significant improvement over 2012. Chart 3 shows the yearly percentage change.

## 5. TORTURE BASED ON CASTE AND ETHNIC BACKGROUND

AF analyses torture cases based on caste and ethnic background in order to identify social groups that are more vulnerable to torture in detention. Out of the 3,662 detainees that AF visited from January to December 2013 the largest groups of detainees are the indigenous community and the caste of the Chhetri, each comprising a quarter of total detainees. The other groups identified are the Terai, Dalits, Brahmins, Newar and Muslims in descending order of representation. Detainees identifying themselves as belonging to other ethnic groups not specifically mentioned in the questionnaire are marked “other”.

As shown on the following graph, 36% of Muslim detainees reported torture in detention, the highest rate by a large margin. In particular, Muslim detainees in Banke and Morang district were reporting high incidents of torture. Detainees belonging to other ethnic groups reported the next highest rate of 23%.

Compared to July to December 2012 there has been an increase in reported torture rates of all ethnic groups except the indigenous and Chhetri populations. The most drastic increase has been of the Muslim detainees, who have seen an eleven-fold increase.

## 6. TORTURE BASED ON CHARGES

AF analyses if being arrested under certain laws put detainees under a higher risk of being tortured. Overall, those arrested under the Public Offences Act represent 33.6% of all detainees (1,232 out of 3,662 cases). The second most common charge is possession of drugs, which represents 19% of the total cases (696 out of 3,662 cases). Other categories with a high percentage are people charged with theft (8.6%) and rape (5.5%) and people against whom no charge is brought (9.3%).

The collected data shows that those charged under the Arms and Ammunition Act and with kidnapping and theft show the highest rate of reported torture. However, detainees have reported that police have been known to bring false charges against those arrested. Such false charges are often brought under laws, which do not require people to be tried before district courts. For example, detainees charged under the Arms and Ammunition Act are not required to appear in court, and can be charged and tried by Chief District Officers (CDOs), under procedures which substantially violate the right to fair trial. It is therefore possible that charges brought against detainees are not representative of the suspected crime the detainees were originally arrested for. See the case studies below for more details.

## 7. CASE STUDY: MALE TORTURE SURVIVOR

This section shall analyse a case of a male detainee who committed the minor crime of theft of seedlings. Wakeel Khan was a 32-year-old farmer living in Bankuti, Banke district. On 8 July 2013 he was arrested for stealing fifty seedlings from the eucalyptus plant of Shiv Kumar Verma's nursery. He reports undergoing severe torture despite admitting his crime upon arrest and being willing to pay a fine. He told AF:

“On 8 July 2013 at around 10 am I was planting those [stolen] seedlings near my house when Shiv Kumar's brother named Khusiya Verma and two others came to my place asking me, why I had taken the seedlings from their nursery. I told them that I made a mistake and while taking out NRP 1000, I asked them the price of the seedlings.” (Interview with Wakeel Khan, 12 July 2013)

Kumar Verma's brother did not wish to resolve the case immediately and asked the other two men to locate his brother. Three police officers arrived and ordered them to the police station. While Wakeel Khan was taken to the police station, police went to the nursery to count the number of seedlings that had been stolen. In their counting they

included 232 plant bags, although Wakeel Khan claims he took only fifty seedlings.

At the police office Wakeel Khan claims that he was taken to a room and was ordered to sit on the floor and straighten his legs. He claims he was beaten for one and a half hours; police allegedly used a television cable to hit him on the sole of his feet, kicked him five to six times on his buttocks and hit him with a bamboo stick on his chest and back three to four times. While hitting him, police allegedly called him a thief and verbally abused him.

Wakeel claims that following the torture the police took all the money he was carrying on his person to pay the fine (1,570 NRP) and 700 NRP from Rafi Khan, a relation of Wakeel. He was released the same day. The police's reported actions outraged members of the village who went to the police office the same day and questioned the police's actions. There was widespread outrage of the alleged torture of Wakeel; this sentiment was furthered by Wakeel's immediate confession and willingness to pay a fine. The police allegedly acknowledged these facts, but stated that thieves deserve physical punishment regardless.

After being arrested Wakeel Khan reports that he had bruises and blood clots on the sole of his feet. For 24 hours his feet were badly swollen and the nails of his feet turned blue. The blood clots on his feet made it difficult for him to walk and he had several injuries on his back and chest from the beating with a stick. He also reported headaches and a feeling of dizziness.

Wakeel feared police reprisals and so decided not to pursue compensation under the Torture Compensation Act. Wakeel still suffers health problems such as lack of sleep and anxiety, and is currently taking medication for these health problems which he pays for himself.

If the police's alleged response to the villagers' accusations is accurate, it shows how torture is perceived by police as an acceptable punitive measure alongside the application of the legal penalty, in this case

the payment of a fine. The police are also alleged to have taken all the money Wakeel had on his person instead of the exact fine. Furthermore, evidence was reportedly falsified with the addition of further stolen objects, namely the extra one hundred and eighty two seedlings.

From the data in the previous chapter we can see that the crime of theft elicits a particularly high risk of torture, with the reported torture rate standing at over 30%.

## 8. JUVENILES AND TORTURE IN DETENTION

In this section we will present torture trends and patterns for juveniles. As previously documented by AF, the reported torture rate has continuously been higher for juveniles than for the average detained population.<sup>5</sup>

### 8.1 TORTURE TRENDS AND PATTERNS FOR JUVENILES IN DETENTION

As previously stated, Nepalese law defines a juvenile as any person aged 16 and below<sup>6</sup> contrary to the UN Rules for the Protection of Juveniles Deprived of their Liberty and the UN Convention of the Rights of the Child (CRC) which state that a child is any person below eighteen.<sup>7,8</sup> The minimum age for criminal responsibility in Nepal is ten years, contrary to the Committee on the Rights of the Child, which considers a minimum age of criminal responsibility below twelve years as unacceptable.<sup>9</sup> The police in Nepal rarely undertake age verification. In those cases where

<sup>5</sup> For more details view AF's report "Torture of Juveniles in Nepal, A Serious Challenge to Justice System". Available at: [http://advocacyforum.org/downloads/pdf/publications/Torture-of-juveniles-in-Nepal\\_26\\_June\\_2010.pdf](http://advocacyforum.org/downloads/pdf/publications/Torture-of-juveniles-in-Nepal_26_June_2010.pdf).

<sup>6</sup> Children's Act May 1992, Article 2.

<sup>7</sup> Convention on the Rights of the Child, Article 1.

<sup>8</sup> UNGA, 'UN Rules for the Protection of Juveniles Deprived of their Liberty' (14 December 1990), UN Doc A/RES/45/113, Rule 11(a).

<sup>9</sup> Para 32, CRC/C/GC/10.

AF assisted children to undergo an age verification, it was found that some detained children were under the age of ten.

Despite the enactment of the Juvenile Justice Regulations (2006) which aims to protect juveniles in detention centres, juveniles are still at a high risk of torture by police. 22.9% and 25.7% of juveniles below eighteen and sixteen years of age respectively are reporting tortured in detention. This percentage is significantly higher than the rate for the overall detained population, which stands at 16.7%.

Even though the torture rate for juveniles in 2013 is still high, the number of juveniles under eighteen reporting torture has been decreasing since 2011 as shown by chart 6. Unfortunately, historic data for juveniles under sixteen years of age is unavailable.

#### 8.1.1 TORTURE OF JUVENILES BASED ON AGE

Analysis shows that the number of juveniles arrested increases with the age of the detainee. The proportion of those arrested reporting torture also increases with the age of the detainee, although detainees of seventeen years of age report a higher rate of torture than eighteen year-olds. Seventeen and eighteen year-olds represent approximately half of all juveniles arrested and of those reporting torture. No juveniles ages nine, ten or eleven report torture in detention, although one nine year-old was illegally arrested.

#### 8.1.2 TORTURE OF JUVENILES BASED ON CHARGES

For juveniles under sixteen years of age, most common are the detainees charged with a public offence, followed by those who were not charged and those charged with theft.

The charges which elicit the highest rates of reported torture are theft, public offence, and attempted murder.

For juveniles under eighteen years of age, detainees are most commonly charged with a public offence, followed by those charged with drug possession and detainees not charged.

The charges which elicit the highest rates of reported torture are theft, attempted murder, drug possession and public offence.

### 8.1.3 TORTURE OF JUVENILES BASED ON DISTRICTS

For juveniles under sixteen, Banke, Baglung and Jhapa report the highest rates of torture. There were no cases of reported torture of under sixteens in Morang, Kanchanpur, Udhayapur, Lalitpur, Dhanusha, Parbhat and Dolakha.

For juveniles under 18, Banke, Jhapa and Baglung again had the highest rates of reported torture, with no cases of reported torture of under 18s in Kanchanpur, Lalitpur, Dhanusha and Dolakha.

### 8.1.4 TORTURE OF JUVENILES BASED ON CASTE AND ETHNIC BACKGROUND

For both juveniles below sixteen and eighteen, Muslim detainees reported the highest rate of torture, with a rate of 50% and 54% respectively. This reflects the trend observed in adult detainees. Brahmin detainees report consistently low rates of torture, with all other ethnic groups reporting torture rates between 20 and 30%. The consistently observed high rate of torture of Muslim detainees is of particular concern to AF.

### 8.1.5 CASE STUDY: JUVENILE TORTURE SURVIVOR

Mahesh, a 15-year-old resident of Basdeypur, Banke district was arrested by 8 to 9 unidentified uniformed policemen from his home at 3am on 19 February 2013, while he was sleeping. He was arrested on an Arms and Ammunition charge and was brought to the District Police Office (DPO) in Banke. During the drive to the Police Office one of the policemen kicked him on his back and beat him with a bamboo

stick on his head and shoulders, while asking about his involvement in a robbery in Surkhet Road. At the DPO, he was held in a cell with adult detainees where he met three men he states that he already knew. About this encounter he said: “I came to know that they were caught by villagers for robbing passers by and were handed over to the police and they had given my name to the police, but I don’t know anything about the case.” (Interview with Mahesh, 12 March 2013)

On 20 February 2013 Mahesh and the other three men were presented to the media at a press conference.

On his first day of detention at around noon a policeman handcuffed him and brought him on a motorbike to the Ward Police Office in Fultekra, Banke district, where he was blindfolded and taken to a room with three to four other people. He claims that he was forced to kneel down on his knees and was beaten with a stick on his legs by a policeman called Dev, while being questioned about the Surkhet Road robbery and a pistol. Mahesh claims that despite pleading his innocence and denying possessing a pistol the policeman continued with the abuse. He claims that the torture continued for approximately half an hour until the pain was so severe that Mahesh accepted all allegations, after which the torture ceased.

The same day at around 5pm Mahesh was transferred in a van to the DPO in Banke again. The same evening two unidentified policemen took him to a room where four more detainees were waiting. Mahesh claims that they handcuffed him and forced him to lie down on the floor, and two policemen beat him on the soles of his feet with a bicycle pump approximately twenty five to thirty times. He claims he was again questioned about the Surkhet Road robbery. The police allegedly kicked him on various parts of his body with police boots, and punched and slapped him on his chest and face for half an hour.

On the following day at midnight the policeman named Dev took him out of his detention cell and brought him to a gallery. Mohammad said:

“There was severe pain and I cried. He kicked and jumped on my stomach three times with his police boots and gave me a hard kick on my waist once. He said ‘Now your legs won’t cure for one year. If you share the information on torture with others and I lose my job, I will not leave you at any cost.’” (Interview with Mahesh, 12 March 2013)

Due to the beating around his head Mahesh could not hear properly from his left ear for two to three days. He had pain in his legs and was unable to sit or stand properly for five to six days. The police charged Mahesh with drug abuse.

This alleged abuse contravenes international and national laws, which protect the rights of juveniles while they are in custody. The Convention on the Rights of the Child (CRC), ratified by Nepal in 1990, states that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.<sup>10</sup> In addition, the Children’s Act 1991 (2048) states that juveniles and adults must be kept in separate detention cells. The Juvenile Justice (Procedure) Regulations 2006 (2063) also contain several rules which should protect children and juveniles during an investigation (Rule 4) and interrogation (Rule 5).<sup>11</sup>

In Mahesh’s case, he was arrested by eight to nine police officers, who did not identify themselves using proper documentation at the time of arrest (Rule 4(b) of the Juvenile Justice Regulations 2006). Furthermore no parent accompanied him through any stage of the investigation (Rule 5(2)). Regrettably, Rule 5(2) only states that the interrogation “may be done” in the presence of the juvenile’s parents, guardian or lawyer, and does not enforce any legal obligation. In AF’s view the presence of a parent or lawyer during the interrogation would reduce the risk of torture or other ill-treatment of the juvenile during detention and should therefore become a legal obligation. Mahesh claims that

<sup>10</sup> Convention on the Rights of the Child, Article 37(a).

<sup>11</sup> For further information about the implementation of the Juvenile Justice (Procedure) Regulations 2006 (2063), please refer to our latest Torture Briefing, July to December 2012. Available at: <http://advocacyforum.org/downloads/pdf/publications/torture/torture-briefing-july-december-2012.pdf>.

he was repeatedly tortured despite accepting all the allegations, and abused by the leading police officer who threatened him with lifelong imprisonment if he spoke out about the torture. It appears that the police were aware of the illegality of the alleged misuse of power and took steps to conceal and obscure events.

## **9. TORTURE TRENDS AND PATTERNS OF WOMEN IN DETENTION**

AF visited 492 female detainees during 2013, comprised 13.4% of all detainees. Of the 492 women detained 5.7% (28) claimed that they were victims of torture or other cruel, inhuman or degrading treatment. This figure is lower than proportion of men reporting torture, a rate that stands at 18.4%.

The trend for female detainees from July 2010 to December 2011 shows a gradual increase of female torture cases, reaching a peak of 16.2% torture cases by the end of 2011. However, since then the overall trend has been downwards and AF are please to report the lowest torture rate thus far in 2013. This downward trend and the low torture rate for women in 2013 gives hope that this trend will continue.

It must be noted that female detainees represent a far smaller group than male detainees. As such, it is impossible to infer overall trends from the data due to the small sample size, and the data for female detainees shall not be broken down by caste, district or charge.

### **9.1 CASE STUDY: FEMALE TORTURE SURVIVOR**

In this section we shall analyse the torture case of a 25-year-old female detainee arrested in Kathmandu, examining the rights and procedural safeguards that were allegedly disregarded by the police.

At 8:30pm on 29 May 2013, Devi (name changed), a 25-year-old woman from Dhapasi, Kathmandu was arrested by three male and one female police officers in civilian clothing while on her way from Jorpati to Dhapasi, Kathmandu, under the charge of theft. She was taken to the Metropolitan Police Station, Boudha. At the police station, she was blindfolded and made to lie on the floor with her feet up. Two police officers abused her verbally, asking about the whereabouts of the stolen objects, while striking her on both feet with sticks. The female police officer slapped her two to three times in the face and pulled her hair. She was verbally abused and hit on her thighs five to seven times. She was questioned about her work, her acquaintances and about her sexual relationships. They beat her for approximately fifteen to twenty minutes. Between 11 and 12 pm she was brought to Boudha Stupa hospital for a health check-up, where medical staff did not question her about her injuries. She was taken back to the detention centre and was forced to sleep in a room with a male police officer. The following morning she was blindfolded and handcuffed and struck on her feet ten to twelve times by unidentified police officers.

#### DEVI TOLD AF ABOUT HER INJURIES AND THE TORTURE:

“I had blue marks on my thighs as a result of the hitting. For two to three days I had a hard time getting up. Slapping my cheeks had reddened my cheeks. Pulling my hair gave me a headache that lasted two days. ...I did not know that I was allowed to get treatment when I was taken for a health check-up. Since the police had beaten me, I did not speak about it to anyone in the hospital; I was scared that the police would beat me again.”

(Interview with Devi by Advocacy Forum-Nepal on 12 June 2013)

Due to a lack of evidence for the allegation of theft she was charged with public offence on 2 June 2013 and received a letter of remand for a duration of seven days for further investigation. Devi was released by the

Chief District Office on bail for the amount of NRs 10,000. She is still under investigation, but no trial date has yet been set.

In this case the police are alleged to have utilised a range of physical and psychological abuse against the detainee, as well as reportedly filing false charges. As well as physical torture, the detainee was asked questions which were irrelevant to the charges, such as about her sexual behaviour, seemingly intended to humiliate and degrade her. Furthermore, she was forced to spend the night in the same room as a male police officer.

The nature of this detention contravenes many of the requirements of the Interim Constitution 2007, including Article 24(1) which states that every person must obtain a letter of arrest where he/she is informed about the reason for his/her arrest; as the police failed to give her a letter of arrest she was kept for four days in illegal detention. The Interim Constitution, 2007, also states that every person detained should be brought before a judicial authority within 24 hours after the arrest (Article 24[3]). However, Devi was brought before a court only after four days of detention, where she received the letter of remand.

Detainees have the right to receive a health check-up before being brought into a detention centre and after being released.<sup>12</sup> Devi was taken for a health check-up after being beaten. As no questions about her injuries were raised at the hospital, it appears that evidence of torture was ignored by medical staff. The detainee was not made aware of her right to a health check-up and did not speak up at the hospital because she feared reprisals by the police.

The detainee was finally charged under the Public Offences Act, allegedly due to a lack of evidence for the initial charge of theft. This in itself is significant, as 42% of all women arrested have been arrested on this allegation (206 out of 492 female detainees) and 33.6% of the both male and female of detainees (1,232 out of 3,662 detainees).

<sup>12</sup> Torture Compensation Act, Section 3, Subsection 2.

## 10. THE POLICE'S COMPLIANCE WITH PROCEDURAL SAFEGUARDS

In Nepal, these safeguards against torture are laid down in the Interim Constitution (IC), 2007 and in the Torture Compensation Act (TCA), 1996. In this briefing we examine several provisions made under Article 24 of the IC concerning the rights of detainees. These provisions are: the right to be informed of the reason for arrest<sup>13</sup>, the right to be presented before a judicial authority within a period of twenty-four hours after arrest<sup>14</sup> and the right not to be compelled to be a witness against oneself<sup>15</sup>. We also analyse if health check-ups were made by medical practitioners at the time of arrest and after releasing the detainee, a procedure stated in Act 3(2) of the Torture Compensation Act.<sup>16</sup>

### 10.1 ARTICLE 24(1) OF THE INTERIM CONSTITUTION, 2007: INFORMATION OF THE REASON FOR ARREST

Article 24(1) of the Interim Constitution states that, “No person who is arrested shall be detained in custody without informing him or her of the reasons for such arrest”. Detainees should receive an arrest warrant at the moment of their detention, where the charges under which they were arrested should be stated. Of the 3,662 detainees that AF has visited only 15.4% (518 detainees) were given an arrest warrant before being detained. The majority of the detainees, 67.1% (2,251), obtained it after being brought into detention, and 17.5% (587 detainees) never obtained an arrest warrant. Although these results are highly disappointing, it is nonetheless an improvement over the analysis period of July to December 2012, where only 9% received an arrest warrant at the time of arrest and 74.1% received an arrest warrant after they were brought into detention. The proportion of detainees never receiving an arrest warrant has stayed constant.

<sup>13</sup> Interim Constitution, Article 24(1).

<sup>14</sup> Interim Constitution, Article 24(3).

<sup>15</sup> Interim Constitution, Article 25(7).

<sup>16</sup> Torture Compensation Act, Section 3(2).

The low proportion of detainees receiving arrest warrants and detention letters at the correct points in their detention indicates a failure to comply with the Committee Against Torture (CAT) recommendations which state “The State party should take effective legislative, administrative and judicial measures to ensure that all allegations of arrest without warrants,... are promptly investigated, prosecuted and the perpetrators punished” and that “[t]he State party should take immediate effective measures to ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention; these include, in particular,... to be informed of their rights at the time of detention, including about the charges laid against them” respectively.<sup>17</sup>

It also indicates a failure to comply with the HRC recommendation which states: “The State party should take appropriate measures to ensure that no one...is subject to arbitrary arrest or detention and that detained persons enjoy all legal guarantees”<sup>18</sup>

## **10.2 ARTICLE 24(3) OF THE INTERIM CONSTITUTION, 2007: THE RIGHT TO BE PRODUCED BEFORE A JUDICIAL AUTHORITY WITHIN 24 HOURS AFTER ARREST**

Regarding the right to be produced before a judicial authority within a period of twenty-four hours after arrest, as per Article 24(3) of the IC, 56.2% (2,057 detainees) were brought before a judicial authority within 24 hours. 34.5% (1,263 detainees) of detainees were brought before a court at a later stage and 9.3% (342 detainees) were not brought before a judicial authority at all. Among the 3,320 detainees who had been taken to court (whether within 24 hours or later), 82.2% (2,730 of the detainees) were not asked by the judge or judicial officer whether they were tortured or if any other cruel, inhuman or degrading treatment had occurred during detention.

<sup>17</sup> CAT Article 20 Recommendations 109(c) & 110(d).

<sup>18</sup> UN HCR Concluding Observations on the Second Periodic Report of Nepal. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en).

AF works to educate judges and other judicial officers about the importance of asking detainees in a court about infliction of torture or other cruel, inhuman or degrading treatment during detention, as these can help to deter police officers from torturing detainees and to prosecute perpetrators. Unfortunately, there is no legal procedure that obliges judges or judicial officers to ask about torture or other cruel, inhuman or degrading treatment.

The significant proportion of detainees who are not brought before a judicial authority within 24 hours shows a failure to comply with CAT recommendations which state “The State party should take immediate effective measures to ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention; these include, in particular, the right...to appear before a judge within the 24-hour time limit” and “Police stations should not hold detainees without presentation before a judge beyond the 24-hour period prescribed by the law” respectively.<sup>19</sup>

### **10.3 TORTURE COMPENSATION ACT 3(2): THE RIGHT TO GET HEALTH CHECK-UPS BEFORE AND AFTER DETENTION**

Detainees are entitled to receive health check-ups before and after detention, under section 3(2) of the Torture Compensation Act. AF’s data show that the vast majority (94.9%, 3,474 detainees) have undergone a health check-up soon after being taken into detention. Although these numbers seem encouraging there are problems in the way health check-ups are undertaken. If a check-up is undertaken, there is no guarantee that it will take place privately with no police officers present. Such situations put detainees in a highly vulnerable position, and this provision of the act is insufficient to protect detainees from torture.

<sup>19</sup> CAT Article 20 Recommendations 110(d) & (k).

#### **10.4 ARTICLE 24 (4) OF THE INTERIM CONSTITUTION, 2007: THE RIGHT NOT TO BE COMPELLED TO BE A WITNESS AGAINST ONESELF**

The extraction of confessions by the police and their use as evidence in judicial proceedings is very common in Nepal. Although Article 24 (7) of the Interim Constitution (IC), 2007 stipulates that “No person charged with an offence shall be compelled to testify against him/herself”<sup>20</sup>, torture is often used to force detainees to testify against themselves.<sup>21</sup> The admission of confessions by judges without investigation into whether the confession was obtained under torture or other cruel, inhuman or degrading treatment encourages the use of torture in detention centres.

AF has recently started to address the use of confessions in judicial proceedings and how the admission of confessions without tests for admissibility encourages the use of torture in detention centres. AF has reviewed its questionnaire on torture and included questions regarding how confessions were obtained and their use in judicial proceedings. This new set of questions has been introduced in six different districts where AF lawyers have visited detainees. AF started using this new questionnaire in October 2013; therefore the data presented on confessions in this briefing reflect the findings from October to December 2013.

AF’s findings show that of the 306 detainees questioned, 43.5% (133) signed confessions. When asked if this confession was signed under the detainee’s free will or under duress, 26.3% claimed that they did not sign the confession of their own free will.

These figures show a failure to abide by the CAT recommendation which states that “the prosecution should carry the burden of proof that the confession was made freely.”<sup>22</sup>

<sup>20</sup> Interim Constitution, Article 24(7). Available at: <http://www.lawcommission.gov.np/en/documents/prevaling-laws/constitution/func-startdown/163/>.

<sup>21</sup> Advocacy Forum-Nepal, “Nepal. Is the Government Unable or Unwilling to Prevent and Investigate Torture?”, June 26, 2013, p. 70.

<sup>22</sup> CAT Article 20 Recommendation 110(g)

They also indicate a failure to comply with the HRC recommendation which states “The State party should take effective measures to guarantee the right to a fair trial. In particular, the State party should effectively ensure the right to remain silent in practice, ... that no defendant should be compelled to give evidence and ensure that evidence which is the result of coercion is inadmissible”<sup>23</sup>

## 11. METHODS OF TORTURE

According to detainees’ allegations, police officers utilise a range of torture methods. Most of these recur in detainees’ accounts with varying frequency. In recent years, methods of torture utilised by police have become less severe, but brutal methods of physical abuse are still used.

The most common methods of torture are described as follows:

- Detainees report being beaten on the soles of the feet with sticks, pipes or other objects. Many detainees report not being able to walk for several days or feeling pain in their feet for many weeks after detention. This type of torture appears to be systematic in police interrogation.
- Detainees report being kicked, punched and slapped. In some cases detainees report being kicked by police officers wearing police boots. In very severe cases, detainees report loss of consciousness and blood loss. Many detainees report difficulty sitting, standing and eating for long periods of time after detention.

<sup>23</sup> UN HCR Concluding Observations on the Second Periodic Report of Nepal. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en).

## 12. THE TORTURE COMPENSATION ACT (TCA), 1996 AND THE FAILURE OF THE ANTI-TORTURE BILL

For many years AF has advocated for a new law on torture in Nepal to replace the Torture Compensation Act (TCA), 1996, which has repeatedly proven to be inadequate to prevent torture, punish perpetrators and appropriately grant compensation to victims. A major problem of the TCA is that it fails to explicitly criminalise torture. Therefore, torture is not treated as an offence under criminal law and no criminal prosecution of the perpetrator can be ordered. Internal disciplinary inquiries by the police department have hence been the only action, if any, in response to allegations of torture arise.<sup>24</sup>

In January 2011 and April 2012, the Government of Nepal respectively submitted a draft Penal Code and a new Anti-Torture Bill to the Legislative Parliament which criminalises torture as a result of the pressure from AF, other local and international NGOs and the international community. Unfortunately, these bills were not passed into law before the Constituent Assembly cum Legislative Parliament were dissolved in May 2012 and no new initiatives have been taken since the Constituent Assembly cum Legislative Parliament resumed in late 2013. Hence, the TCA is currently the only national law relating to torture.<sup>25</sup>

AF has filed a number of cases under the Torture Compensation Act (TCA) on the behalf of victims. Chart 16 shows the proportion of cases which have been successful with victims granted compensation, those which were dismissed by the court, and those that remain active and withdrawn in 2013.

<sup>24</sup> Advocacy Forum, 'Hope and Frustration. Assessing the Impact of Nepal's Torture Compensation Act-1996', 26 June 2008, p. 24. Available at: <http://www.advocacyforum.org/downloads/pdf/publications/june26-report-english-2008.pdf>.

<sup>25</sup> Advocacy Forum, 'Nepal: Is the Government Unable or Unwilling to Prevent and Investigate Torture?', p. 49-50. Available at: <http://advocacyforum.org/downloads/pdf/publications/torture/26-June-2013-english-version.pdf>.

32.9% of cases were dismissed due to lack of medical evidence and insufficient documentation. That such a large proportion of the medical evidence presented is deemed insufficient is a source of concern to AF.

Chart 17 shows the amount of compensation that is awarded to victims. The majority of victims are awarded compensation in the region of NRs 5,000 - 15,000. Departmental action in the Nepalese police force was ordered in all cases where compensation was awarded. The average length of time for a decision to be made in favour of the plaintiff was 22 months.

Six cases were withdrawn before a decision could be made by the District Courts. Of these, five victims reported that pressure from the Nepalese police force had caused them to withdraw the case. The remaining case was settled out of court.

Of the 48 cases dismissed by the district court, 29 were appealed. Chart 18 shows the result of those 29 cases in both the Appeal and Supreme Courts. The average length of time taken for a decision to be made in the appellate is 13 months.

There have been reports of difficulties obtaining compensation even when compensation is granted by a court. An AF district coordinator was awarded NRs. 25, 000/- compensation after having been beaten by a police officer whilst monitoring a demonstration. Despite regularly following up his claim for approximately three years, compensation has not been provided by the Chief of District Administration Office. Article 9 (2.1) of the TCA states that victims must be provided compensation within 35 days of a court ruling.

Under the TCA victims of torture encounter multiple obstacles when filing a complaint and seek compensation. The following list documents each obstacle faced and analyses how this relates to recent CAT recommendations:

- There is a 35-day statutory limitation for filing complaints, which is counted from the day torture has been inflicted or from the day of release from custody, whichever is latest. This period is insufficient for physical and mental recovery from ill-treatment and poses an obstacle to victims living in rural Nepal, as time is needed to transverse geographical obstacles to reach district courts, especially when in poor physical condition. In addition, victims need to supply difficult and time consuming information in order to file a complaint. Re-arrests of the victims and subsequent time constraints are not taken into consideration by the TCA.<sup>26</sup>

This directly contravenes the CAT recommendation which states “A victim’s ability to file claims for redress should not be subject to statutes of limitations”.<sup>27</sup>

- The lack of witness protection programmes required under article 13 of the CAT fails to prevent intimidation of the victims by perpetrators. In addition, police officers against whom complaints are filed are not suspended, allowing them to use their official position to threaten victims and witnesses. This often leads to withdrawals of complaints and deters victims from bringing accusations against perpetrators.

This directly contravenes CAT recommendation which states “Law enforcement and military personnel accused of torture should be suspended from their duties ... pending the outcome of the investigation into alleged torture and any subsequent legal or disciplinary proceedings”.<sup>28</sup>

- There is a great unawareness of the TCA, with few victims knowing that they have any recourse for complaint against perpetrators.

<sup>26</sup> CAT Report of Inquiry under Article 20, paragraph 110.

<sup>27</sup> CAT Article 20 Recommendation 110(i).

<sup>28</sup> CAT Article 20 Recommendation 110(f).

This directly contravenes the CAT recommendation which states *“The State party should send a clear and unambiguous message condemning torture and ill-treatment to all persons. The State party should take effective ... measures to ensure that all allegations of arrest without warrants, extrajudicial killings, deaths in custody and disappearances are promptly investigated, prosecuted and the perpetrators punished”*.<sup>29</sup>

- The burden of proof that torture took place is on the victim. Victims must present a medical record stating that torture has occurred.

This contravenes Article 12 of the CAT that states that competent authorities should lead an impartial investigation into the case.<sup>30</sup> It also directly contravenes the CAT recommendation which states *“Where a detainee alleged that a confession was extracted under torture, the prosecution should carry the burden of proof that the confession was made freely”*.<sup>31</sup>

- The TCA stipulates a maximum amount of compensation of 100,000 NRs (approximately USD 1,000), an amount that is far too low to cover the costs of treatment for torture survivors. Furthermore, if any compensation is paid, it is often only paid years later. This has serious consequences on the potential rehabilitation of victims and their financial capacity to continue with the case.<sup>32</sup>

This directly contravenes the CAT recommendations which state, *“The State party should... ensure that acts of torture, ...are criminal offences punishable in a manner proportionate to the gravity of the crimes committed”* and *“[t]he State party should provide all victims of torture with redress, including fair and adequate compensation, full rehabilitation, and other forms of redress as appropriate without*

<sup>29</sup> CAT Article 20 Recommendation 109(c).

<sup>30</sup> CAT, Report of Inquiry under Article 20, paragraph 128(e).

<sup>31</sup> CAT Article 20 Recommendation 110(g).

<sup>32</sup> Advocacy Forum, ‘Hope and Frustration. Assessing the Impact of Nepal’s Torture Compensation Act-1996’, 26 June 2008, p. 34.

*further delay. The State party should ensure that all individuals receive awarded redress promptly. Furthermore, the State party should ensure the establishment adequate reparation programmes, including for medical treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and allocate adequate resources to ensure the effective functioning of such programmes”.*<sup>33</sup>

All of the aforementioned issues also show a failure to comply with the HRC recommendations which state:

- *“The state party should ensure that all victims are provided with an effective remedy, including appropriate compensation, restitution and rehabilitation.”*
- *“The State party should ensure that allegations of unlawful killings, torture and ill-treatment are effectively investigated, and that alleged perpetrators are persecuted and, if convicted, punished with appropriate sanctions, and that the victims and their families are provided with effective remedies.”*<sup>34</sup>

In AF’s view there is an urgent need to reform the TCA and to define torture as a criminal offence in order to allow prosecutions of perpetrators. This will assist in the prevention of torture and give justice and compensation to victims.

<sup>33</sup> CAT Article 20 Recommendations 109(b) & 110(i).

<sup>34</sup> UN HCR, Concluding Observations on the Second Periodic Report of Nepal. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en).

### **13. DEALING WITH TORTURE CASES IN TRANSITIONAL JUSTICE**

In this briefing we discuss torture cases which took place in 2013, but there are many torture cases pending which occurred during the conflict of Nepal (1996-2006). AF works not only to document current torture cases, but has also documented torture cases committed during the conflict since its establishment in 2001. Since AF was established it has documented a large number of torture and sexual violence cases which occurred during the conflict. In this section we will discuss the difficulties in obtaining access to justice for torture and sexual violence victims during the conflict and the different laws and mechanisms that will allow survivors to access justice and reparation in the future.

#### **13.1 TORTURE VICTIMS OF THE ARMED CONFLICT IN NEPAL (1996-2006) AND THEIR ACCESS TO JUSTICE**

During the conflict in Nepal (1996-2006) a large number of torture cases were reported. On 25 April 2014 the Nepalese parliament passed into law a new Truth and Reconciliation Commission (TRC) Act. Victims' groups, lawyer and human rights organisations have all raised concerns about the new act, and are refusing to engage in a TRC process until these concerns are addressed. There has been significant concern raised over the following:

- Commissioners' excessive power during mediation between victims and perpetrators even in cases of serious human rights violations and the prohibition of legal action in mediated cases.
- Commissioners' discretionary power to grant amnesties even for those involved in offences which are crimes under international law and gross human rights violations.

- A lack of criminalisation of offences which are crimes under international law and an inadequate system of referral to prosecutorial mechanisms.
- The non-recognition of victims' rights to reparation.

While the problems surrounding the TRC remains, the only recourse available to victims for redress and compensation is the TRC Act. The Torture Compensation Act (TCA), 1996 attempted to deal with torture cases in accordance with the Convention Against Torture (CAT), however this act does not address the torture cases committed during the conflict as described above.

After the conflict and in view of delays in the establishment of transitional justice mechanisms, the government of Nepal put several policies in place that were intended to provide interim relief to the victims of the conflict. These policies aimed to provide monetary compensation until the TRC and the Disappearances Commission would investigate the cases and provide wider reparation. The interim relief was intended for certain categories of victims of the conflict; namely, to the families of the dead, disappeared, injured and disabled<sup>35</sup> and to people who have lost their properties due to the conflict.<sup>36</sup> However victims of torture, sexual violence cases including rape committed during the conflict were left out from the interim relief scheme.

It is also possible to file a complaint relating to torture before the National Human Rights Commission (NHRC), which has a mandate to investigate, and make recommendations to the government for remedial action, including compensation. However, in September 2013, the NHRC commissioners' mandate expired and the new constituent assembly has not yet appointed new commissioners, and as such it is difficult for the NHRC to function. While NHRC staff can record

<sup>35</sup> Interim Constitution, Article 33(p).

<sup>36</sup> Interim Constitution, Article 33(r).

complaints, it is not possible for the NHRC to make recommendations to the government for further investigation or compensation as long as new Commissioners are not appointed.

### 13.2 TORTURE VICTIMS APPEALING TO THE HUMAN RIGHTS COMMITTEE

Advocacy Forum has filed two cases before the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR): the cases of Dev Bahadur Maharjan and Yubraj Giri. Dev Bahadur Maharjan was arrested on 26 November 2003 by the Nepal Army and was kept in illegal detention at the Chhauni military barracks until 17 September 2004 when he was brought to an official detention facility. During his illegal detention he was unable to contact his family or talk to a lawyer. He claims that he was severely tortured and was only released of custody on 7 January 2005 after her sister submitted a successful petition for a writ of habeas corpus.<sup>37</sup>

This treatment directly contravenes the Human Rights Committee's recommendation which states "The State party should take appropriate measures to ensure that no one under its jurisdiction is subject to arbitrary arrest or detention and that detained persons enjoy all legal guarantees. ... It should also publish all official places of detention on a regular basis and explicitly forbid and criminalize the use of unofficial places for detention."<sup>38</sup>

Yubraj Giri was arbitrarily arrested by the Nepal Army in April 2004 and kept in illegal detention at Immamnagar army camp until May 2005. Only then was he transferred to a police station and finally to the district jail. During his illegal detention at Immamnagar he alleges he was held

<sup>37</sup> For more information on Dev Bahadur Maharjan please consult AF's website on: <http://advocacyforum.org/hrc-cases/2011/02/dev-bahadur-maharjan-torture.php>.

<sup>38</sup> Human Rights Committee, Concluding Observations on the second periodic report of Nepal, 15 April 2014, para. 10. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en).

incommunicado in a dark room for almost 13 months and tortured approximately one hundred times. He was finally released on 15 July 2005 after the Order of the Appellate Court. AF and REDRESS helped Mr Giri to submit a communication to the Human Rights Committee in December 2009. In the HRC's decision on Giri's case, they urge the government of Nepal to fulfil their obligations under the ICCPR and to provide a remedy to Yubraj Giri and his family, who the HRC also considers to be victims of serious human rights violations. So far, no investigation has been started from the side of the government of Nepal, nor have any perpetrators been prosecuted.<sup>39</sup> Yubraj Giri did receive 150,000 NRs as interim relief.

### **13.3 SEXUAL VIOLENCE VICTIMS OF THE ARMED CONFLICT IN NEPAL (1996-2006) AND THEIR ACCESS TO JUSTICE**

During the decade long armed conflict in Nepal (1996-2006) many women and girls endured sexual violence committed by state actors, Maoists and other individual perpetrators who took advantage of the culture of impunity prevailing at that time.

The failure of the Government of Nepal to hold any perpetrators accountable for these crimes to date has not only left sexual violence survivors of the conflict without access to justice and reparation, but has also enabled a culture of impunity for crimes committed in the post-conflict period. According to a report of WOREC and WILPF (2011), there has been an increase in sexual violence cases since the signing of the Comprehensive Peace Agreement of November 2006.<sup>40</sup> Data collection on this issue has been challenging due to existing taboos surrounding sexual violence in Nepal and the social stigma which discourages women and girls from speaking out. Furthermore, issues

<sup>39</sup> For more information on Yubraj Giri please consult AF's website on: <http://advocacyforum.org/news/2011/07/af-and-redress-urge-pm-to-implement-hrc-decision-in-giri-case.php>, or <http://advocacyforum.org/hrc-cases/2011/02/yubaraj-giri-torture.php>.

<sup>40</sup> WOREC and WILPF, *The Prosecution of Sexual Violence in Nepal*, Report to CEDAW, April 2011. Available at: [http://www.peacewomen.org/assets/file/nep\\_cedawshadowreport\\_april2011.pdf](http://www.peacewomen.org/assets/file/nep_cedawshadowreport_april2011.pdf).

such as the lack of witness protection, ineffective judicial mechanisms, and lack of confidentiality in the judicial process deter women from speaking about and reporting their cases.

As is the case for torture survivors, women and girls who have been victims of sexual violence during the conflict are not included in the categories of victims in the “interim relief” fund. Furthermore, judicial procedures have made it impossible for victims to lodge a complaint with the police; victims of sexual violence must file a complaint of this crime to the police within 35 days. Police will not accept an initial First Information Report (FIR) if this is done after the statutory limitation has expired.<sup>41</sup>

There is a clear requirement to seek justice and make reparation available to victims of sexual violence. The most recent TRC Act is highly unsuitable for this purpose; the act’s focus on mediation for serious human rights violations, including sexual violence, rather than prosecution of perpetrators further enables a culture of impunity for crimes of sexual violence.

In the meantime, and in view of the establishment of transitional justice mechanisms, AF will continue to give support to sexual violence victims through legal advice and the provision of medical assistance and counselling.

The actions of the Nepalese government discussed in Chapters 11.1 & 11.2 contravene the following CAT recommendations:

- “The State party should adopt domestic legislation which ensures that acts of torture...are criminal offences ...and consider steps to amend the Compensation Relating to Torture Act of 1996 to bring it into compliance with all the elements of the definition of torture provided in the Convention”

<sup>41</sup> UN Human Rights Committee Case of Purnamaya vs Nepal Government.

- “The State party should establish without any delay independent investigative bodies such as the Truth and Reconciliation Commission and the Commission on the Inquiry into Disappearances to inquire into all allegations of torture, extrajudicial killings and enforced disappearances”
- “Complaints alleging torture by public officials should be promptly, effectively and impartially investigated and offenders should be prosecuted and, if found guilty, convicted with penalties appropriate to the gravity of their acts”
- “The State party should provide all victims of torture with redress, including fair and adequate compensation, full rehabilitation, and other forms of redress as appropriate without further delay. A victim’s ability to file claims for redress should not be subject to statutes of limitations. Furthermore, the State party should ensure the establishment adequate reparation programmes, including for medical treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment.”<sup>42</sup>

All of the aforementioned issues also show a failure to comply with the HRC recommendation which states, “The State party should ensure that all forms and manifestations of violence against women are defined and prohibited under domestic law with sanctions commensurate with the gravity of the offence... It should establish a comprehensive national data collection system on cases of different types of violence against women to enable the State party to adopt targeted strategies and evaluate their effectiveness. It should also conduct awareness-raising campaigns on the negative effects of violence against women, inform women of their rights and existing mechanisms of protection, and facilitate complaints from victims. The State party should further ensure that cases of violence against women are thoroughly investigated, perpetrators are prosecuted

<sup>42</sup> CAT Article 20 inquiry Recommendations, paragraphs 109(b), 110(a), 110(b) & 110(i) respectively.

and, if convicted, punished with appropriate sanctions, and that victims have access to effective remedies and means of protection.”<sup>43</sup>

## 14. CONCLUSIONS AND RECOMMENDATIONS

As we have seen, there have been promising developments made in Nepal in recent years. However, persistent problems still remain. Figures presented in chapter three show that 16.7% of detainees reported torture or CIDT during detention. Although high, it is nonetheless the lowest rate of reported torture since AF began gathering data in 2001, and is a 25% decrease since 2012 alone.

Chapter four highlights Myagdi, Morang and Banke as three districts in Nepal which are a cause for particular concern, due to their high and increasing rates of reported torture. However, fourteen of twenty districts showed an improvement over 2012, with an average reduction of 25% as previously stated. The greatest improvement have been made in Kanchanpur, Udhayapur and Dolakha.

Figures in chapter five raise particular concern for Muslim detainees, who suffer the highest rate of reported torture at 36%. Only indigenous populations and the Chhetri have seen an decrease in reported torture since 2012.

Figures in chapter six show that detainees reporting torture or CIDT are most commonly charged under the Public Offences Act or for possession of drugs. Detainees charged under the Arms and Ammunition Act also reported a high rate of torture in detention, with kidnapping and theft charges just behind. However, it is possible that these charges are not representative of actual crimes committed, and that false charges are

<sup>43</sup> UN HCR Concluding Observations on the Second Periodic Report of Nepal. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fNPL%2fCO%2f2&Lang=en).

brought against detainees in order to allow Chief District Officers to try detainees without many of the due process guaranteed before district courts.

Data presented in chapter eight highlights the vulnerable position of juvenile detainees, with 22.9% and 25.7% of juveniles below eighteen and sixteen years of age reporting torture in detention respectively, far higher than the average rate of 16.7%. The rate of reported torture in detention increases with age, although fewer eighteen than seventeen year olds report torture in detention. The rate of reported torture for juveniles under eighteen years of age as been decreasing continuously since 2011.

The charges brought against juvenile detainees which elicit the highest rates of torture are similar to those of adult detainees, i.e. theft, public offence, attempted murder and drug possession.

Baglung, Banke and Jhapa had the highest rates of reported torture for juveniles. The high rate of adult Muslims reporting torture in detention is mirrored among juvenile Muslim detainees, with rates 50% and 54% for juveniles under sixteen and eighteen years of age respectively.

Data in chapter nine shows that 5.7% of female and 18.4% of male detainees reported torture in detention. The rate of reported torture for women in detention has been decreasing continuously since late 2011.

Chapter thirteen examines how the TRC Act is highly unsuitable for granting redress to victims of past crimes, with too much focus on mediation and amnesty and insufficient priority given to prosecuting serious human rights violations. The act needs to be significantly amended before victims are able to access redress or compensation.

## RECOMMENDATIONS

1. Implement all CAT and HRC recommendations, including the criminalisation of torture, and the removal of a statute of limitations on crimes such as sexual violence.
2. Pending the criminalisation of torture, the Nepal Police Human Rights Unit to take steps to end the persistent culture of impunity by conducting more vigorous investigations into reports of torture.
3. Establish adequate mechanisms for reparations for victims of torture.
4. Immediately amend the TRC Act, to ensure that the commissions do not have power to mediate in cases involving gross human rights violations and that there is no possibility of recommending amnesty in such cases. There must also be an adequate system of referral to prosecutorial mechanisms.
5. The Human Rights cell of the Nepalese police force must conduct more robust investigations of allegations of torture, and impose more rigorous penalties, pending the criminalisation of torture.
6. The international community should engage in vetting practices of members of the Nepalese police force similar to those of the United States government and UN Department for Peacekeeping Operations.

## ANNEXES

**Table 1: Number of Detainees According to Gender**

Gender	Frequency	Percent
Female	492	13.4%
Male	3165	86.4%
Other	5	0.1%
<b>Total</b>	<b>3662</b>	<b>100.0%</b>

**Table 2: Torture and CIDT Information According to Gender**

			Reported Torture or CIDT?		Total
			Yes	No	
Gender	Female	Frequency	28	464	492
		Percentage	5.7%	94.3%	100.0%
	Male	Frequency	582	2583	3165
		Percentage	18.4%	81.6%	100.0%
	Other	Frequency	1	4	5
		Percentage	20.0%	80.0%	100.0%
<b>Total</b>		<b>Frequency</b>	<b>611</b>	<b>3051</b>	<b>3662</b>
<b>Percentage</b>			<b>16.7%</b>	<b>83.3%</b>	<b>100.0%</b>

**Table 3: Place of Detention**

Place of Detention	Frequency	Percent
Kathmandu	844	23.0%
Morang	217	5.9%
Banke	205	5.6%
Kaski	441	12.0%
Kanchanpur	183	5.0%
Udhayapur	164	4.5%

Place of Detention	Frequency	Percent
Surket	131	3.6%
Kapilbastu	102	2.8%
Lalitpur	55	1.5%
Rupandehi	442	12.1%
Dhanusha	54	1.5%
Baglung	56	1.5%
Myadgi	39	1.1%
Parbhat	40	1.1%
Bardiya	107	2.9%
Ramechap	69	1.9%
Dolakha	147	4.0%
Jhapa	218	6.0%
Siraha	148	4.0%
<b>Total</b>	<b>3662</b>	<b>100.0%</b>

**Table 4: Torture and CIDT Information and Place of Detention**

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Kathmandu	Frequency	153	691	844
	Percentage	18.1%	81.9%	100.0%
Morang	Frequency	39	178	217
	Percentage	18.0%	82.0%	100.0%
Banke	Frequency	82	123	205
	Percentage	40.0%	60.0%	100.0%
Kaski	Frequency	77	364	441
	Percentage	17.5%	82.5%	100.0%
Kanchanpur	Frequency	1	182	183
	Percentage	0.5%	99.5%	100.0%

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Udhayapur	Frequency	9	155	164
	Percentage	5.5%	94.5%	100.0%
Surket	Frequency	30	101	131
	Percentage	22.9%	77.1%	100.0%
Kapilbastu	Frequency	11	91	102
	Percentage	10.8%	89.2%	100.0%
Lalitpur	Frequency	1	54	55
	Percentage	1.8%	98.2%	100.0%
Rupandehi	Frequency	57	385	442
	Percentage	12.9%	87.1%	100.0%
Dhanusha	Frequency	9	45	54
	Percentage	16.7%	83.3%	100.0%
Baglung	Frequency	11	45	56
	Percentage	19.6%	80.4%	100.0%
Myadgi	Frequency	7	32	39
	Percentage	17.9%	82.1%	100.0%
Parbhat	Frequency	6	34	40
	Percentage	15.0%	85.0%	100.0%
Bardiya	Frequency	22	85	107
	Percentage	20.6%	79.4%	100.0%
Ramechhap	Frequency	9	60	69
	Percentage	13.0%	87.0%	100.0%
Dolakha	Frequency	1	146	147
	Percentage	0.7%	99.3%	100.0%
Jhapa	Frequency	24	124	148
	Percentage	16.2%	83.8%	100.0%
Siraha	Frequency	2	124	148
	Percentage	1.4%	83.8%	85.1%
<b>Total</b>	<b>Frequency</b>	<b>611</b>	<b>3051</b>	<b>3662</b>
	<b>Percentage</b>	<b>16.7%</b>	<b>83.3%</b>	<b>100.0%</b>

**Table 5: Place of Detention According to Gender**

Place of Detention		Gender			Total
		Female	Male	Other	
Kathmandu	Frequency	141	698	5	844
	Percentage	16.7%	82.7%	0.6%	100.0%
Morang	Frequency	31	186	0	217
	Percentage	14.3%	85.7%	0.0%	100.0%
Banke	Frequency	28	177	0	205
	Percentage	13.7%	86.3%	0.0%	100.0%
Kaski	Frequency	88	353	0	441
	Percentage	20.0%	80.0%	0.0%	100.0%
Kanchanpur	Frequency	16	167	0	183
	Percentage	8.7%	91.3%	0.0%	100.0%
Udhayapur	Frequency	9	155	0	164
	Percentage	5.5%	94.5%	0.0%	100.0%
Surket	Frequency	19	112	0	131
	Percentage	14.5%	85.5%	0.0%	100.0%
Kapilbastu	Frequency	8	94	0	102
	Percentage	7.8%	92.2%	0.0%	100.0%
Lalitpur	Frequency	6	49	0	55
	Percentage	10.9%	89.1%	0.0%	100.0%
Rupandehi	Frequency	53	389	0	442
	Percentage	12.0%	88.0%	0.0%	100.0%
Dhanusha	Frequency	2	52	0	54
	Percentage	3.7%	96.3%	0.0%	100.0%
Baglung	Frequency	7	49	0	56
	Percentage	12.5%	87.5%	0.0%	100.0%
Myadgi	Frequency	3	36	0	39
	Percentage	7.7%	92.3%	0.0%	100.0%

Place of Detention		Gender			Total
		Female	Male	Other	
Parbhat	Frequency	1	39	0	40
	Percentage	2.5%	97.5%	0.0%	100.0%
Bardiya	Frequency	10	97	0	107
	Percentage	9.3%	90.7%	0.0%	100.0%
Ramechhap	Frequency	5	64	0	69
	Percentage	7.2%	92.8%	0.0%	100.0%
Dolakha	Frequency	17	130	0	147
	Percentage	11.6%	88.4%	0.0%	100.0%
Jhapa	Frequency	36	182	0	218
	Percentage	16.5%	83.5%	0.0%	100.0%
Siraha	Frequency	12	136	0	148
	Percentage	8.1%	91.9%	0.0%	100.0%
Total	Frequency	492	3165	5	3662
	Percentage	13.4%	86.4%	0.1%	100.0%

**Table 6: Caste and Ethnic Background**

Caste	Frequency	Percent
Brahmin	361	9.9%
Chhetri	916	25.0%
Newar	194	5.3%
Indigenous	919	25.1%
Terai	520	14.2%
Dalit	406	11.1%
Other	244	6.7%
Muslim	102	2.8%
<b>Total</b>	<b>3662</b>	<b>100.0%</b>

**Table 7: Torture and CIDT Information According to Caste and Ethnic Background**

Caste		Reported Torture of CIDT		Total
		Yes	No	
Brahmin	Frequency	44	317	361
	Percentage	12.2%	87.8%	100.0%
Chhetri	Frequency	134	782	916
	Percentage	14.6%	85.4%	100.0%
Newar	Frequency	29	165	194
	Percentage	14.9%	85.1%	100.0%
Indigenous	Frequency	151	768	919
	Percentage	16.4%	83.6%	100.0%
Terai	Frequency	90	430	520
	Percentage	17.3%	82.7%	100.0%
Dalit	Frequency	70	336	406
	Percentage	17.2%	82.8%	100.0%
Other	Frequency	56	188	244
	Percentage	23.0%	77.0%	100.0%
Muslim	Frequency	37	65	102
	Percentage	36.3%	63.7%	100.0%
<b>Total</b>	<b>Frequency</b>	<b>611</b>	<b>3051</b>	<b>3662</b>
	<b>Percentage</b>	<b>16.7%</b>	<b>83.3%</b>	<b>100.0%</b>

**Table 8: Frequency of Charges**

Charge	Frequency	Percent
Public Offence	1232	33.6%
Attempted Murder	115	3.1%
No Charge	342	9.3%
Drug Possession	696	19.0%
Rape	203	5.5%

Charge	Frequency	Percent
Arms and Ammunition	22	0.6%
Theft	316	8.6%
Robbery	13	0.4%
Murder	158	4.3%
Attempted Rape	1	0.0%
Forest Offence	121	3.3%
Gambling	13	0.4%
Human Trafficking	60	1.6%
Forgery	52	1.4%
Traffic Murder	76	2.1%
Cheating	45	1.2%
Traffic Deformities	3	0.1%
Kidnapping	47	1.3%
Polygamy	95	2.6%
Deformities	4	0.1%
Arson	2	0.1%
Abortion	7	0.2%
Black Market	3	0.1%
Witch	12	0.3%
Explosive	3	0.1%
Cow Slaughtering	6	0.2%
Unnatural Sex	3	0.1%
Essential Goods Protection Act	6	0.2%
Caste Discrimination	4	0.1%
Child Marriage	2	0.1%
<b>Total</b>	<b>3662</b>	<b>100.0%</b>

**Table 9: Torture and CIDT Information According to Charge**

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Public Offence	Frequency	218	1014	1232
	Percentage	17.7%	82.3%	100.0%
Attempted Murder	Frequency	18	97	115
	Percentage	15.7%	84.3%	100.0%
No Charge	Frequency	27	315	342
	Percentage	7.9%	92.1%	100.0%
Drug Possession	Frequency	120	576	696
	Percentage	17.2%	82.8%	100.0%
Rape	Frequency	43	160	203
	Percentage	21.2%	78.8%	100.0%
Arms and Ammunition	Frequency	12	10	22
	Percentage	54.5%	45.5%	100.0%
Theft	Frequency	96	220	316
	Percentage	30.4%	69.6%	100.0%
Robbery	Frequency	0	13	13
	Percentage	0.0%	100.0%	100.0%
Murder	Frequency	15	143	158
	Percentage	9.5%	90.5%	100.0%
Attempted Rape	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
Forest Offence	Frequency	7	114	121
	Percentage	5.8%	94.2%	100.0%
Gambling	Frequency	0	13	13
	Percentage	0.0%	100.0%	100.0%
Human Trafficking	Frequency	11	49	60
	Percentage	18.3%	81.7%	100.0%

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Forgery	Frequency	2	50	52
	Percentage	3.8%	96.2%	100.0%
Traffic Murder	Frequency	2	74	76
	Percentage	2.6%	97.4%	100.0%
Cheating	Frequency	10	35	45
	Percentage	22.2%	77.8%	100.0%
Traffic Deformities	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
Kidnapping	Frequency	21	26	47
	Percentage	44.7%	55.3%	100.0%
Polygamy	Frequency	1	94	95
	Percentage	1.1%	98.9%	100.0%
Deformities	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
Arson	Frequency	1	1	2
	Percentage	50.0%	50.0%	100.0%
Abortion	Frequency	0	7	7
	Percentage	0.0%	100.0%	100.0%
Black Market	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
Witch	Frequency	0	12	12
	Percentage	0.0%	100.0%	100.0%
Explosive	Frequency	2	1	3
	Percentage	66.7%	33.3%	100.0%
Cow Slaughtering	Frequency	2	4	6
	Percentage	33.3%	66.7%	100.0%
Unnatural Sex	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Essential Goods Protection Act	Frequency	3	3	6
	Percentage	50.0%	50.0%	100.0%
Caste Discrimination	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
Child Marriage	Frequency	0	2	2
	Percentage	0.0%	100.0%	100.0%
Total	Frequency	611	3051	3662
	Percentage	16.7%	83.3%	100.0%

**Table 10: Charge According to Gender**

Charge		Reported Torture or CIDT			Total
		Female	Male	Other	
Public Offence	Frequency	206	1025	1	1232
	Percentage	16.7%	83.2%	0.1%	100.0%
Attempted Murder	Frequency	2	113	0	115
	Percentage	1.7%	98.3%	0.0%	100.0%
No Charge	Frequency	55	287	0	342
	Percentage	16.1%	83.9%	0.0%	100.0%
Drug Possession	Frequency	54	642	0	696
	Percentage	7.8%	92.2%	0.0%	100.0%
Rape	Frequency	6	197	0	203
	Percentage	3.0%	97.0%	0.0%	100.0%
Arms and Ammunition	Frequency	0	22	0	22
	Percentage	0.0%	100.0%	0.0%	100.0%
Theft	Frequency	18	294	4	316
	Percentage	5.7%	93.0%	1.3%	100.0%

Charge		Reported Torture or CIDT			Total
		Female	Male	Other	
Robbery	Frequency	0	13	0	13
	Percentage	0.0%	100.0%	0.0%	100.0%
Murder	Frequency	35	123	0	158
	Percentage	22.2%	77.8%	0.0%	100.0%
Attempted Rape	Frequency	0	1	0	1
	Percentage	0.0%	100.0%	0.0%	100.0%
Forest Offence	Frequency	3	118	0	121
	Percentage	2.5%	97.5%	0.0%	100.0%
Gambling	Frequency	0	13	0	13
	Percentage	0.0%	100.0%	0.0%	100.0%
Human Trafficking	Frequency	20	40	0	60
	Percentage	33.3%	66.7%	0.0%	100.0%
Forgery	Frequency	17	35	0	52
	Percentage	32.7%	67.3%	0.0%	100.0%
Traffic Murder	Frequency	0	76	0	76
	Percentage	0.0%	100.0%	0.0%	100.0%
Cheating	Frequency	10	35	0	45
	Percentage	22.2%	77.8%	0.0%	100.0%
Traffic Deformities	Frequency	0	3	0	3
	Percentage	0.0%	100.0%	0.0%	100.0%
Kidnapping	Frequency	4	43	0	47
	Percentage	8.5%	91.5%	0.0%	100.0%
Polygamy	Frequency	53	42	0	95
	Percentage	55.8%	44.2%	0.0%	100.0%
Deformities	Frequency	1	3	0	4
	Percentage	25.0%	75.0%	0.0%	100.0%
Arson	Frequency	0	2	0	2
	Percentage	0.0%	100.0%	0.0%	100.0%

Charge		Reported Torture or CIDT			Total
		Female	Male	Other	
Abortion	Frequency	3	4	0	7
	Percentage	42.9%	57.1%	0.0%	100.0%
Black Market	Frequency	0	3	0	3
	Percentage	0.0%	100.0%	0.0%	100.0%
Witch	Frequency	4	8	0	12
	Percentage	33.3%	66.7%	0.0%	100.0%
Explosive	Frequency	0	3	0	3
	Percentage	0.0%	100.0%	0.0%	100.0%
Cow Slaughtering	Frequency	0	6	0	6
	Percentage	0.0%	100.0%	0.0%	100.0%
Unnatural Sex	Frequency	0	3	0	3
	Percentage	0.0%	100.0%	0.0%	100.0%
Essential Goods Protection Act	Frequency	0	6	0	6
	Percentage	0.0%	100.0%	0.0%	100.0%
Caste Discrimination	Frequency	1	3	0	4
	Percentage	25.0%	75.0%	0.0%	100.0%
Child Marriage	Frequency	0	2	0	2
	Percentage	0.0%	100.0%	0.0%	100.0%
<b>Total</b>	<b>Frequency</b>	<b>492</b>	<b>3165</b>	<b>5</b>	<b>3662</b>
	<b>Percentage</b>	<b>13.4%</b>	<b>86.4%</b>	<b>0.1%</b>	<b>100.0%</b>

**Table 11: Did you receive a health check-up before being detained?**

Answer	Frequency	Percentage
Yes	3474	94.9%
No	188	5.1%
<b>Total</b>	<b>3662</b>	<b>100.0%</b>

**Table 12: Were you brought before a judge/competent authority within 24 hours of detention?**

Answer	Frequency	Percentage
Yes	2057	56.2%
No	1263	34.5%
Not Taken to Court	342	9.3%
<b>Total</b>	<b>3662</b>	<b>100.0%</b>

**Table 13: Charge/detention letter given?**

Answer	Frequency	Percent
Yes	2907	79.4%
No	755	20.6%
<b>Total</b>	<b>3662</b>	<b>100.0%</b>

**Table 14: Reasons for arrest given?**

Answer	Frequency	Percentage
Yes	518	15.4%
No	587	17.5%
Given, but after detained	2251	67.1%
<b>Total</b>	<b>3356</b>	<b>100.0%</b>

**Table 15: If brought before court/other judicial authority for remand, did judge/judicial officer ask whether torture/ CIDT had occurred?**

Answer	Frequency	Percentage
Yes	590	16.1%
No	2730	74.5%
Not Taken to Court	342	9.3%
<b>Total</b>	<b>3662</b>	<b>100.0%</b>

## DATA OF JUVENILES BELOW 16

**Table 16: Gender according to juveniles below 16**

Gender	Frequency	Percentage
Female	21	5.2%
Male	383	94.8%
<b>Total</b>	<b>404</b>	<b>100.0%</b>

**Table 17: Charge According to Juveniles Below 16**

Charge	Frequency	Percentage
Public Offence	155	38.4%
Attempted Murder	18	4.5%
No Charge	69	17.1%
Drug Possession	40	9.9%
Rape	39	9.7%
Theft	54	13.4%
Murder	10	2.5%
Forest Offence	13	3.2%
Human Trafficking	2	0.5%
Kidnapping	4	1.0%
<b>Total</b>	<b>404</b>	<b>100.0%</b>

**Table 18: Torture and CIDT Information According to Juvenile’s Place of Detention**

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Kathmandu	Frequency	34	80	114
	Percentage	29.8%	70.2%	100.0%
Morang	Frequency	0	5	5
	Percentage	0.0%	100.0%	100.0%
Banke	Frequency	12	5	17
	Percentage	70.6%	29.4%	100.0%
Kaski	Frequency	23	70	93
	Percentage	24.7%	75.3%	100.0%
Kanchanpur	Frequency	0	7	7
	Percentage	0.0%	100.0%	100.0%
Udhayapur	Frequency	0	20	20
	Percentage	0.0%	100.0%	100.0%
Surket	Frequency	3	12	15
	Percentage	20.0%	80.0%	100.0%
Kapilbastu	Frequency	1	7	8
	Percentage	12.5%	87.5%	100.0%
Lalitpur	Frequency	0	6	6
	Percentage	0.0%	100.0%	100.0%
Rupandehi	Frequency	10	29	39
	Percentage	25.6%	74.4%	100.0%
Dhanusha	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
Baglung	Frequency	2	1	3
	Percentage	66.7%	33.3%	100.0%
Myadgi	Frequency	1	3	4
	Percentage	25.0%	75.0%	100.0%

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Parbhat	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
Bardiya	Frequency	2	9	11
	Percentage	18.2%	81.8%	100.0%
Ramechhap	Frequency	2	8	10
	Percentage	20.0%	80.0%	100.0%
Dolakha	Frequency	0	7	7
	Percentage	0.0%	100.0%	100.0%
Jhapa	Frequency	11	18	29
	Percentage	37.9%	62.1%	100.0%
Siraha	Frequency	3	9	12
	Percentage	25.0%	75.0%	100.0%
<b>Total</b>	<b>Frequency</b>	<b>104</b>	<b>300</b>	<b>404</b>
	<b>Percentage</b>	<b>25.7%</b>	<b>74.3%</b>	<b>100.0%</b>

**Table 19: Torture and CIDT Information According to Juvenile's Caste**

Caste		Reported Torture or CIDT?		Total
		Yes	No	
Brahmin	Frequency	3	20	23
	Percentage	13.0%	87.0%	100.0%
Chhetri	Frequency	28	77	105
	Percentage	26.7%	73.3%	100.0%
Newar	Frequency	2	10	12
	Percentage	16.7%	83.3%	100.0%
Indigenous	Frequency	29	78	107
	Percentage	27.1%	72.9%	100.0%

Caste		Reported Torture or CIDT?		Total
		Yes	No	
Terai	Frequency	11	33	44
	Percentage	25.0%	75.0%	100.0%
Dalit	Frequency	15	51	66
	Percentage	22.7%	77.3%	100.0%
Other	Frequency	7	22	29
	Percentage	24.1%	75.9%	100.0%
Muslim	Frequency	9	9	18
	Percentage	50.0%	50.0%	100.0%
Total	Frequency	104	300	404
	Percentage	25.7%	74.3%	100.0%

**Table 20: Torture and CIDT Information According to Charge Brought Against Juveniles**

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Public Offence	Frequency	45	110	155
	Percentage	29.0%	71.0%	100.0%
Attempted Murder	Frequency	5	13	18
	Percentage	27.8%	72.2%	100.0%
No Charge	Frequency	10	59	69
	Percentage	14.5%	85.5%	100.0%
Drug	Frequency	11	29	40
	Percentage	27.5%	72.5%	100.0%
Rape	Frequency	9	30	39
	Percentage	23.1%	76.9%	100.0%
Theft	Frequency	20	34	54
	Percentage	37.0%	63.0%	100.0%

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Murder	Frequency	2	8	10
	Percentage	20.0%	80.0%	100.0%
Forest Offence	Frequency	0	13	13
	Percentage	0.0%	100.0%	100.0%
Human Trafficking	Frequency	1	1	2
	Percentage	50.0%	50.0%	100.0%
Kidnapping	Frequency	1	3	4
	Percentage	25.0%	75.0%	100.0%
Total	Frequency	104	300	404
	Percentage	25.7%	74.3%	100.0%

**Table 21: Torture and CIDT Information According to the Age of Juvenile**

Age		Reported Torture of CIDT?		Total
		Yes	No	
9	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
10	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
11	Frequency	0	6	6
	Percentage	0.0%	100.0%	100.0%
12	Frequency	3	10	13
	Percentage	23.1%	76.9%	100.0%
13	Frequency	1	33	34
	Percentage	2.9%	97.1%	100.0%
14	Frequency	23	57	80
	Percentage	28.8%	71.3%	100.0%

Age		Reported Torture of CIDT?		Total
		Yes	No	
15	Frequency	35	85	120
	Percentage	29.2%	70.8%	100.0%
16	Frequency	42	107	149
	Percentage	28.2%	71.8%	100.0%
Total	Frequency	104	300	404
	Percentage	25.7%	74.3%	100.0%

## DATA OF JUVENILES BELOW 18

**Table 22: Gender of Juveniles Below 18**

Gender	Frequency	Percentage
Female	80	9.4%
Male	768	90.6%
<b>Total</b>	<b>848</b>	<b>100.0%</b>

**Table 23: Charges for juveniles below 18**

Charge	Frequency	Percentage
Public Offence	16.7%	43.4%
Attempted Murder	38	4.5%
No Charge	103	12.1%
Drug Possession	125	14.7%
Rape	60	7.1%
Theft	99	11.7%
Robbery	1	0.1%
Murder	19	2.2%
Forest Offence	16	1.9%
Human Trafficking	2	0.2%

Charge	Frequency	Percentage
Forgery	3	0.4%
Traffic Murder	3	0.4%
Kidnapping	6	0.7%
Polygamy	4	0.5%
Cow Slaughter	1	0.1%
<b>Total</b>	<b>848</b>	<b>100.0%</b>

**Table 24: Caste of Juvenile**

Caste	Frequency	Percentage
Brahmin	70	8.3%
Chhetri	203	23.9%
Newar	42	5.0%
Indigenous	241	28.4%
Terai	100	11.8%
Dalit	111	13.1%
Other	55	6.5%
Muslim	26	3.1%
<b>Total</b>	<b>848</b>	<b>100.0%</b>

**Table 25: Place of detention for juveniles below 18**

	Frequency	Percentage
Kathmandu	262	30.9%
Morang	35	4.1%
Banke	37	4.4%
Kaski	137	16.2%
Kanchanpur	21	2.5%
Udhayapur	27	3.2%
Surket	22	2.6%
Kapilbastu	14	1.7%

	Frequency	Percentage
Lalitpur	19	2.2%
Rupandehi	110	13.0%
Dhanusha	6	0.7%
Baglung	9	1.1%
Myadgi	8	0.9%
Parbhat	6	0.7%
Bardiya	18	2.1%
Ramechhap	20	2.4%
Dolakha	27	3.2%
Jhapa	45	5.3%
Siraha	25	2.9%
<b>Total</b>	<b>848</b>	<b>100.0%</b>

**Table 26: Torture and CIDT Information According to Detention Place of Juveniles**

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Kathmandu	Frequency	66	196	262
	Percentage	25.2%	74.8%	100.0%
Morang	Frequency	8	27	35
	Percentage	22.9%	77.1%	100.0%
Banke	Frequency	22	15	37
	Percentage	59.5%	40.5%	100.0%
Kaski	Frequency	31	106	137
	Percentage	22.6%	77.4%	100.0%
Kanchanpur	Frequency	0	21	21
	Percentage	0.0%	100.0%	100.0%
Udhayapur	Frequency	1	26	27
	Percentage	3.7%	96.3%	100.0%

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Surket	Frequency	7	15	22
	Percentage	31.8%	68.2%	100.0%
Kapilbastu	Frequency	2	12	14
	Percentage	14.3%	85.7%	100.0%
Lalitpur	Frequency	0	19	19
	Percentage	0.0%	100.0%	100.0%
Rupandehi	Frequency	18	92	110
	Percentage	16.4%	83.6%	100.0%
Dhanusha	Frequency	0	6	6
	Percentage	0.0%	100.0%	100.0%
Baglung	Frequency	4	5	9
	Percentage	44.4%	55.6%	100.0%
Myadgi	Frequency	1	7	8
	Percentage	12.5%	87.5%	100.0%
Parbhat	Frequency	1	5	6
	Percentage	16.7%	83.3%	100.0%
Bardiya	Frequency	5	13	18
	Percentage	27.8%	72.2%	100.0%
Ramechhap	Frequency	3	17	20
	Percentage	15.0%	85.0%	100.0%
Dolakha	Frequency	0	27	27
	Percentage	0.0%	100.0%	100.0%
Jhapa	Frequency	20	25	45
	Percentage	44.4%	55.6%	100.0%
Siraha	Frequency	5	20	25
	Percentage	20.0%	80.0%	100.0%
<b>Total</b>	<b>Frequency</b>	<b>194</b>	<b>654</b>	<b>848</b>
	<b>Percentage</b>	<b>22.9%</b>	<b>77.1%</b>	<b>100.0%</b>

**Table 27: Torture and CIDT Information According to Gender for Juveniles**

Gender		Reported Torture or CIDT?		Total
		Yes	No	
Female	Frequency	6	74	80
	Percentage	7.5%	92.5%	100.0%
Male	Frequency	188	580	768
	Percentage	24.5%	75.5%	100.0%
Total	Frequency	194	654	848
	Percentage	22.9%	77.1%	100.0%

**Table 28: Torture and CIDT Information According to Caste or Ethnic Background of Juveniles**

Caste		Reported Torture or CIDT?		Total
		Yes	No	
Brahmin	Frequency	7	63	70
	Percentage	10.0%	90.0%	100.0%
Chhetri	Frequency	46	157	203
	Percentage	22.7%	77.3%	100.0%
Newar	Frequency	13	29	42
	Percentage	31.0%	69.0%	100.0%
Indigenous	Frequency	55	186	241
	Percentage	22.8%	77.2%	100.0%
Terai	Frequency	20	80	100
	Percentage	20.0%	80.0%	100.0%
Dalit	Frequency	23	88	111
	Percentage	20.7%	79.3%	100.0%
Other	Frequency	16	39	55
	Percentage	29.1%	70.9%	100.0%

Caste		Reported Torture or CIDT?		Total
		Yes	No	
Muslim	Frequency	14	12	26
	Percentage	53.8%	46.2%	100.0%
Total	Frequency	194	654	848
	Percentage	22.9%	77.1%	100.0%

**Table 29: Torture and CIDT Information According to Charge of Juvenile**

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Public Offence	Frequency	88	280	368
	Percentage	23.9%	76.1%	100.0%
Attempted Murder	Frequency	10	28	38
	Percentage	26.3%	73.7%	100.0%
No Charge	Frequency	13	90	103
	Percentage	12.6%	87.4%	100.0%
Drug Possession	Frequency	30	95	125
	Percentage	24.0%	76.0%	100.0%
Rape	Frequency	13	47	60
	Percentage	21.7%	78.3%	100.0%
Theft	Frequency	34	65	99
	Percentage	34.3%	65.7%	100.0%
Robbery	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
Murder	Frequency	2	17	19
	Percentage	10.5%	89.5%	100.0%
Forest Offence	Frequency	0	16	16
	Percentage	0.0%	100.0%	100.0%

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Human Trafficking	Frequency	1	1	2
	Percentage	50.0%	50.0%	100.0%
Forgery	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
Traffic Murder	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
Kidnapping	Frequency	2	4	6
	Percentage	33.3%	66.7%	100.0%
Polygamy	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
Cow Slaughter	Frequency	1	0	1
	Percentage	100.0%	0.0%	100.0%
<b>Total</b>	<b>Frequency</b>	<b>194</b>	<b>654</b>	<b>848</b>
	<b>Percentage</b>	<b>22.9%</b>	<b>77.1%</b>	<b>100.0%</b>

**Table 30: Torture and CIDT Information According to Age of Juvenile**

Age		Reported Torture of ICIDT?		Total
		Yes	No	
9	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
10	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
11	Frequency	0	6	6
	Percentage	0.0%	100.0%	100.0%
12	Frequency	3	10	13
	Percentage	23.1%	76.9%	100.0%

Age		Reported Torture of ICDT?		Total
		Yes	No	
13	Frequency	1	33	34
	Percentage	2.9%	97.1%	100.0%
14	Frequency	23	57	80
	Percentage	28.8%	71.3%	100.0%
15	Frequency	35	85	120
	Percentage	29.2%	70.8%	100.0%
16	Frequency	42	107	149
	Percentage	28.2%	71.8%	100.0%
17	Frequency	47	149	196
	Percentage	24.0%	76.0%	100.0%
18	Frequency	43	205	248
	Percentage	17.3%	82.7%	100.0%
Total	Frequency	194	654	848
	Percentage	22.9%	77.1%	100.0%

## FEMALE DETAINEES

**Table 31: Caste of Female Detainees**

Caste	Frequency	Percentage
Brahmin	46	9.3%
Chhetri	139	28.3%
Newar	26	5.3%
Indigenous	148	30.1%
Terai	43	8.7%
Dalit	69	14.0%
Other	17	3.5%
Muslim	4	0.8%
<b>Total</b>	<b>492</b>	<b>100.0%</b>

**Table 32: Were you brought before a judge/competent authority within 24 hours of detention? (Female detainees)**

Answer	Frequency	Percentage
Yes	281	57.1%
No	157	31.9%
Not Taken to Court	54	11.0%
<b>Total</b>	<b>492</b>	<b>100.0%</b>

**Table 33: Reason for arrest given?**

Answer	Frequency	Percentage
Yes	86	17.5%
No	105	21.3%
Given, but after detained	301	61.2%
<b>Total</b>	<b>492</b>	<b>100.0%</b>

**Table 34: Did you have a health check-up before detained?**

Answer	Frequency	Percentage
Yes	457	92.9%
No	35	7.1%
<b>Total</b>	<b>492</b>	<b>100.0%</b>

**Table 35: Was government food provided?**

Answer	Frequency	Percentage
Yes	463	94.1%
No	29	5.9%
<b>Total</b>	<b>492</b>	<b>100.0%</b>

**Table 36: If brought before court/other judicial authority for remand did judge/judicial officer ask whether torture or CIDT had occurred?**

Answer	Frequency	Percentage
Yes	104	21.1%
No	334	67.9%
Not Taken to Court	54	11.0%
<b>Total</b>	<b>492</b>	<b>100.0%</b>

**Table 37: Torture and CIDT of Female Detainees**

Answer	Frequency	Percentage
Yes	28	5.7%
No	464	94.3%
<b>Total</b>	<b>492</b>	<b>100.0%</b>

**Table 38: Torture and CIDT Information According to Charge of Female Detainees**

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Public Offence	Frequency	17	189	206
	Percentage	8.3%	91.7%	100.0%
Attempted Murder	Frequency	0	2	2
	Percentage	0.0%	100.0%	100.0%
No Charge	Frequency	0	54	54
	Percentage	0.0%	100.0%	100.0%
Drug Possession	Frequency	3	53	56
	Percentage	5.4%	94.6%	100.0%
Rape	Frequency	1	5	6
	Percentage	16.7%	83.3%	100.0%

Charge		Reported Torture or CIDT?		Total
		Yes	No	
Theft	Frequency	2	16	18
	Percentage	11.1%	88.9%	100.0%
Murder	Frequency	3	32	35
	Percentage	8.6%	91.4%	100.0%
Forest Offence	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
Human Trafficking	Frequency	2	18	20
	Percentage	10.0%	90.0%	100.0%
Forgery	Frequency	0	17	17
	Percentage	0.0%	100.0%	100.0%
Cheating	Frequency	0	10	10
	Percentage	0.0%	100.0%	100.0%
Kidnapping	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
Polygamy	Frequency	0	52	52
	Percentage	0.0%	100.0%	100.0%
Deformities	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
Abortion	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
Witch	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
Caste Discrimination	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
<b>Total</b>	<b>Frequency</b>	<b>28</b>	<b>464</b>	<b>492</b>
	<b>Percentage</b>	<b>5.7%</b>	<b>94.3%</b>	<b>100.0%</b>

**Table 39: Torture and CIDT of Female Detainees by Caste**

Caste		Reported Torture or CIDT?		Total
		Yes	No	
Brahmin	Frequency	0	46	46
	Percentage	0.0%	100.0%	100.0%
Chhetri	Frequency	8	131	139
	Percentage	5.8%	94.2%	100.0%
Newar	Frequency	5	21	26
	Percentage	19.2%	80.8%	100.0%
Indigenous	Frequency	7	141	148
	Percentage	4.7%	95.3%	100.0%
Terai	Frequency	2	41	43
	Percentage	4.7%	95.3%	100.0%
Dalit	Frequency	4	65	69
	Percentage	5.8%	94.2%	100.0%
Other	Frequency	0	17	17
	Percentage	0.0%	100.0%	100.0%
Muslim	Frequency	2	2	4
	Percentage	50.0%	50.0%	100.0%
Total	Frequency	28	464	492
	Percentage	5.7%	94.3%	100.0%

**Table 40: Torture and CIDT of Female Detainees by Age**

Age		Reported Torture or CIDT?		Total
		Yes	No	
13	Frequency	0	2	2
	Percentage	0.0%	100.0%	100.0%
14	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%

Age		Reported Torture or CIDT?		Total
		Yes	No	
15	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
16	Frequency	3	9	12
	Percentage	25.0%	75.0%	100.0%
17	Frequency	3	26	29
	Percentage	10.3%	89.7%	100.0%
18	Frequency	0	30	30
	Percentage	0.0%	100.0%	100.0%
19	Frequency	3	47	50
	Percentage	6.0%	94.0%	100.0%
20	Frequency	3	33	36
	Percentage	8.3%	91.7%	100.0%
21	Frequency	2	32	34
	Percentage	5.9%	94.1%	100.0%
22	Frequency	2	16	18
	Percentage	11.1%	88.9%	100.0%
23	Frequency	1	22	23
	Percentage	4.3%	95.7%	100.0%
24	Frequency	3	17	20
	Percentage	15.0%	85.0%	100.0%
25	Frequency	0	30	30
	Percentage	0.0%	100.0%	100.0%
26	Frequency	1	17	18
	Percentage	5.6%	94.4%	100.0%
27	Frequency	0	15	15
	Percentage	0.0%	100.0%	100.0%

Age		Reported Torture or CIDT?		Total
		Yes	No	
28	Frequency	0	18	18
	Percentage	0.0%	100.0%	100.0%
29	Frequency	2	7	9
	Percentage	22.2%	77.8%	100.0%
30	Frequency	1	27	28
	Percentage	3.6%	96.4%	100.0%
31	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
32	Frequency	0	9	9
	Percentage	0.0%	100.0%	100.0%
33	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
34	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
35	Frequency	2	13	15
	Percentage	13.3%	86.7%	100.0%
36	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%
37	Frequency	0	6	6
	Percentage	0.0%	100.0%	100.0%
38	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
40	Frequency	0	12	12
	Percentage	0.0%	100.0%	100.0%
41	Frequency	0	5	5
	Percentage	0.0%	100.0%	100.0%

Age		Reported Torture or CIDT?		Total
		Yes	No	
42	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
43	Frequency	0	2	2
	Percentage	0.0%	100.0%	100.0%
44	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
45	Frequency	0	7	7
	Percentage	0.0%	100.0%	100.0%
46	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
47	Frequency	0	2	2
	Percentage	0.0%	100.0%	100.0%
48	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
50	Frequency	0	7	7
	Percentage	0.0%	100.0%	100.0%
51	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
52	Frequency	0	2	2
	Percentage	0.0%	100.0%	100.0%
53	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
54	Frequency	0	2	2
	Percentage	0.0%	100.0%	100.0%
55	Frequency	0	4	4
	Percentage	0.0%	100.0%	100.0%

Age		Reported Torture or CIDT?		Total
		Yes	No	
58	Frequency	1	0	1
	Percentage	100.0%	0.0%	100.0%
60	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
61	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
62	Frequency	1	0	1
	Percentage	100.0%	0.0%	100.0%
65	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
68	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
Total	Frequency	28	464	492
	Percentage	5.7%	94.3%	100.0%

**Table 41: Torture and CIDT by Place of Detention for Female Detainees**

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Kathmandu	Frequency	16	124	140
	Percentage	11.4%	88.6%	100.0%
Morang	Frequency	0	31	31
	Percentage	0.0%	100.0%	100.0%
Banke	Frequency	1	29	30
	Percentage	3.3%	96.7%	100.0%

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Kaski	Frequency	3	85	88
	Percentage	3.4%	96.6%	100.0%
Kanchanpur	Frequency	0	16	16
	Percentage	0.0%	100.0%	100.0%
Udhayapur	Frequency	0	9	9
	Percentage	0.0%	100.0%	100.0%
Surket	Frequency	2	17	19
	Percentage	10.5%	89.5%	100.0%
Kapilbastu	Frequency	0	8	8
	Percentage	0.0%	100.0%	100.0%
Lalitpur	Frequency	0	6	6
	Percentage	0.0%	100.0%	100.0%
Rupandehi	Frequency	1	52	53
	Percentage	1.9%	98.1%	100.0%
Dhanusha	Frequency	0	2	2
	Percentage	0.0%	100.0%	100.0%
Baglung	Frequency	0	7	7
	Percentage	0.0%	100.0%	100.0%
Myadgi	Frequency	0	3	3
	Percentage	0.0%	100.0%	100.0%
Parbhat	Frequency	0	1	1
	Percentage	0.0%	100.0%	100.0%
Bardiya	Frequency	0	10	10
	Percentage	0.0%	100.0%	100.0%
Ramechhap	Frequency	0	5	5
	Percentage	0.0%	100.0%	100.0%
Dolakha	Frequency	0	17	17
	Percentage	0.0%	100.0%	100.0%

Place of Detention		Reported Torture or CIDT?		Total
		Yes	No	
Jhapa	Frequency	3	33	36
	Percentage	8.3%	91.7%	100.0%
Siraha	Frequency	2	9	11
	Percentage	18.2%	81.8%	100.0%
Total	Frequency	28	464	492
	Percentage	5.7%	94.3%	100.0%

## DATA RELATING TO CONFESSIONS IN 6 DISTRICTS FROM OCTOBER TO DECEMBER 2013

**Table 42: Did Detainee Make a Confession?**

Answer	Frequency	Percentage
Yes	105	34.3%
No	201	65.7%
<b>Total</b>	<b>306</b>	<b>100.0%</b>

**Table 43: Did Detainee Sign a Confession?**

Answer	Frequency	Percentage
Yes	133	43.5%
No	173	56.5%
<b>Total</b>	<b>306</b>	<b>100.0%</b>

**Table 44: Was the Confession Signed of the Detainee’s Free Will?**

Answer	Frequency	Percentage
Yes	98	32.0%
No	208	68.0%
<b>Total</b>	<b>306</b>	<b>100.0%</b>

**Table 45: Was the Confession Used by Investigative Officer or Prosecutor?**

Answer	Frequency	Percentage
Yes	27	8.8%
No	279	91.2%
<b>Total</b>	<b>306</b>	<b>100.0%</b>

**Table 46: Was the Confession Admitted as Evidence by the Judge**

Answer	Frequency	Percentage
Yes	16	5.2%
No	290	94.8%
<b>Total</b>	<b>306</b>	<b>100.0%</b>

**Table 47: Was the Confession Tested by the Case Hearing Authority for Admissibility During Jail/Bail Hearing?**

Answer	Frequency	Percentage
Yes	10	3.3%
No	296	96.7%
<b>Total</b>	<b>306</b>	<b>100.0%</b>

**Table 48: Was the Case Hearing Authority Alerted to Any Coercion Used Against Detainee?**

Answer	Frequency	Percentage
Yes	1	0.3%
No	305	99.7%
<b>Total</b>	<b>306</b>	<b>100.0%</b>

**Table 49: Were Steps Taken to Ensure the Confession was Obtained Lawfully?**

Answer	Frequency	Percentage
Yes	14	4.6%
No	292	95.4%
<b>Total</b>	<b>306</b>	<b>100.0%</b>

**Table 50: Cases Filed by AF under the TCA Since 2003**

Status of Cases Filed Under TCA	Frequency	Percentage
Granted Compensation	31	21.2%
Dismissed	48	32.9%
Awaiting Decision	61	41.8%
Withdrawn	6	4.1%
<b>Total</b>	<b>146</b>	<b>100.0%</b>

**Table 51: Compensation Provided Under TCA**

Amount (NRS)	Frequency
0 < , ≥ 5,000	1
5,000 < , ≥ 10,000	10
10,000 < , ≥ 15,000	12
15,000 < , ≥ 25,000	1
25,000 < , ≥ 30,000	2
30,000 < , ≥ 50,000	2

Amount (NRS)	Frequency
50,000 < , ≥ 60,000	1
60,000 < , ≥ 75,000	1
75,000 < , ≥ 100,000	1
<b>Total</b>	<b>31</b>

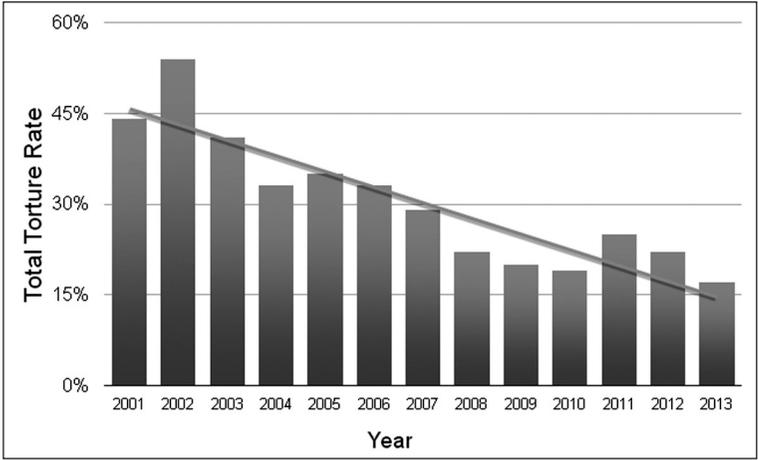
**Table 52: TCA Cases on Appeal**

Status of Cases Dismissed by District Court		Frequency
Registered Before Court of Appeals	Granted Compensation	5
	Dismissed on Same Grounds as District Court	10
	Awaiting Decision	9
Registered Before Supreme Court	Granted Compensation	1
	Dismissed on Same Grounds as District Court and Appeal Court	0
	Awaiting Decision	4

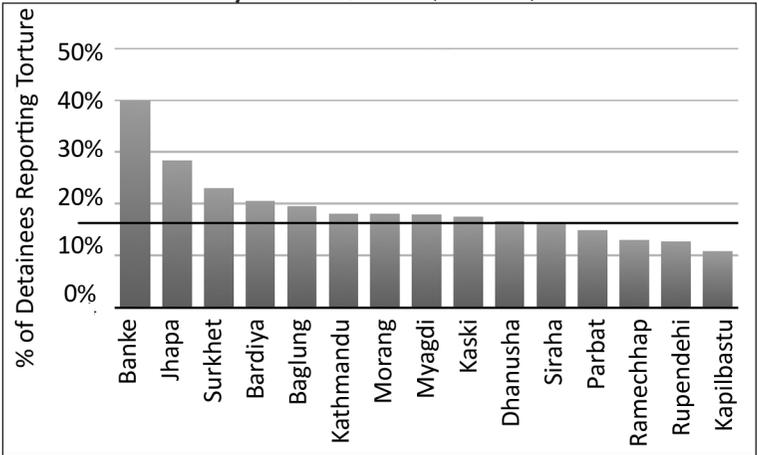
**Table 53: Withdrawn Cases**

Reason for Withdrawal of Cases	Frequency
Pressure from Nepalese Police Force	5
Out of Court Settlement	1

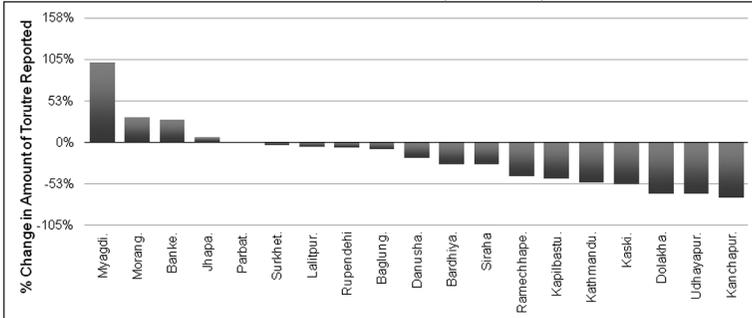
**Yearly Torture Rates from 2001 - 2014 (Chart 1)**



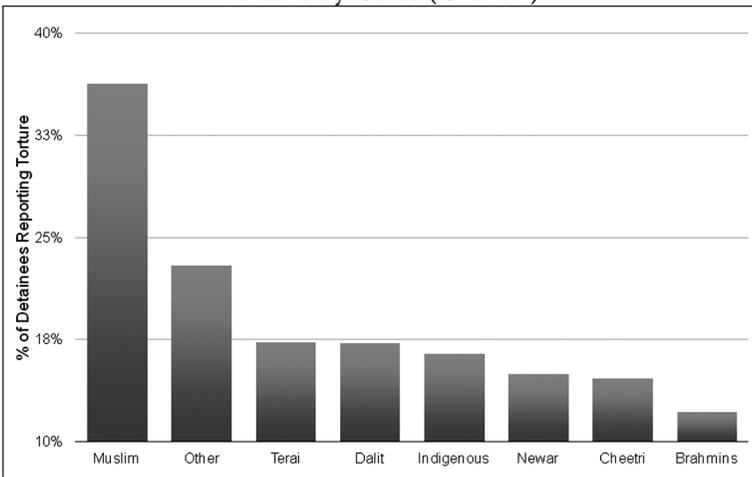
**Percentage of Detainees Reporting Torture by District, 2013 (Chart 2)**



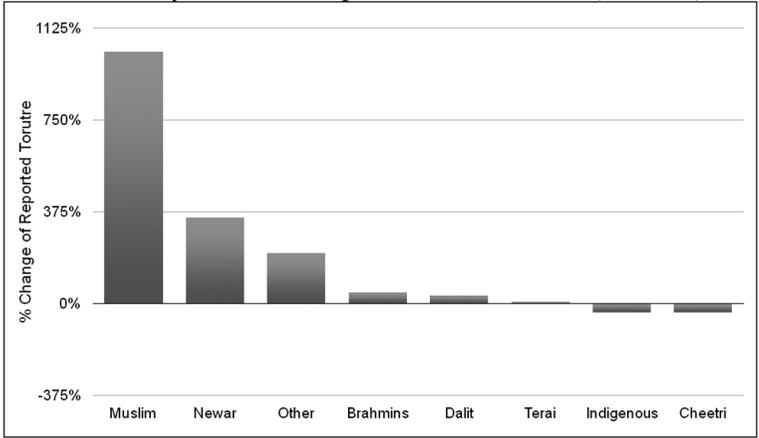
**Percentage Change in Torture by District from 2012 to 2013 (Chart 3)**



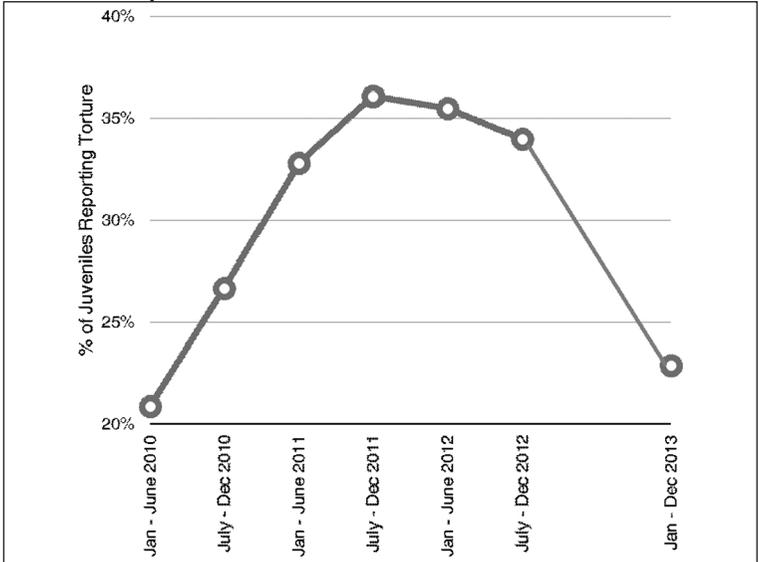
**Percentage of Detainees Reporting Torture by Caste (Chart 4)**



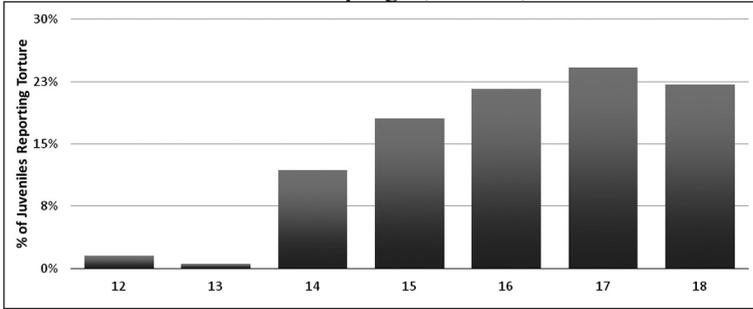
**Percentage Change of Rate of Reported Torture by Ethnic Group from 2012 to 2013 (Chart 5)**



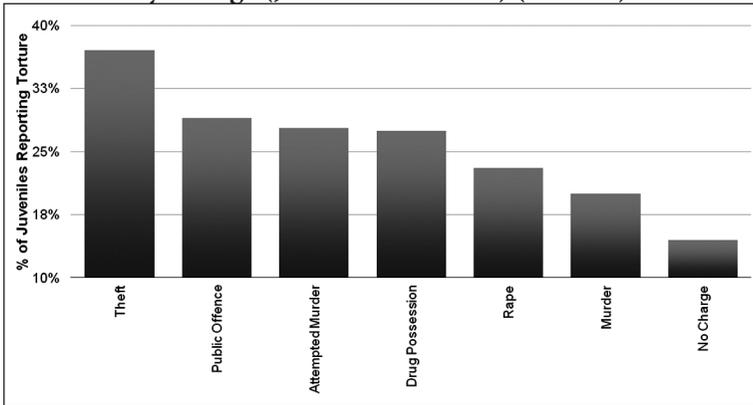
**Percentage of Juveniles Reporting Torture by Period (Juveniles under 18 ) (Chart 6)**



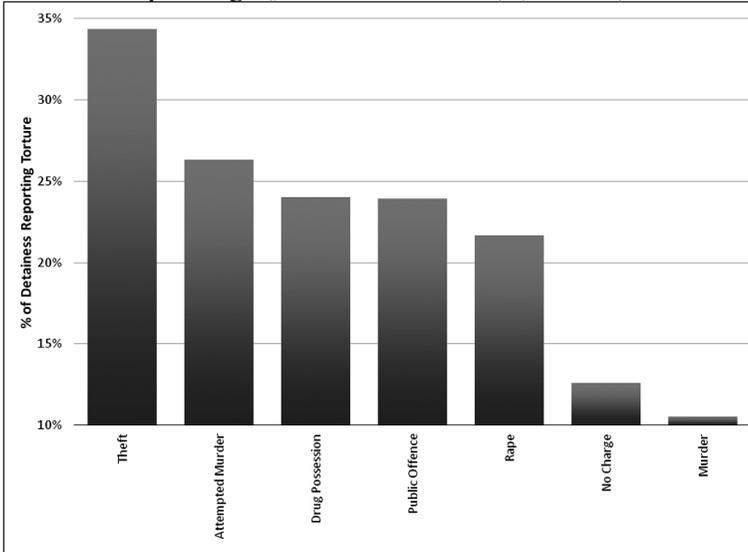
**Percentage of Juvenile Detainees Reporting Torture by Age (Chart 7)**



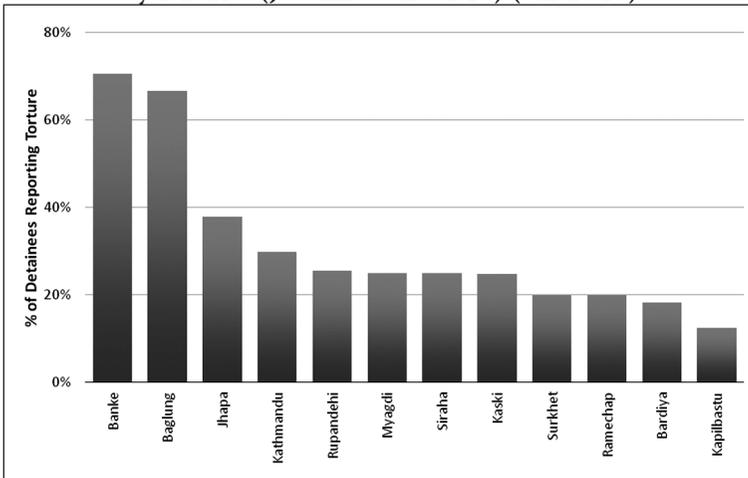
**Percentage of Detainees Reporting Torture by Charge (Juveniles under 16) (Chart 8)**



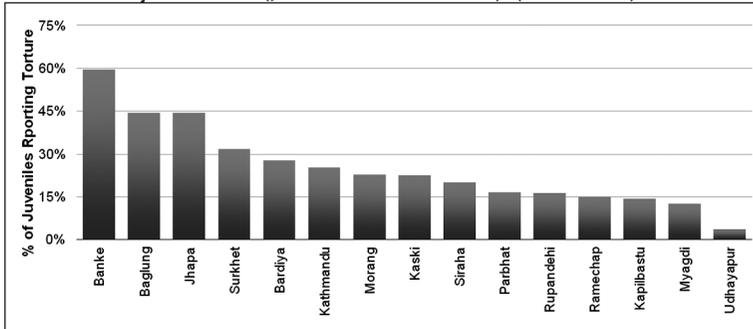
**Percentage of Detainees Reporting Torture by Charge (Juveniles under 18) (Chart 9)**



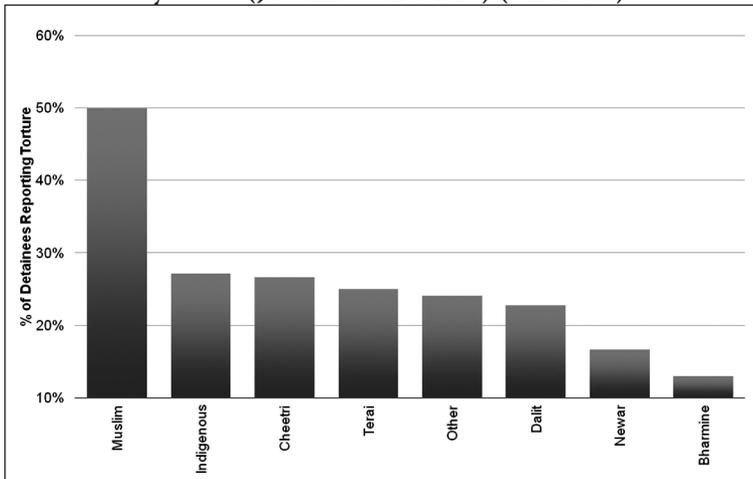
**Percentage of Detainees Reporting Torture by District (Juveniles under 16) (Chart 10)**



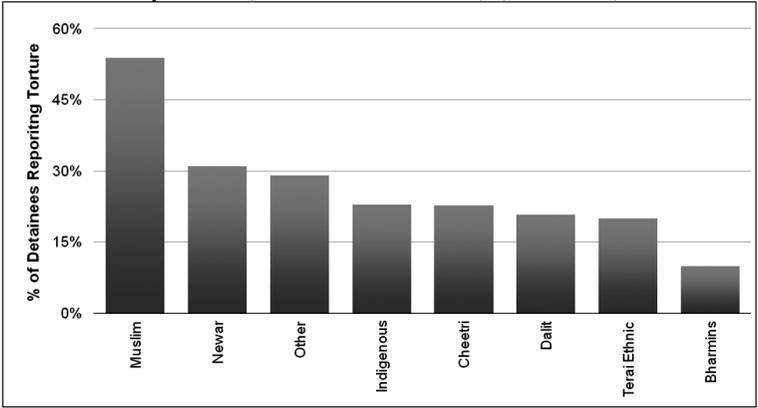
**Percentage of Detainees Reporting Torture by District (Juveniles under 18) (Chart 11)**



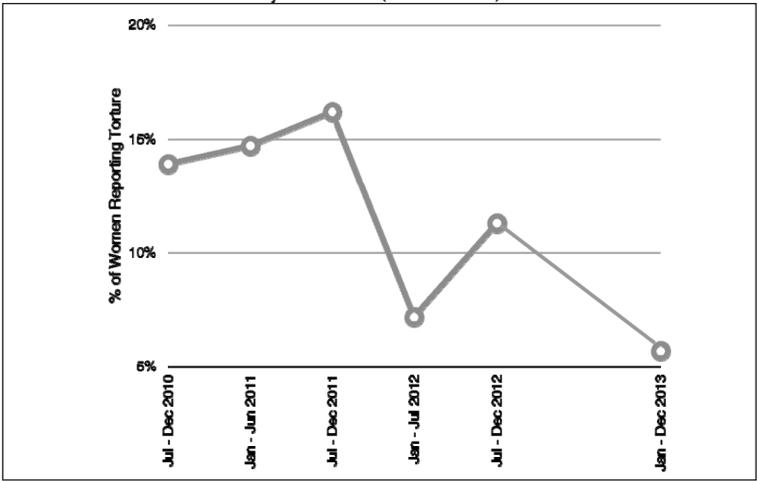
**Percentage of Detainees Reporting Torture by Caste (Juveniles under 18) (Chart 12)**



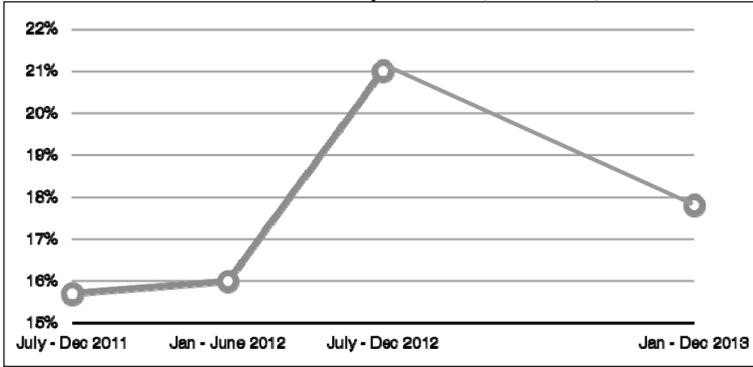
**Percentage of Detainees Reporting Torture by Caste (Juveniles under 18) (Chart 13)**



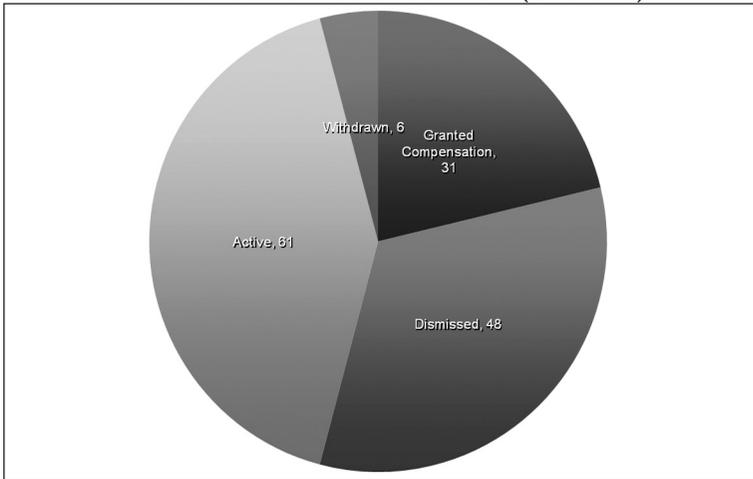
**Percentage of Women Reporting Torture by Period (Chart 14)**



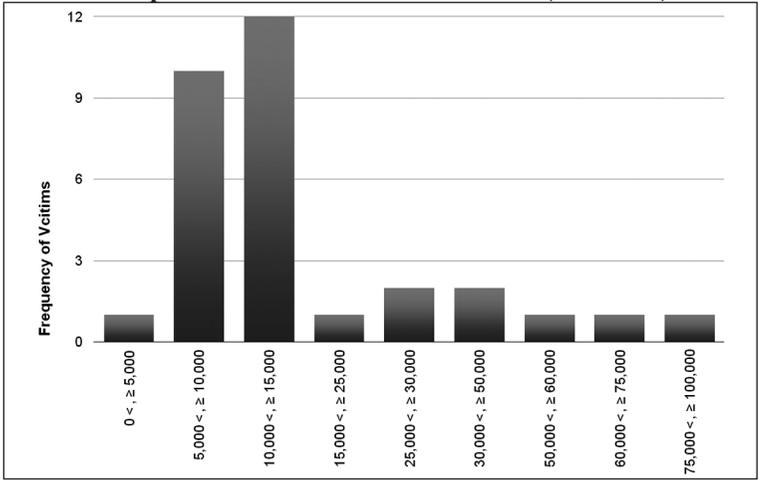
**Percentage of Judges Enquiring as to Torture or Ill-treatment by Period (Chart 15)**



**Status of Cases Filed Under TCA (Chart 16)**



**Compensation Provided Under TCA (Chart 17)**



**Result of TCA Cases on Appeal (Chart 18)**

