



Press Statement

17 February 2021

Seventeenth Anniversary of Maina Sunuwar's Killing by Nepal Army

Criminals are still free despite their conviction by a Court!!!

Today marks the seventeenth anniversary of the enforced disappearance, torture and killing of Maina Sunuwar, a 15-year-old girl, by the then Royal Nepal Army (now Nepal Army, NA) at Birendra Peace Operation Training Centre (BPOTC) Panchkhal, Kavre on 17 February 2004. Despite the State's persistent resistance compounded by its wider failure to end the entrenched impunity, we have not given up our hope to justice being served.

After 13 years of painful legal battle, we got the decision from the Kavre District Court on 16 April 2017, convicting three retired army officers (Colonel Bobby Khatri, Captain Sunil Prasad Adhikari, and Captain Amit Pun) in *absentia* for Maina's murder (a crime that carries a sentence of life imprisonment in Nepal), whereas serving Captain Niranjan Basnet who was responsible for her arrest and was present during her torture, was acquitted. Our right to appeal to the decision of the District Court (on the acquittal of Niranjan Basnet and the recommendation of the District Court to reduce the sentence of those convicted, who never cooperated with the justice process) was undermined by the then Attorney General, an officer of the state who is supposed to protect the rights and interests of victims. Despite this, we were hoping to see the perpetrators being arrested to serve their prison sentence, which has not happened until today - nearly three years later.

Sixteen-year-old Reena Rasaili, cousin sister of Maina was raped and killed on 13 February 2004. Devi Sunuwar said: "As I happened to be one of the witnesses of the atrocities against my niece, I could not suffer in silence, I spoke to the media reporting the brutality my niece suffered for which I also lost my daughter."

Of the many perpetrators involved in rape and killing of Reena, the police only arrested Kaji Bahadur Karki, a junior non-commissioned officer, who had left the army after the incident. He was later

acquitted by the Court on the ground that his guilt could not be established beyond reasonable doubt. There was no investigation to find evidence beyond reasonable doubt. Senior NA officers, whom Kaji Bahadur Karki named, were never questioned and brought into the purview of the investigation.

Hundreds of victims and families who have lost their loved ones, were subjected to torture, rape and suffered other gross violations continue to wait for justice. On the one hand, the State argues that conflict-era cases will be addressed by the transitional justice (TJ) mechanisms but refuses to fix even the unconstitutional legal provisions in the mandates of these commissions as ordered by the Supreme Court more than five years ago, making these commissions utterly dysfunctional. On the other, no investigation has been done by the police through the regular justice processes. Thus, the TJ mechanisms - the Truth and Reconciliation Commission (TRC) and the Commission of Inquiry on Enforced Disappearances (CIEDP) - are used to in fact prevent victims from having access to justice.

In order to restore the confidence of victims and the public in the legal system and the State, it is important that the Government and its institutions respect rule of law and respect Court orders. They need to show that these institutions protect victims, not perpetrators. We call on the government to implement the Kavre Court's verdict taking the convicted perpetrators in Maina's case into custody to serve their sentence. Only this will deliver justice to Maina Sunuwar and provide a sign of commitment to human rights and rule of law. We also call on the international community to adopt a stringent vetting policy to ensure alleged perpetrators involved in gross violations of human rights and serious violations of humanitarian are not able to benefit from any support, including training and deployment to peacekeeping.



Devi Sunuwar

Chairperson,

Maina Bal Bikash Samiti



Om Prakash Sen Thakuri

Director,

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