

# ***TORTURE BRIEFING***

PREVENTION OF TORTURE IN NEPAL

**January to June 2012**



**ADVOCACY FORUM-NEPAL**

*"Lawyers' Forum for Human Rights & Rule of Law"*

## INTRODUCTION

One of the aims of Advocacy Forum's (AF) is to reduce the practice of torture, promote a system of accountability and address impunity relating to torture. As part of that work, the organization produces briefings on trends and patterns relating to torture and other cruel, inhuman or degrading treatment. These briefings also highlight state authorities' responses to the complaints communicated to them. AF regularly communicates cases to national and international bodies requesting these bodies to put pressure on the authorities to stop torture, provide medical treatment and provide security to victims in detention, where necessary, and conduct investigations. AF also provides necessary information to other international organisations working in this field.

Since 2001, AF lawyers have undertaken regular visits to places of detention. They currently visit 58 detention centres in 20 working districts<sup>1</sup> to collect data from detainees using a standard questionnaire. The main aims of these visits are to assist the Nepal Police to implement its constitutional obligations of ensuring detainees access to lawyers and to prevent torture and other ill-treatment and ensure redress in the event of torture occurring. The large majority of places of detention visited are District Police Offices (DPOs) and Area Police Offices (APOs) as they are the places where those under arrest are usually brought for interrogation and where detainees most often complain of being compelled to confess under torture.

This program of police detention monitoring in areas with high risk of torture forms part of an integrated intervention strategy which also comprises legal aid to detainees who have no access to a lawyer, documentation of cases and patterns of torture, the initiation of court cases to obtain redress, awareness-raising among key stakeholders as well as national and international advocacy.

This briefing is the tenth such briefing providing an analysis of patterns in reports of torture and other ill-treatment from January to June 2012. The previous briefings can be accessed at <http://www.advocacyforum.org/publications/torture.php>.

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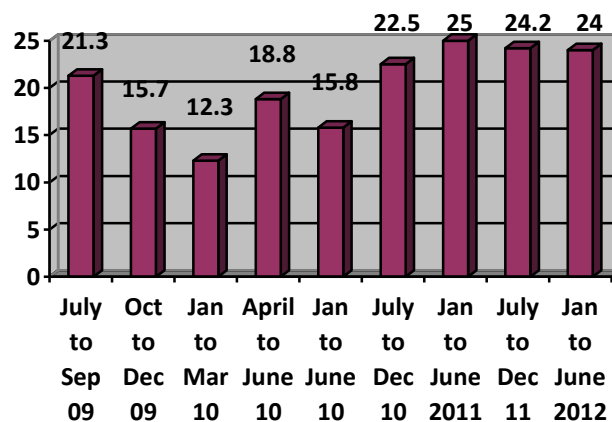
<sup>1</sup> Baglung, Banke, Bardiya, Dhanusha, Dolakha, Jhapa, Kathmandu, Kanchanpur, Kapilvastu, Kaski, Lalitpur, Morang, Myagdi, Parbat, Ramechhap, Rupandehi, Siraha, Sunsari, Surkhet and Udaypur

## **PATTERNS AND TRENDS ANALYSIS**

During the reporting period from January 2012 to June 2012, AF has recorded a slight decrease in the percentage of torture from 24.2% in the previous six months to 24%. However, the level of torture remains above the average level recorded by AF over the 2008 – 2010 period and serious concerns remain regarding high incidents of torture being reported from certain districts. In particular, in the following districts the percentages of torture is above the average recorded in the 20 districts where AF visits places of detention on a regular basis: Kaski (52%), Kathmandu (33.7%), Sunsari (31.4%), Bardiya (31.2%) and Surkhet (30.8%). There also remains concern about high incidents of torture of certain categories of detainees, in particular juveniles, who continue to be more frequently tortured than adults.

During January to June 2012, AF lawyers interviewed 1900 detainees in 58 detention centres. Among them were 180 (9.5 %) women, 1718 (90.4%) men and 2 (0.1%) other. Of them, 456 detainees (24%) have claimed that they were subjected to torture or other cruel, inhuman or degrading treatment. Among the women detainees, 13 (7.2%) claimed they were subjected to torture or other ill-treatment, as opposed to 443 (25.8%) of men. (See Annex 1: Tables 1, 2 and 3 for more details.)

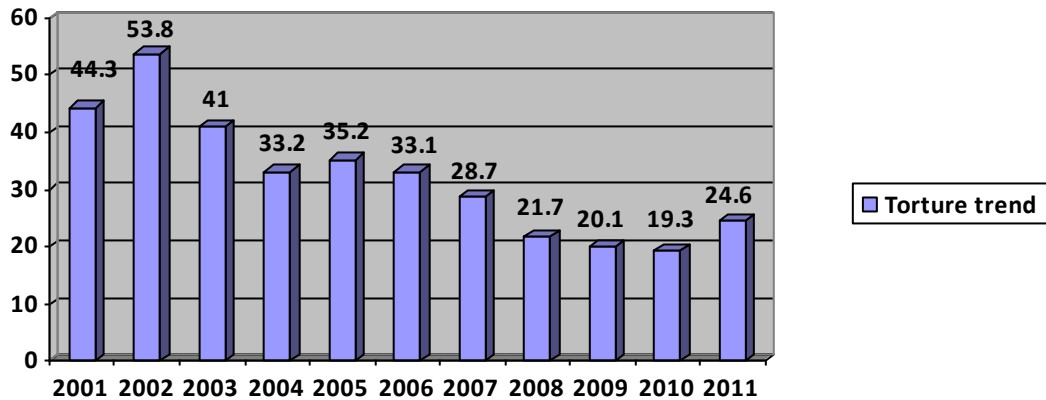
The percentage of torture among female detainees reporting they were tortured significantly decreased: from 31 (16.2%) during January to June 2012 to 13 (7.2%).



### **Trends in Reports of Torture in 20 districts where AF visits places of detention**

The 24% of detainees who claimed they had been tortured during period January to June 2012 represent a decrease of 0.2% and 0.8% in comparison to the period from July to December 2011 and January to June 2011 respectively. During July to December 2011, AF lawyers interviewed 1919 detainees among whom 464 detainees (24.2%) claimed that they were subjected to torture or other cruel, inhuman or degrading treatment. During the earlier period from January to June 2011, AF interviewed a total of 2268 detainees among whom 567 (25%) claimed that they had been subjected to torture and ill-treatment. During the period from July to December 2010, AF had interviewed a total of 2183 detainees

among whom 492 (22.5%) had claimed that they had been tortured. (For more details of the longer-term patterns, see the graph below and Annex 2: Table 1, 2 and 3 for more details regarding the trends and patterns during the period from July to December 2011.) The overall increase in the percentage of torture in 2011 confirms a reversal in the gradual longer-term reduction in reports of torture noticed in the previous years (see graph below).

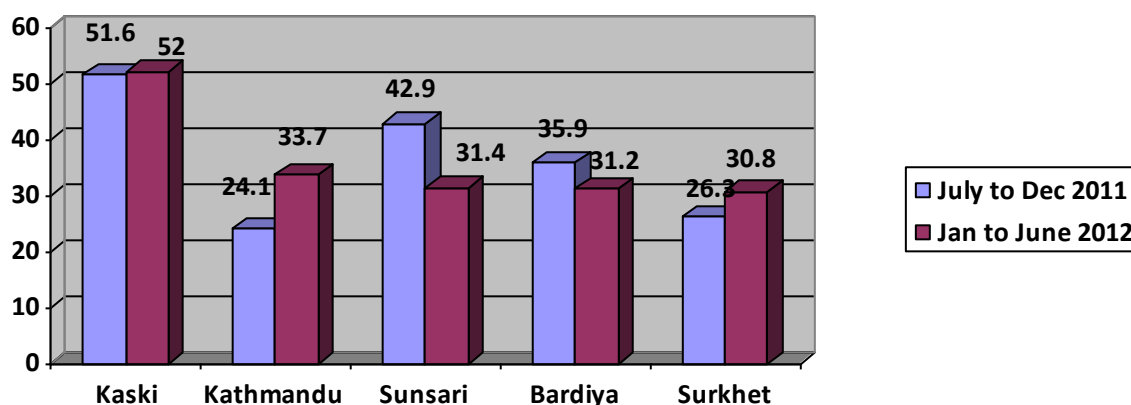


#### Torture trend from 2001 to 2011

#### *District-wise analysis*

There remain considerable variances in the prevalence of torture between districts. During this period, the highest torture percentage is 52% in Kaski District where 116 out of 223 detainees claimed that they had been tortured or ill-treated. The percentage of torture of juveniles in Kaski district stands at an alarming 66.3%. Table 4 in Annex 1 shows the percentages per district during this period and the highest percentages are highlighted. They are as follow: -

- Kaski (52%)
- Kathmandu (33.7%)
- Sunsari (31.4%)
- Bardiya (31.2%)
- Surkhet (30.8%)



### **Trends of torture in 5 districts**

The above graph shows the districts with the highest percentage of torture during this period: Kaski, Kathmandu, Sunsari, Bardiya and Surkhet. When analyzing trends over the last two periods, it is found that there is significantly high increase in torture reported in Kathmandu (from 24.1% to 33.7%) and Surkhet (from 26.3% to 30.8%). During this period, there is a 4.7% decrease in torture in Bardiya district though it remains among the districts with the highest percentages.

While analysing the trends in reports of torture from Kaski district, there is a clear increase in percentage reported: from 21.5% during July to December 2010, to 35.3% during January to June 2011, to 51.6% during July to December 2011 and 52% during January to June 2012.

### ***Trends according to charges***

When analysing the charges under which people who claimed they were tortured were held, the data show that those held under suspicion of involvement in arson, robbery, arms and ammunition, kidnapping and theft respectively face 53.3%, 53.3%, 48.5%, 45.5% and 40.1% chance of being tortured. People released without charge (32.3%) are also at high risk of torture. Those charged with forgery are 25.9% likely to be tortured. (See Annex 1: Table 6 for more details)

It is difficult to establish the dynamics behind the high percentage of reported torture. The possible explanations include:

1. The detainees who claimed that they were torture were mainly arrested on charges of robbery and arson (53.3%), arms and ammunition (48.5%), kidnapping (45.5%) and theft (40.1%), It appears in these cases that torture is used to speed up investigations.
2. The torture percentage was mostly high in the hill districts where the statistical data shows the torture percentage in districts such as Kaski (52%), the highest overall percentage), Kathmandu (33.7%), Surkhet (30.8%), At the same time, two districts in the Terai region also reported the highest

percentage of torture: Sunsari has the third highest of 31.2% and Bardiya reported 31.2% (though there is a decrease compared to previous reporting period July to December 2011 in the latter district).

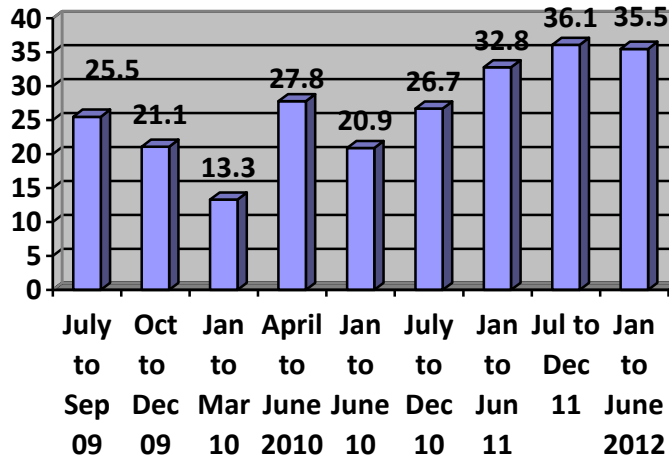
3. When analysing Kaski district torture based on charge found high torture on charges such as theft where among 20, 19 (95%) claimed that they have been subjected to torture and ill-treatment whereas the people arrested on charge of arms and ammunition claimed that they have been also subjected to torture and ill-treatment. Among 5, 3 (60%) claimed that they have been subject to torture and ill-treatment. So as they were found highly tortured in cases of no charge (56.9%), drug (54.3%) and murder (50%).
4. When analysing Kathmandu district based on charge found high torture robbery (80%) where among 5, 4 claimed that they were subjected to torture and ill-treatment followed by attempt to murder (66.7%) where among 12, 8 claimed that they were subjected to torture and ill-treatment. The other charges where torture percentage was found high were theft (38.7%), rape (33.3%).
5. When analysing correlation between charge and torture in Bardiya district, it is found that people arrested on suspicion of polygamy and gambling (100%) are most at risk of torture followed by those held for attempted murder and murder (70%). The torture percentage was found high in Forest Offence (85.7%) where 12 among 14 detainees claimed that they were subjected to torture and ill-treatment.

During the period January to June 2012, a total of 548 detainees visited by AF were people charged under legislation where the Chief District Officer is the adjudicator. Among these 548 detainees, 132 (24.1%) claimed that they were subjected to torture and ill-treatment whereas 219 of the 981 others whose cases were handled by the District Courts (22.3%) claimed that they were subjected to torture. An additional 73 detainees were arrested under the Forestry Act and detained by forestry officers. Of them, 15 (20.5%) detainees claimed that they were subjected to torture or other ill-treatment.

**VULNERABLE GROUP**

AF has identified juveniles among the most vulnerable categories of detainees, together with refugees, women and people from certain caste or ethnic background.

**Juveniles**



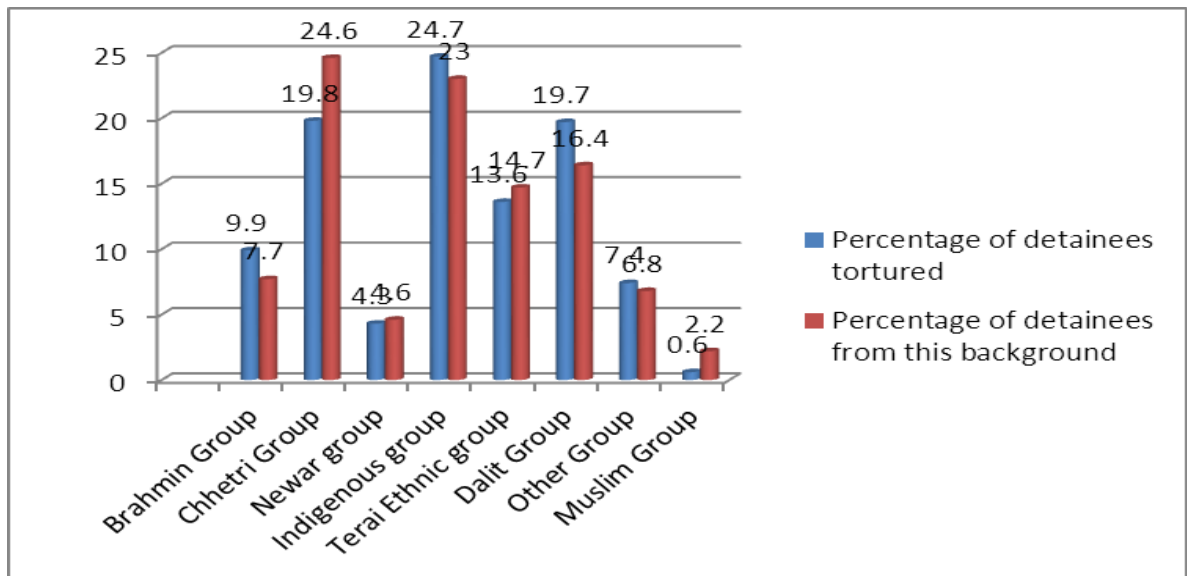
During this period, AF lawyers visited 456 juveniles (below the age of 18) of which 29 (6.4%) were girls and 427 (93.6%) were boys. Of them, 162 (35.5%) claimed that they were subjected to torture or other ill-treatment. In comparison, in the period from July to December 2011 the percentage was 36.1%, i.e. there was a 0.6% decrease. There are serious concerns, however, about the longer-term increasing percentage of torture among juveniles since 2010, despite consistent advocacy by AF and others. The percentage of juveniles tortured remains higher than the percentage among the overall population of detainees. In other words, police torture children more frequently than adults, and have consistently done so since AF started to monitor these trends several years ago.

Among 92 detainees in Kaski who claimed they were tortured or ill-treated were 61 juveniles. When examining the correlation between torture and charges, it was found that most of the juveniles were arrested on charge of Public Offense or were never charged. Few are arrested under charge of theft, drug possession and murder. Generally, the juveniles are considered vulnerable group because the police as soon as they have arrested a juvenile start by slapping, beating and verbally abusing them.

Age. \* Torture and CIDT information.

			Torture and CIDT information.		Total
			Yes.	No.	
Age.	10	Number	1	1	2

		% within Age.	50.0%	50.0%	100.0%
11		Number	1	0	1
		% within Age.	100.0%	0.0%	100.0%
12		Number	5	2	7
		% within Age.	71.4%	28.6%	100.0%
13		Number	11	9	20
		% within Age.	55.0%	45.0%	100.0%
14		Number	27	10	37
		% within Age.	73.0%	27.0%	100.0%
15		Number	34	43	77
		% within Age.	44.2%	55.8%	100.0%
16		Number	26	50	76
		% within Age.	34.2%	65.8%	100.0%
17		Number	24	81	105
		% within Age.	22.9%	77.1%	100.0%
18		Number	33	98	131
		% within Age.	25.2%	74.8%	100.0%
Total		Number	162	294	456
		% within Age.	35.5%	64.5%	100.0%



#### Caste-wise analysis of torture of juvenile detainees



A background-based analysis shows that juveniles from Dalit background are more likely to be tortured: this category makes out 16.4% of juvenile detainees overall, but 19.7% of those claiming they were tortured. Juvenile from the Brahmin community constitute 7.7% of detainees, but 9.9% of those claiming they were tortured and indigenous group 24.7% of juvenile detainees overall, but 23% of those claiming they were tortured. In case of the other group, this category constitutes 6.8 percent of juvenile detainees overall, but 7.4% among those claiming that they were subjected to torture.

#### **District-wise analysis of torture of juvenile detainees**

During this period the districts with a very high percentage of juveniles claiming torture are Kaski (66.3%), Jhapa (56%), Banke, Udaypur, Sunsari (50%) and Dhanusha (41.7%) and 3 districts reported a 100% absence of torture: Surkhet, Lalitpur and Dolakha.

During the previous period from July to December 2011, when doing district-wise analysis, 3 districts reported 100% absence of torture: Kanchanpur, Kapilvastu and Ramechhap. The districts with a very high percentage of juveniles claiming torture are Parbat (88.9%), Kaski (65.2%), Bardiya (55.6%), Lalitpur (42.9%) and Sunsari (40%)

Under Rule 5 (1), (2) of the Juvenile Justice (Procedure) Regulations 2063 a juvenile must be "interrogated" in a child-friendly environment and the "interrogation" should be held in the presence of the juvenile's father, mother, patron, lawyer, or the representative of child welfare home, or another destitute home if he or she is living in such a place. But AF noted that the practice is that children are interrogated alone in an unfriendly environment like police stations.

Similarly, Rule 4 (b), (e), (f)<sup>2</sup> of the Juvenile Justice (Procedure) Regulations 2063 state that the minor should be informed about their identity, should be taken for physical and mental health check-up and that police or other detaining authorities should carry out an inquiry and obtain any statement in the presence of the minor's parents. But, they are detained illegally without any health check-up and are not even provided with food while detained in police custody. The following case study is one of the examples of violation of children's rights.

Section 15 of Children Act 2048 states that children punished shouldn't be detained with adult detainees but in practice we find juveniles detained with adults in custody and also in prison.

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<sup>2</sup> Juvenile Justice (Procedure) Regulation 2063, Under Rule 4 (b) while arresting the juvenile, he must show the document which reveals his identity and must mention the reason to arrest the juvenile. Under Rule 4 (e) He is to cause to check physical or mental health of juvenile by the nearby medical practitioner or in the nearby government hospital. Under Rule 5 (f) He [police officer and unit] must keep both his parents if available or at least one and his patron if parents are not available in presence while conducting inquiry and obtain their acknowledgement that they were present.

Moreover, it is found that the courts are failing to implement the laws related to juveniles. In particular, they fail to implement the law of hearing juvenile cases on special juvenile benches and ignore to clarify whether the statements of juveniles were taken following the rule set out in the Juvenile Justice (Procedure) Regulations and fail to verify the procedure adopted while taking their statement.

Mahesh Gurung (name changed), 10, a resident of Morang was caught by a member of the public and handed over to the APO, Jhapa. He was arrested on 8 February 2012 on suspicion of theft from Damak Chowk.

An AF lawyer visited him at Jhapa APO on 8 February 2012 and interviewed him on that day. Later, the AF lawyer went to case section for inquiry where he was informed that his parents had been called and he will be released.

On 8 February 2012, Mahesh Gurung came from Urlabari to Damak on his father bicycle. In one of the grocery shop there was no shopkeeper and he took out money from the shop. The shopkeeper immediately caught him, called the police from APO and handed him over to them at around 4 pm.

After bringing him to APO, he was detained in custody. He was not interrogated for 3 days and was illegally detained. He was kept separate from other detainees outside from 10 am to 5 pm but later he was detained in custody with adults. He was not provided food. He informed the AF lawyer that co-detainees provided him food from their plate. He was also not taken to hospital for a health check-up.

On 10 February 2012 at 3pm, unidentified police wearing glasses took him to the case section and interrogated him. He was beaten with an iron ruler on his palm twice and made him do sit-ups for 100 times while the officers asked him whether he will continue stealing or not. Only when he was released he disclosed about the beatings and sit-ups.

After meeting the minor, AF lawyer had meetings with DSP Ganesh Bhattarai and Inspector Anil Poudel. The AF lawyer asked them why they detained 10 years old minor illegally for 3 days without informing his guardian. He also informed them that article 11 of the Children's Act 2048 states that a minor below age of 10 if should not be punished, even if they commit a wrong. He informed that AF will take the case to court if they didn't release the boy. The DSP and Inspector replied to AF lawyer that there is no need to file a case as they are going to release the boy. They called the boy immediately and asked whether he can show his house to them or not. When he said that he can, the police promised to hand him over to his parent.

The next day, on 11 February 2012, DSP Ganesh Bhattarai called AF lawyer and informed him that he has released the boy last night at 8 pm. Senior Constable from APO Urlabari called his father Mr. Gurung and handed his son to him.

Hari Sunar (name changed), 15, a permanent resident of Rapkot-4, Syangja district was arrested on 11 January 2012 at around 8 am from Parsang. He was not remanded and illegally detained for 7 days.

An AF lawyer visited him on 18 January 2012 and interviewed him.

According to the victim, two or three weeks before his arrest, he had bought a folding bicycle from a person named Ashish at a cost of Rs. 7000/-. He was riding that bicycle around 8 am on 11 January 2012, when one man on a bicycle stopped him at Parsang and got hold of him. He asked him where he had bought this bicycle. He replied that he had bought the bicycle from Ashish but he didn't know his address. Afterwards, this man took his bicycle and called the police. Then, the police arrested him and brought him to the Ward Police Office in Baidam. He was not given an arrest and detention letter.

On 13 January 2012 at around 3 pm, the police beat him with a plastic pipe which was 1 inch thick on both soles of his feet about 7-8 times. On 14 January 2012 at 2 pm, the police twice kicked him with their boots on his left thighs. The police said that they would release him on 15 January 2012. They made him clean the toilet and sweep the police office premises 3-4 times. He also carried water. He was shackled at the time of arrest and while he was taken to hospital for health check-up. He was also detained with adult detainees. He was detained illegally for 7 days.

An AF lawyer after interviewing the victim discussed his illegal detention with police and asked them to find the person who sold the bicycle to him and release the boy. The boy was released on the same day of the AF lawyer visit.

## Women

During this period, AF lawyers visited a total of 180 female detainees. Of them, 13 (7.2%) claimed that they were subjected to torture or ill-treatment. In comparison, during the period from July to December 2011 31 women (16.2%) had claimed they were tortured. There is a sharp decrease in torture of women during this period compared to previous reported period July to December 2011, January to June 2011 and July to December 2010 when torture were recorded 13.9%, 14.7% and 16.2% respectively.

On 25 June 2012, AF conducted a “Press Meet” at Annapurna Hotel, Kathmandu on the eve of the “UN International Day against Torture 2012”, with more than 73 participants (mainly journalists) including a representative of the National Human Rights Commission (NHRC), National Women Commission (NWC) and human rights defenders. A torture survivor Ms. Kalpana Bhandari released the report “**Torture of Women: Nepal Duplicity Continues**”.<sup>3</sup> She also shared her experiences and sufferings.

The report focuses on how torture of women in detention has continued to rise during 2011. It analyses the patterns of torture of women in detention, as well as patterns in torture and sexual violence in detention during the conflict period. As impunity continues to prevail, women victims of torture and rape are finding it impossible to obtain justice. They face numerous barriers, including the lack of criminalization of torture, statutes of limitation on complaints relating to rape (35 days) and torture (35 days), lack of protection of victims, witnesses and evidence, etc.

The report also addresses the situation of the country with the dissolution of the Constituent Assembly and Legislative Parliament in May 2012. AF also released a press statement highlighting the increasing trends of torture in detention centers.<sup>4</sup> On a positive note, AF has found that during this reporting period, the torture of women has significantly decreased. This may be (at least in part) as a result of AF’s activities. More particularly, in 2011, on the occasion of the UN Day Against Torture, AF published a report “TORTURE OF WOMEN IN DETENTION: Nepal’s Failure to Prevent and Protect” was released. Similarly, consultation meetings were held in AF’s working districts focusing on “Criminal Justice and Women”. Police were made aware on issues of women-related torture and ill-treatment during discussions in sectoral meetings.

**Charge. \* Torture and CIDT information.**

			Torture and CIDT information.		Total
			Yes.	No.	
Charge.	Public Offence.	Count	17	16	33
		% within Charge.	51.5%	48.5%	100.0%
	Attempt to Murder.	Count	0	1	1

<sup>3</sup> <http://www.advocacyforum.org/downloads/torture-of-women-report-june-26-2012-english.pdf>

<sup>4</sup> <http://www.advocacyforum.org/downloads/pdf/press-statement/press-release-torture-of-women-nepal-duplicity-continues-english.pdf>

		% within Charge.	0.0%	100.0%	100.0%
No Charge.	Count		35	9	44
	% within Charge.		79.5%	20.5%	100.0%
Drug.	Count		0	4	4
	% within Charge.		0.0%	100.0%	100.0%
Theft.	Count		8	0	8
	% within Charge.		100.0%	0.0%	100.0%
Murder.	Count		1	0	1
	% within Charge.		100.0%	0.0%	100.0%
Traffic Murder.	Count		0	1	1
	% within Charge.		0.0%	100.0%	100.0%
Total	Count		61	31	92
	% within Charge.		66.3%	33.7%	100.0%

During this reporting period, 14 women were provided physical, psycho-social treatment and counseling. These women were victim of sexual violence (rape) from state and non-state actors during conflict period. Gynecologists, physicians, orthopedic and forensic doctors provided specialist health check-ups related with the problems. 12 women from Kanchanpur, 1 from Mohattari were provided this medical and psycho-social support during period 1 June 2012 to 30 June 2012. Among the 13, most of the women were having gynecological problems and were examined by a gynecologist. At the same time, they were also provided psycho-social counseling as they still have psycho-socio problems as a result of the sexual violence they suffered. Three of them were having serious mental problems therefore they were also referred for treatment by psychiatrists.

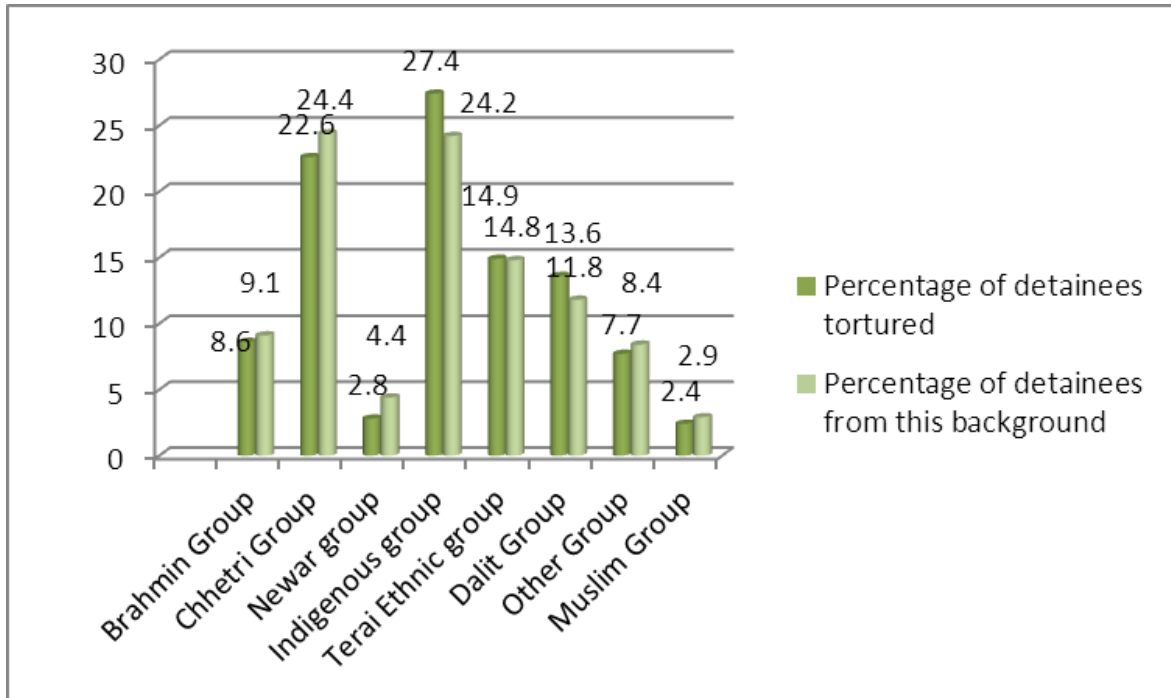
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Asha Singh (name changed), 15, a permanent resident of Baireni-2, Dhading currently living in Balaju Kathmandu was arrested on 20 January 2012 at around 11 pm from Ratna Chowk, Pokhara by police deployed from Ward Police Office Baidam. She was arrested on charge of theft. She was remanded on 22 January 2012. An AF lawyer visited her on 22 January 2012 and interviewed her.

According to the victim, it was school vacation and she went to Pokhara on 2 January 2012 to her grandmother's house. On 20 January 2012, she and Arati (daughter of her grandmother) went to see a marriage at a nearby house. When they were returning, another girl, Sunita, found a bag and she took that bag and returned home. Afterwards at 11 pm, when they were sleeping the police came to the house together with the bag owner and they said that they have suspicion that the bag was brought to this house. Her elder sister Arati took out the bag and gave to them. When the police opened the bag, there was Rs. 2000/-, an ATM card and a cheque book in it. Afterwards, the police arrested Asha Singh and her two elder sisters and detained them in the Ward Police Baidam. On 21 January 2012, they were brought to the DPO Kaski. In the same evening, they were brought back to the Ward Police Office Baidam. On 22 January 2012, the police remanded her and her elder sister Arati on the charge of theft. Her other sister was released.

After the minor was brought to Ward Police Office Baidam on 21 January 2012, police beat her with a plastic pipe on the soles of her feet 2, 3 times and on her arms 2, 3 times. They also poked into her mouth with the same pipe. When she started crying, a woman police officer covered her mouth with cloths. She was detained with adult detainees. She was tortured because she refused to sign a statement where it was stated that she was involved in theft.

## Caste and ethnic background



### Caste-wise torture infliction on adult detainees

AF regularly analyses patterns of torture on the basis of caste and ethnic groupings. The graph above documents the percentage of torture of detainees according to their caste and ethnicity. As shown in Table 5 in Annex 1, people from the Indigenous group though representing only 24.2% among detainees, make out 27.4% among the overall number of detainees claiming tortured. Similarly, detainees from the Dalit community are also over-represented among those detainees claiming they were tortured: Dalit community face 13.6% chance of being tortured while only representing 11.8% of detainees whereas detainees from the Terai community faced 14.9% chance of torture while representing 14.8% of detainees. Statistics relating to detainees of other backgrounds generally considered less disadvantaged (such as Brahmin, Chhetri and Newar) show they are less likely to face torture.

### **METHODS OF TORTURE**

Generally, detainees report that they are tortured or ill-treated at the time of arrest, during transfer and during interrogation mainly in the period before their statements are recorded and before they are taken to court to be remanded.

The general patterns of torture in terms of methods of torture are as follows:

- Shackling both hands, putting hands on knees and inserting 2 meter long rod from elbow to under knee (i.e. to make the body of victim hang down) and beating randomly on soles
- Beating with plastic pipe on hips, thigh and legs
- Making undress and attacking with fists, punching on chest, and back for many times
- Standing on legs wearing boots
- Beating with hands, punching, slap on mouth, face, back and various parts of body

Juveniles reported following methods of torture in police custody at the time of interrogation:

- Forcing to clean toilet
- Beating with iron ruler on palms
- Forced to do sit up for more than 100 times
- Beating on neck and cheek
- Standing on legs and pressing down with boots
- Beating with plastic pipe
- Beating with bamboo stick on back and other parts of body
- Verbal abuse



## SAFEGUARDS

The Interim Constitution, 2007 and the Torture Compensation Act provide some safeguards against torture at the hands of state actors like the Nepal Police. In general and by AF's observation, the Nepal Police and other state authorities are failing to systematically abide by these provisions, though there are some improvements in relation to certain safeguards such as judges asking about torture from detainees brought before them.

As is demonstrated by the figures in Tables 7 Annex 1, the police are not abiding by the requirement to provide arrest warrant at the time of arrest. Of 1900 detainees, 201 (10.6%) received arrest warrant at the time of arrest; whereas 1409 (74.2%) received arrest warrant after they were brought into detention. This compares to the previous period July to December 2011 where 173 (9.0%) received arrest at the time of arrest and 1342 (70.0%) received arrest warrant only after they were brought into detention. During this period, 1541 (81.1%) received a detention letter whereas 359 (18.9%) did not get detention letter while they were in custody. A further analysis has shown that the police often provide the charge/detention letter only after two or three days of the arrest with a falsified date of arrest.

The police have also failed to take detainees to court or to the District Administration Office (DAO) for remand within 24 hours as per Article 24 (3) of the Interim Constitution. During this period, 916 (54.6%) detainees visited by AF had been taken to the courts for remand within 24 hours. Among the detainees who had been taken to court (whether within 24 hours or later), 269 (16.0%) detainees stated that they were asked by the judges about torture or other ill-treatment whereas 1408 (84.0%) stated that they were not asked by judges about torture or other ill-treatment. (See Annex 1: Table 13.) This represents an increase 0.3% compared to the previous period when 15.7% of detainees brought before the court said they were asked whether they had been tortured. However, it presents a considerable improvement in comparison to, for instance, April to June 2009, when only 6.3% of judges asked about torture.

Major problems remain with regard to the critical issue of health check-ups which according to the Torture Compensation Act have to be done at the time detainees are taken into custody and before they are released from custody. The percentage of detainees taken for check-up has increased compared to the previous quarter (see Table 9). During this period, 1802 detainees (94.8%) stated that they were provided with health check-ups in the early part of their detention whereas in the previous period from July to December 2011 (94.5%) said they were provided with a health check-up. However, according to the detainees, health check-ups are dealt with as a formality by both doctors and police who routinely take detainees in groups to see a doctor; and doctors simply ask the detainees (often in the presence of the police) whether they have any injuries or internal wounds, but fail to physically examine them.

When victims claim before the court that they were tortured and when courts give orders to the police to take the victims for physical and mental examination, it is noted that at that time too in many cases

the doctor fails to conduct a proper examination. The doctors also often fail to give adequate description of any wounds in the medical report to be submitted to the court, and to give adequate prescription of medicines for treatment of the wounds.

AF filed the Petition of Public Interest Litigation (PIL) on 6 April 2010 (Writ No W 0043) to challenge the quasi-judicial powers of CDOs. The petition argued that provisions in no less than ten laws granting powers to CDOs are in breach of Nepal's commitments under international human rights law to which it is a party, more specifically in breach of Article 14 of the International Covenant on Civil and Political Rights, guaranteeing a right to a fair trial before an independent tribunal. On 22 September 2011, the Supreme Court ordered the government to look into the semi-judicial powers vested in Chief District Officers (CDOs) and other administrative officers finding the current provisions allowing CDOs with wide-formulated judicial powers were in breach of the constitution. The court ordered the government to study what kind of cases should be given to administrative officers and what cases should be given to specialised courts or tribunals. It also asked the government to set up criteria in line with the constitution to allow administrative officers to work efficiently. The court also ordered the formation of a study team that would recommend necessary changes in this regard within six months.<sup>5</sup>

Following the Supreme Court order, the government in [month] formed a four-member team to recommend necessary changes in the semi-judicial authority of the Chief District Officer (CDO) and other administrative officers. The four-member team comprises former secretaries Govinda Kusum, Madhav Poudel and Mohan Banjade and is coordinated by Secretary at the Prime Minister's Office Trilochan Upreti. According to Govinda Kusum, the team is studying 25 different Acts concerning the quasi-judicial authority of CDO.<sup>6</sup>

According to sources at the Office of the Attorney General, the government has been imparting training to CDOs to enhance their capacity to adjudicate cases, pending a change in relevant legislation. The Judicial Service Training Centre is currently conducting 3 months trainings for CDOs. The objective of the training is to enhance the capacity of CDOs by providing theoretical and practical knowledge and skills for carrying out activities related to law and justice. In June 2012, there were 30 participants from different districts taking this training

The curriculum has covered the following subjects related to law:-

- Constitution and Fundamental Rights
- Administrative Law
- Criminal Law

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<sup>5</sup> <http://www.ekantipur.com/the-kathmandu-post/2011/09/22/nation/apex-court-for-review-of-cdo-powers/226594.html>

<sup>6</sup> <http://202.166.193.41/2012/07/16/capital/govt-forms-team-to-redefine-cdos-semi-judicial-authority/357216.html>

- Court Infrastructure and Jurisdiction (including Semi Judicial)
- Procedural Law
- Some specific laws related to CDO
- Miscellaneous
- Writing work paper and presentation (related to CDO regarding judicial)
- Case Study and Presentation (Civil, Criminal and Writ)
- Moot Court
- Court and Laboratory observation
- Term paper writing on judicial issues related to CDO

### **STATE RESPONSES TO REPORTS OF TORTURE**

#### **Communications to concerned agencies (Human Rights Units of the Nepal Police and Armed Police Force, the NHRC and the Attorney General's Office)**

AF for many years has had meetings with the Human Rights Unit of the Nepal Police, the NHRC and Attorney General's Office to update them about the situation of torture in detention centres and share findings of its other activities. It has also raised numerous cases of torture with them; seeking their intervention to prevent further torture and investigate reports. However, over the last two years, none of these agencies have provided written responses to AF updating on any progress made in their internal investigations.

During this period, AF submitted 4 cases to the Human Rights Unit of the Nepal Police, the NHRC and Attorney General's Office at the national level seeking an impartial investigation into reports of torture, protection for the victims from reprisal and action against the alleged perpetrators. No responses were received. AF has communicated 11 torture cases of women to the National Women's Commission seeking effective investigation but has not received a response either.

#### **LITIGATION**

During the armed conflict, many people were found tortured and ill-treated by state and non-state actors. But due to the uncertain environment and fear for their life, people did not file cases under the Torture Compensation Act (TCA) against perpetrators who tortured them. Many of these victims still suffer from the physical and mental impact. AF from its establishment has supported victims to file cases seeking compensation under the TCA. However, as the Act requires victims to file complaints within 35 days of the torture or of their release, many of the victims of torture have been denied access to justice. They are also unable to file First Information Reports as torture is not listed as a crime in the annex to the State Cases Act and there is no other enabling legislation.

Section 6 of the Torture Compensation Act provides that TCA cases fall under the purview of the Summary Procedure Act, 1972. A defendant in a TCA case has a maximum of 14 days to submit a response after receiving a complaint from the court. Section 10 of the Summary Procedure Act provides that once the defendant submits a response, the case must be decided within 90 days. Section 8 of the Summary Procedure Act provides that either party can request the postponement of a case twice, for a maximum of 15 days each time. Therefore, no TCA case should be delayed for longer than six months. In practice, however, TCA cases are often postponed for much longer periods of time.

### **ARJUN GURUNG**

On 18 September 2009, the torture survivor Arjun Gurung filed a case under the TCA in the Kathmandu District Court. His case was postponed many times due to various reasons. Finally on 29 December 2011, Judge Narayan Prasad Pokhrel referred the case to the court mediation center. The court order reads, "This case seems like it can be solved through compromise. So, the plaintiff and defendant should be called through their agents within 30 days and send them to Court Mediation Center.

On 8 January 2012, the victim filed a writ before the Appellate Court, Patan against the decision of the District Court, Kathmandu. On 29 March 2012, the Patan Appellate Court quashed the order of District Court of Kathmandu regarding the court's decision of forwarding the case of torture survivor Arjun Gurung to the Court Mediation Centre. A joint bench of Judges Aakraj Acharya and Hari Kumar Pokhrel had issued an order to reverse the order of the district court.

On 24 May 2012, the case was transferred to another bench as per demands of plaintiff's lawyers and the hearing was postponed till 8 June 2012. On 8 June 2012, the case was again postponed till 14 June 2012 showing limitation of time. On that day too, the case was postponed for 1 July 2012.

Nepal Police announced on 19 October 2011 that a police officer, Basanta Bahadur Kunwar, had been repatriated by the UN peacekeeping mission in Liberia because he had been found to be named as one of the officers who tortured Arjun Gurung, at Balaju Police Office in 2009. Although DSP Kunwar was accused respondent in a Torture Compensation Act case, he was sent to serve in the UN Peacekeeping mission in Liberia on 22 August 2011.

During this period, AF assisted 12 people to file cases under the TCA: one from Kathmandu, three from Dhanusha, 5 from Dolakha, 2 from Rupandehi and 1 from Bardiya (See Annex 4). During this reporting period, AF-Rupandehi for the first time assisted two victims to file cases under the TCA. There were many cases of torture reported by AF-Rupandehi in the past but none of the victims dared to file a case under the TCA due to feeling of insecurity. It is a challenge for victims to go against the police because of feelings of insecurity as well as direct and indirect threats.

During this period, there were 2 cases under the TCA where compensation was awarded. (See Annex 5 for details). The first case was from Kathmandu filed under TCA on 25 September 2011. In this case, the District Court of Kathmandu issued an order to provide NRs. 20,000/- (twenty thousand rupees) as torture compensation to a torture victim. The decision was made on 29 March 2012. However, no departmental action against the perpetrator was issued because the individual perpetrator could not be identified. In another case from Jhapa, the court decided to pay Rs. 15,000/- compensation to the torture victim.

On 7 June, 2012, a woman torture victim finally received compensation awarded to her for torture from the DAO Ramechhap. On 16 February 2010, she had filed a case under TCA at the Ramechhap District Court. On 1 February 2011, the court had ordered the state to pay her Rs. 20,000/- and to take departmental action against the perpetrators involved in torturing the victim. It is not known whether any departmental action has been taken to date.

**Table 1: Numbers of detainees by sex**

	Frequency	Percent
Female.	180	9.5
Male.	1718	90.4
Other.	2	0.1
Total	1900	100.0

**Table 2: Torture reported**

		Frequency	Percent
Valid	Yes.	456	24.0
	No.	1444	76.0
	Total	1900	100.0

**Table 3: Gender and torture and CIDT reports**

			Torture and CIDT information.		Total
			Yes.	No.	
Gender.	Female.	Number	13	167	180
		% within Gender.	7.2%	92.8%	100.0%
	Male.	Number	443	1275	1718
		% within Gender.	25.8%	74.2%	100.0%
	Other.	Number	0	2	2
		% within Gender.	0.0%	100.0%	100.0%
Total		Number	456	1444	1900
		% within Gender.	24.0%	76.0%	100.0%

**Table 4: District-wise percentages of torture**

District		July - Dec	Jan - June	July to Dec	January to
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			2010	2011	2011	June 2012
1.	Kathmandu	Number	168	156	85	66
		% within Detention Place	25.6%	24.6	24.1	33.7
2.	Rupandehi	Number	24	27	26	28
		% within Detention Place	15.3%	12.1	11.9	13.1
3.	Dhanusha	Number	33	25	13	12
		% within Detention Place	46.5%	37.9	25.0	23.1
4.	Baglung	Number	5	13	23	23
		% within Detention Place	6.6%	18.1	19.5	20.2
5.	Myagdi	Number	2	8	7	3
		% within Detention Place	9.5%	16.3	22.6	9.7
6.	Parbat	Number	3	1	17	8
		% within Detention Place	7.1%	5.3	29.3	22.9
7.	Bardiya	Number	17	29	28	15
		% within Detention Place	21.8%	38.2	35.9	31.2
8.	Morang	Number	37	19	10	19
		% within Detention Place	39.4%	19.2	11.8	16.4
9.	Ramechhap	Number	3	11	4	6
		% within		47.8	16.7	16.2



		Detention Place	14.3%			
10.	Dolakha	Number	6	19	2	1
		% within Detention Place	14.3%	21.3	3.4	1.4
11.	Jhapa	Number	6	12	12	39
		% within Detention Place	23.1%	18.5	16.7	30.2
12.	Banke	Number	55	51	30	42
		% within Detention Place	37.7%	37.8	27.3	28.8
13.	Kaski	Number	46	89	99	116
		% within Detention Place	21.5%	35.3	51.6	52.0
14.	Kanchanpur	Number	4	3	0	2
		% within Detention Place	4.4%	4.4	.0	1.4
15.	Udayapur	Number	11	19	19	5
		% within Detention Place	16.7%	25.3	23.8	9.4
16.	Surkhet	Number	28	28	30	20
		% within Detention Place	26.4%	30.4	26.3	30.8
17.	Kapilbastu	Number	7	11	12	15
		% within Detention Place	9.5%	24.4	26.7	24.6
18.	Lalitpur	Number	7	4	8	0
		% within				

		Detention Place	8.6%	6.3	21.1	0.0
19	Sunsari	Number	18	29	18	16
		% within Detention Place	30.0%	50.9	42.9	31.4
20	Siraha	Number	12	13	21	20
		% within Detention Place	20.0%	20.6	29.6	25.3
<b>Total</b>		Number	492	567	464	456
		% within Detention Place	22.5%	25.0%	24.2	24

**Table 5: Torture in relation to caste group**

Caste and Ethnicity	No. of detainees who were tortured	Percentage of detainees tortured	No. of detainees from this background	Percentage of detainees from this background
Brahmin Group	39	8.6	174	9.1
Chhetri Group	103	22.6	463	24.4
Newar group	13	2.8	84	4.4
Indigenous group	125	27.4	459	24.2
Terai Ethnic group	68	14.9	281	14.8
Dalit Group	62	13.6	225	11.8
Other Group	35	7.7	159	8.4
Muslim Group	11	2.4	55	2.9
<b>Total</b>	<b>456</b>	<b>100</b>	<b>1900</b>	<b>100</b>

**Table 6: Torture inflicted in relation to charges**

			Jan to June 2011	July to Dec 2011	January to June 2012
Charge.	Public Offence	Number	165	118	115
		% within Charge	24.1%	22.3	22.4
	Attempted Murder	Number	28	29	18
		% within Charge	24.8%	34.5	24
	No Charge	Number	75	64	72

		% within Charge	24.1%	29.9	32.3
	Drug	Number	78	41	72
		% within Charge	23.8%	12.9	20.4
	Rape	Number	15	26	15
		% within Charge	24.6%	34.7	25.4
	Arms and Ammunition	Number	24	21	16
		% within Charge	35.3%	46.7	48.5
	Theft	Number	80	77	57
		% within Charge	40.4%	41.8	40.1
	Robbery	Number	10	3	8
		% within Charge	43.5%	17.6	53.3
	Murder	Number	40	37	25
		% within Charge	29.0%	33.6	16.4
	Attempt to Rape	Number	1	0	
		% within Charge	33.3%	.0	
	Forest Offence	Number	6	4	15
		% within Charge	10.9%	5.9	20.5
	Gambling	Number	0	15	0
		% within Charge	.0%	20.3	0.0
	Human Trafficking	Number	7	5	3
		% within Charge	17.1%	25	15
	Forgery	Number	5	0	7
		% within Charge	16.7%	.0	25.9
	Traffic Murder	Number	0	3	0
		% within Charge	.0%	5.8	0.0
	Kidnapping	Number	18	12	10
		% within Charge	43.9%	46.2	45.5
	Polygamy	Number	3	0	2
		% within Charge	13.0%	.0	6.2

**Table 7 Detention Place \* Reasons for arrest given.**

**Detainee Place. \* Reasons for arrest given.**

			Reasons for arrest given.			Total
			Yes.	No.	Given but after brought to detention.	
Detainee Place.	Kathmandu.	Number	16	21	159	196
		% within Detainee Place.	8.2%	10.7%	81.1%	100.0%
	Morang.	Number	25	4	87	116
		% within Detainee Place.	21.6%	3.4%	75.0%	100.0%

Banke.	Number	1	20	125	146
	% within Detainee Place.	0.7%	13.7%	85.6%	100.0%
Kaski.	Number	12	91	120	223
	% within Detainee Place.	5.4%	40.8%	53.8%	100.0%
Kanchapur.	Number	2	10	135	147
	% within Detainee Place.	1.4%	6.8%	91.8%	100.0%
Udhayapur.	Number	2	16	35	53
	% within Detainee Place.	3.8%	30.2%	66.0%	100.0%
Surkhet.	Number	2	4	59	65
	% within Detainee Place.	3.1%	6.2%	90.8%	100.0%
Kapilbastu.	Number	1	4	56	61
	% within Detainee Place.	1.6%	6.6%	91.8%	100.0%
Lalitpur.	Number	12	3	16	31
	% within Detainee Place.	38.7%	9.7%	51.6%	100.0%
Rupendhai.	Number	4	30	179	213
	% within Detainee Place.	1.9%	14.1%	84.0%	100.0%
Danusha.	Number	0	1	51	52
	% within Detainee Place.	0.0%	1.9%	98.1%	100.0%
Baglung.	Number	4	13	97	114
	% within Detainee Place.	3.5%	11.4%	85.1%	100.0%
Myagdi.	Number	2	1	28	31
	% within Detainee Place.	6.5%	3.2%	90.3%	100.0%
Parbat.	Number	2	12	21	35
	% within Detainee Place.	5.7%	34.3%	60.0%	100.0%
Bardhiya.	Number	7	16	25	48
	% within Detainee Place.	14.6%	33.3%	52.1%	100.0%
Ramechhape.	Number	32	3	2	37
	% within Detainee Place.	86.5%	8.1%	5.4%	100.0%
Dolakha.	Number	41	2	30	73

		% within Detainee Place.	56.2%	2.7%	41.1%	100.0%
	Jhapa.	Number	6	34	89	129
		% within Detainee Place.	4.7%	26.4%	69.0%	100.0%
	Sunsari	Number	1	5	45	51
		% within Detainee Place.	2.0%	9.8%	88.2%	100.0%
	Siraha	Number	29	0	50	79
		% within Detainee Place.	36.7%	0.0%	63.3%	100.0%
Total		Number	201	290	1409	1900
		% within Detainee Place.	10.6%	15.3%	74.2%	100.0%

**Detainee Place. \* Charge/Detention letter given?**

			Charge/Detention letter given?		Total
			Yes.	No.	
Detainee Place.	Kathmandu.	Number	167	29	196
		% within Detainee Place.	85.2%	14.8%	100.0%
	Morang.	Number	107	9	116
		% within Detainee Place.	92.2%	7.8%	100.0%
	Banke.	Number	128	18	146
		% within Detainee Place.	87.7%	12.3%	100.0%
	Kaski.	Number	129	94	223
		% within Detainee Place.	57.8%	42.2%	100.0%
	Kanchapur.	Number	147	0	147
		% within Detainee Place.	100.0%	0.0%	100.0%
	Udhayapur.	Number	40	13	53
		% within Detainee Place.	75.5%	24.5%	100.0%
	Surkhet.	Number	61	4	65
		% within Detainee Place.	93.8%	6.2%	100.0%
	Kapilbastu.	Number	54	7	61
		% within Detainee Place.	88.5%	11.5%	100.0%
	Lalitpur.	Number	29	2	31
		% within Detainee Place.	93.5%	6.5%	100.0%
	Rupendhai.	Number	177	36	213
		% within Detainee Place.	83.1%	16.9%	100.0%
Danusha.	Number	51	1	52	
	% within Detainee Place.	98.1%	1.9%	100.0%	
Baglung.	Number	108	6	114	

		% within Detainee Place.	94.7%	5.3%	100.0%
Myagdi.	Number		31	0	31
	% within Detainee Place.		100.0%	0.0%	100.0%
Parbat.	Number		23	12	35
	% within Detainee Place.		65.7%	34.3%	100.0%
Bardhiya.	Number		30	18	48
	% within Detainee Place.		62.5%	37.5%	100.0%
Ramechhappe.	Number		28	9	37
	% within Detainee Place.		75.7%	24.3%	100.0%
Dolakha.	Number		20	53	73
	% within Detainee Place.		27.4%	72.6%	100.0%
Jhapa.	Number		97	32	129
	% within Detainee Place.		75.2%	24.8%	100.0%
Sunsari	Number		36	15	51
	% within Detainee Place.		70.6%	29.4%	100.0%
Siraha	Number		78	1	79
	% within Detainee Place.		98.7%	1.3%	100.0%
Total	Number		1541	359	1900
	% within Detainee Place.		81.1%	18.9%	100.0%

**Table 8: Taken before a judge within 24 hour?**

		Were you brought before a judge/competent authority within 24 hours of detention?			Total
		Yes	No		
Detainee Place.	Kathmandu.	Count	135	59	194
		% within Detainee Place.	69.6%	30.4%	100.0%
	Morang.	Count	65	50	115
		% within Detainee Place.	56.5%	43.5%	100.0%
	Banke.	Count	82	59	141
		% within Detainee Place.	58.2%	41.8%	100.0%
	Kaski.	Count	73	78	151
		% within Detainee Place.	48.3%	51.7%	100.0%
	Kanchapur.	Count	85	61	146
		% within Detainee Place.	58.2%	41.8%	100.0%
	Udhayapur.	Count	34	13	47
		% within Detainee Place.	72.3%	27.7%	100.0%
	Surkhet.	Count	33	28	61
		% within Detainee Place.	54.1%	45.9%	100.0%
	Kapilbastu.	Count	42	14	56
		% within Detainee Place.	75.0%	25.0%	100.0%

Lalitpur.	Count	24	6	30
	% within Detainee Place.	80.0%	20.0%	100.0%
Rupandehi.	Count	77	128	205
	% within Detainee Place.	37.6%	62.4%	100.0%
Danusha.	Count	26	25	51
	% within Detainee Place.	51.0%	49.0%	100.0%
Baglung.	Count	25	82	107
	% within Detainee Place.	23.4%	76.6%	100.0%
Myagdi.	Count	19	12	31
	% within Detainee Place.	61.3%	38.7%	100.0%
Parbat.	Count	9	20	29
	% within Detainee Place.	31.0%	69.0%	100.0%
Bardiya.	Count	15	17	32
	% within Detainee Place.	46.9%	53.1%	100.0%
Ramechhap.	Count	16	12	28
	% within Detainee Place.	57.1%	42.9%	100.0%
Dolakha.	Count	15	11	26
	% within Detainee Place.	57.7%	42.3%	100.0%
Jhapa.	Count	40	57	97
	% within Detainee Place.	41.2%	58.8%	100.0%
Sunsari	Count	40	11	51
	% within Detainee Place.	78.4%	21.6%	100.0%
Siraha	Count	61	18	79
	% within Detainee Place.	77.2%	22.8%	100.0%
Total	Count	916	761	1677
	% within Detainee Place.	54.6%	45.4%	100.0%

**Table 9: Physical and Mental Check-up**

			Did you have health check-up before keeping in detention?		Total
			Yes.	No.	
Detainee Place.	Kathmandu.	Count	192	4	196
		% within Detainee Place.	98.0%	2.0%	100.0%
	Morang.	Count	116	0	116
		% within Detainee Place.	100.0%	0.0%	100.0%
	Banke.	Count	145	1	146
		% within Detainee Place.	99.3%	0.7%	100.0%
	Kaski.	Count	202	21	223
		% within Detainee Place.	90.6%	9.4%	100.0%
	Kanchapur.	Count	142	5	147

	% within Detainee Place.	96.6%	3.4%	100.0%
Udhayapur.	Count	52	1	53
	% within Detainee Place.	98.1%	1.9%	100.0%
Surkhet.	Count	62	3	65
	% within Detainee Place.	95.4%	4.6%	100.0%
Kapilbastu.	Count	55	6	61
	% within Detainee Place.	90.2%	9.8%	100.0%
Lalitpur.	Count	31	0	31
	% within Detainee Place.	100.0%	0.0%	100.0%
Rupandehi.	Count	203	10	213
	% within Detainee Place.	95.3%	4.7%	100.0%
Danusha.	Count	52	0	52
	% within Detainee Place.	100.0%	0.0%	100.0%
Baglung.	Count	113	1	114
	% within Detainee Place.	99.1%	0.9%	100.0%
Myagdi.	Count	31	0	31
	% within Detainee Place.	100.0%	0.0%	100.0%
Parbat.	Count	35	0	35
	% within Detainee Place.	100.0%	0.0%	100.0%
Bardiya.	Count	45	3	48
	% within Detainee Place.	93.8%	6.2%	100.0%
Ramechhap.	Count	35	2	37
	% within Detainee Place.	94.6%	5.4%	100.0%
Dolakha.	Count	46	27	73
	% within Detainee Place.	63.0%	37.0%	100.0%
Jhapa.	Count	116	13	129
	% within Detainee Place.	89.9%	10.1%	100.0%
Sunsari	Count	51	0	51
	% within Detainee Place.	100.0%	0.0%	100.0%
Siraha	Count	78	1	79
	% within Detainee Place.	98.7%	1.3%	100.0%
Total	Count	1802	98	1900
	% within Detainee Place.	94.8%	5.2%	100.0%

**Table 10: Total number of juveniles interviewed in detention**

**Sex**

	Frequency	Percent
Female.	29	6.4
Male.	427	93.6
Total	456	100.0



**Torture of juveniles by gender**

			Torture and CIDT information.		Total
			Yes.	No.	
Gender.	Female.	Count	4	25	29
		% within Gender.	13.8%	86.2%	100.0%
	Male.	Count	158	269	427
		% within Gender.	37.0%	63.0%	100.0%
Total		Count	162	294	456
		% within Gender.	35.5%	64.5%	100.0%

**Table 11: Torture of juveniles according to caste/ethnicity**

Caste and Ethnicity	No. of detainees who were tortured	Percentage of detainees tortured	No. of detained from this background	Percentage of detainees from this background
Brahmin Group	16	9.9	35	7.7
Chhetri Group	32	19.8	112	24.6
Newar group	7	4.3	21	4.6
Indigenous group	40	24.7	105	23
Terai Ethnic group	22	13.6	67	14.7
Dalit Group	32	19.7	75	16.4
Other Group	12	7.4	31	6.8
Muslim Group	1	0.6	10	2.2
<b>Total</b>	<b>162</b>	<b>100</b>	<b>456</b>	<b>100</b>

**Table 12: Prevalence of torture of juveniles per district**

			Torture and CIDT information.		Total
			Yes.	No.	
Detainee Place.	Kathmandu.	Count	22	35	57
		% within Detainee Place.	38.6%	61.4%	100.0%
	Morang.	Count	4	10	14
		% within Detainee Place.	28.6%	71.4%	100.0%
	Banke.	Count	14	14	28
		% within Detainee Place.	50.0%	50.0%	100.0%
	Kaski.	Count	61	31	92
		% within Detainee Place.	66.3%	33.7%	100.0%

Kanchapur.	Count	1	28	29
	% within Detainee Place.	3.4%	96.6%	100.0%
Udhayapur.	Count	3	3	6
	% within Detainee Place.	50.0%	50.0%	100.0%
Surkhet.	Count	0	6	6
	% within Detainee Place.	0.0%	100.0%	100.0%
Kapilbastu.	Count	1	2	3
	% within Detainee Place.	33.3%	66.7%	100.0%
Lalitpur.	Count	0	8	8
	% within Detainee Place.	0.0%	100.0%	100.0%
Rupandehi.	Count	9	52	61
	% within Detainee Place.	14.8%	85.2%	100.0%
Danusha.	Count	5	7	12
	% within Detainee Place.	41.7%	58.3%	100.0%
Baglung.	Count	6	19	25
	% within Detainee Place.	24.0%	76.0%	100.0%
Myagdi.	Count	1	4	5
	% within Detainee Place.	20.0%	80.0%	100.0%
Parbat.	Count	4	6	10
	% within Detainee Place.	40.0%	60.0%	100.0%
Bardiya.	Count	5	8	13
	% within Detainee Place.	38.5%	61.5%	100.0%
Ramechhap.	Count	2	10	12
	% within Detainee Place.	16.7%	83.3%	100.0%
Dolakha.	Count	0	19	19
	% within Detainee Place.	0.0%	100.0%	100.0%
Jhapa.	Count	14	11	25
	% within Detainee Place.	56.0%	44.0%	100.0%
Sunsari	Count	4	4	8
	% within Detainee Place.	50.0%	50.0%	100.0%
Siraha	Count	6	17	23
	% within Detainee Place.	26.1%	73.9%	100.0%
Total	Count	162	294	456
	% within Detainee Place.	35.5%	64.5%	100.0%

**Table 13: Did judge ask about torture?**

	If brought before court/other judicial authority for remand did judge/judicial officer ask whether T/CIDT had occurred?	Total
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		Yes.	No.		
Detainee Place.	Kathmandu.	Count	28	166	194
		% within Detainee Place.	14.4%	85.6%	100.0%
	Morang.	Count	23	92	115
		% within Detainee Place.	20.0%	80.0%	100.0%
	Banke.	Count	25	116	141
		% within Detainee Place.	17.7%	82.3%	100.0%
	Kaski.	Count	6	145	151
		% within Detainee Place.	4.0%	96.0%	100.0%
	Kanchapur.	Count	62	84	146
		% within Detainee Place.	42.5%	57.5%	100.0%
	Udhayapur.	Count	3	44	47
		% within Detainee Place.	6.4%	93.6%	100.0%
	Surkhet.	Count	55	6	61
		% within Detainee Place.	90.2%	9.8%	100.0%
	Kapilbastu.	Count	6	50	56
		% within Detainee Place.	10.7%	89.3%	100.0%
	Lalitpur.	Count	6	24	30
		% within Detainee Place.	20.0%	80.0%	100.0%
	Rupandehi.	Count	8	197	205
		% within Detainee Place.	3.9%	96.1%	100.0%
	Danusha.	Count	0	51	51
		% within Detainee Place.	0.0%	100.0%	100.0%
	Baglung.	Count	13	94	107
		% within Detainee Place.	12.1%	87.9%	100.0%
	Myagdi.	Count	5	26	31
		% within Detainee Place.	16.1%	83.9%	100.0%
	Parbat.	Count	5	24	29
		% within Detainee Place.	17.2%	82.8%	100.0%
	Bardiya.	Count	0	32	32
		% within Detainee Place.	0.0%	100.0%	100.0%
	Ramechhap.	Count	0	28	28
		% within Detainee Place.	0.0%	100.0%	100.0%
	Dolakha.	Count	4	22	26
		% within Detainee Place.	15.4%	84.6%	100.0%
Jhapa.	Count	10	87	97	
	% within Detainee Place.	10.3%	89.7%	100.0%	
Sunsari	Count	10	41	51	
	% within Detainee Place.	19.6%	80.4%	100.0%	
Siraha	Count	0	79	79	
	% within Detainee Place.	0.0%	100.0%	100.0%	
Total		Count	269	1408	1677

	% within Detainee Place.	16.0%	84.0%	100.0%
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**Annex 2: Data Analysis July to December 2011**

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<b>Table 1: Numbers of detainees by sex</b>		Frequency	Percentage
Valid	Female	191	10.0
	Male	1728	90.0
	Total	1919	100.0

**Table 2: Torture and CIDT**

		Frequency	Percent
Valid	Yes.	464	24.2
	No.	1455	75.8
	Total	1919	100.0

**Table 3: Gender and Torture and CIDT**

		Torture and CIDT information.		Total	
		Yes.	No.		
Gender.	Female.	Count	31	160	191
		% within Gender.	16.2%	83.8%	100.0%
	Male.	Count	433	1295	1728
		% within Gender.	25.1%	74.9%	100.0%
Total		Count	464	1455	1919
		% within Gender.	24.2%	75.8%	100.0%

**Annex 3: List of torture complaints filed with Nepal Police Human Rights Unit, Attorney General's Department and NHRC**

S.No	Name of the Victim	Age	Sex	Perpetrators	District	Reported to	Incident Date	Reporting Date
1	Balaram KC		M	Nepal Police	Bardiya	National <sup>7</sup>	5-Feb-12	Mar-12
2	Hemant Yatri		M	Nepal Police	Morang	National	New	Mar-12
3	Bikash Gurung		M	Nepal Police	Banke	National	28/12/11	Mar-12
4	Ugrasen Mourya	42	M	Nepal Police	Rupandehi	National	24/05/12	11-Jun-12
5	Asha Kuresi	27	F	Nepal Police	Banke	NWC	11/09/11	12-Jun-12
6	Bina Khadka	15	F	Nepal Police	Kathmandu	NWC	20/01/12	12-Jun-12
7	Dhan Maya Magar	19	F	Nepal Police	Kaski	NWC	9/10/11	12-Jun-12
8	Ganga Roka	39	F	Nepal Police	Kaski	NWC	24/10/11	12-Jun-12
9	Maiya Lama	21	F	Nepal Police	Kathmandu	NWC	11/10/11	12-Jun-12
10	Yesoda Lawaju	21	F	Nepal Police	Kathmandu	NWC	9/10/11	12-Jun-12
11	Bindu Subba	16	F	Nepal Police	Jhapa	NWC	3/02/00	12-Jun-12
12	Dhansara Shahi	30	F	Nepal Police	Banke	NWC	1998	12-Jun-12
13	Ganga Adhikari	28	F	Nepal Police	Banke	NWC	14/08/98	12-Jun-12
14	Mangali Nepali	70	F	RNA	Lamjung	NWC	Feb/Mar 2002	12-Jun-12
15	Panchu Nepali	41	F	RNA	Lamjung	NWC	Conflict Case	12-Jun-12

<sup>7</sup> "National" means all agencies, including Nepal Police, NHRC and AG Office and the Women's Commission. Men's cases are not sent to the Women's Commission.

**Annex 4 Total TCA cases registered by ADVOCACY FORUM from January to December 2012**

S.N.	Name	Age	Sex	Date filed	Where filed	Decision
1	Sanjay Kumar		M	13-Jan-12	Kathmandu DC	Active
2	Ranjit Kumar Adhikari (Yadav)	25	M	17-Jan-12	Dhanusha DC	Active
3	Dhan Bahadur Basnet	52	M	17-Feb-12	Dolakha DC	Active
4	Indra Bahadur Basnet	40	M	17-Feb-12	Dolakha DC	Active
5	Lal Bahadur Basnet	58	M	17-Feb-12	Dolakha DC	Active
6	Prem Bahadur Basnet	20	M	17-Feb-12	Dolakha DC	Active
7	Tej Bahadur Basnet	24	M	17-Feb-12	Dolakha DC	Active
8	Balaram K.C.	47	M	1-Mar-12	Bardiya DC	Active
9	Ram Biraji Devi Mukhiya		F	22-Mar-12	Dhanusha DC	Active
10	Shreechand Mukhiya		M	16-Apr-12	Dhanusha Dc	Active
11	Ugrasen Mauraya		M	12-Apr-12	Rupandehi DC	Active
12	Pradip Singh	15	M	26 June 2012	Rupandehi DC	Active

**Annex 5: Details of court decisions under TCA (January to June 2012)**

S.N.	Name	Age	Sex	Date filed	Where filed	Decision Date	Decision Detail
1	Binod Kumar Bishwakarma	23	M	28-Feb-11	Jhapa DC	15-Apr-12	Rs. 15,000/-
2	Bharat Sharma	30	M	25-Sep-11	Kathmandu DC	29-Mar-12	Rs. 20,000/-