

# Ultraleftism to Missary of Commoners: Case of Victims of Sexual Violence During Insurgency

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## ARTICLE INFO

### Article history

Received: 16 May 2023

Accepted: 18 June 2023

### Keywords

Armed conflict

Conflict resolution

Conflict-related sexual violence

Peace building

Survivors

## ABSTRACT

A decade-long armed conflict resulted in the prevalence of survivors of sexual violence in Nepal. The survivors include those who sustained physical and/or mental harm and social distress due to sexual violence or having such family members. The insurgency launched by the then CPN (Maoist) in 1996 was an act of ultra-leftism. The victims of conflict-related sexual violence (CRSV) are being deprived of justice even after a decade and a half without realization of the agreed transitional justice process as per the Comprehension Peace Accord (CPA). Despite the examples of good practices that exist globally, the CRSV survivors in Nepal have not been acknowledged adequately as a crucial facet of the conflict resolution processes neither in any peace dialogue nor in the CPA and peace-building initiatives pursued afterward. Findings concluded that the conflict resolution processes so far do not mean anything to them as they have neither been part of nor benefited from the claimed 'peace-building initiatives' in Nepal. This article has revealed that the situation is worrying sum as leaving the survivors behind does not simply lead to failure of the conflict resolution process in Nepal. In explaining PMPD Bhandari states that the communist party can resolve any problem with the help of people amidst the political and organizational works without imposing the security forces. Therefore, while illustrating the severity of incidents and concerns of CRSV survivors, the article has drawn the attention of all stakeholders to ensure the effective participation of the CRSV survivors' and integrate their issues and concerns into peace-building processes.

## Introduction

Conflict-related sexual violence becomes widespread globally with the escalation of any armed conflict defined as 'incidents or patterns of sexual violence against or post-conflict setting' (UN, 2014). On the women, men, girls or boys happened in conflict forms of sexual violence, the UN Guiding Note elaborates 'conflict-related violence takes multiple forms such as rape, forced pregnancy, forced sterilization, forced abortion, forced prostitution, sexual

exploitation, trafficking, sexual enslavement, forced circumcision, castration, forced nudity. Wood (2006) defines sexual violence as a broader category that includes rape, coerced undressing, and non-penetrating sexual assault.' Hynes et al. (2004,) even include sexual violence caused in non-violent forms, such as humiliation and "improper sexual comments". Cohen and Nordas (2014) defined the following seven distinct forms of violence under the category of 'CRSV': (a) rape, (b) sexual slavery, (c) forced prostitution, (d) forced pregnancy, (e) forced sterilization/

abortion, (f) sexual mutilation, and (g) sexual torture. In Nepal, the Second National Action Plan (NAP- II) on the UN Security Council Resolutions including 1325 and 1820 (adopted by the government of Nepal on 22 August 2022) defines:

Sexual violence related to conflict means any sexual harassment that may have been enforced during the conflict. The term includes forcible sexual acts, forced sex, forced conception and abortion, uses or behaviors of pornographic words, nudity, trafficking, forced marriage, or acts against the sexuality of any person. The term will also denote all forms of sexual violence against women and girls with or without consent.

All the definitions and illustrations exhibit that sexual violence in a conflict or post-conflict setting may happen to any person and in different forms. They also cause physical, mental, or social distress to the survivors in a shorter or longer term. Referring to this situation the UN guidance note has mentioned that the CRSVs may constitute a war crime, a crime against humanity, genocide, torture, or other gross violations of human rights (UN, 2014). Following the definition of Cohen and Nordas (2014) and taking into account the types of violations reported in Nepal, 'CRSV Survivors' in this article denote: i) those who sustained one or multiple forms of sexual violence/ harassment caused during the armed conflict periods in Nepal inflicted in the form of forcible sexual acts including rape, sexual enslavement, forceful pregnancy, forceful abortion, sexual exploitation, sexual torture, forced nudity, non-penetrating sexual assaults, act against the sexuality of any person including humiliation and improper sexual comments, or any other forms of sexual violence of comparable gravity causing physical, mental, or social distress to the survivors in a short and longer term; ii) family members, such as parents, children or partners (close relative missing), including extended family and kinship

of the CRSV survivors; iii) children born out as a result of pregnancy from rape; iv) persons who depend on the victim of sexual violence; and v) others being victims as a consequence of the harm inflicted through the violation.

Wellenstine (2002) and Nicholson (2019) have illustrated that conflicts are caused by some incompatibilities of wants or needs. The escalation of conflict aggravates further damages including widespread violations of human rights such as the CRSVs. However, the CRSVs do not happen only due to opportunistic violence but also strategic and tactical reasons to eliminate certain groups (Burnett, 2017). In any circumstances, conflict resolution processes are required to address their particular concerns and impart justice to them all.

Globally, cases of sexual violence are not new phenomena during armed conflicts. The 4th Geneva Convention 1949 has already provisioned as, '...women must be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any other form of indecent assault' (Article 27). Based on the provisions in international laws, several symbolic cases have also been prosecuted in some special courts created in the post-war periods. However, sexual violence has not been effectively integrated into the domestic conflict resolution processes. Underlining this fact, the UN Security Council (UNSC) in 2000 adopted specific resolution 1325, known as the Women, Peace, and Security Agenda, which was followed by subsequent resolutions including UNSCR 1820, 2467. These resolutions have focused more on the issues of survivors of sexual violence. All these resolutions have required the countries to develop National Action Plans (NAPs) to implement the UN Resolutions.

Aligning with the Agenda of Women, Peace, and Security 1325, Nepal also adopted its first National Action Plan (NAP) in 2011 for the period 2011-2016. The NAP defined actions within the Four pillars: participation, protection and prevention,

promotion,; relief and recovery, it has not mentioned anything about the CRSVs. Addressing gaps observed in the NAP I, the Government of Nepal came up with NAP II in 20022. NAP II has precisely defined and come up with a plan for responding to the CRSVs as well. In addition, to the NAP, there are many other International Commitments made by the Government of Nepal to respond to the CRSVs. However, they have not been effectively implemented. As a result, it has not been even recognized officially until 2022. For the first time, the government of Nepal has acknowledged and had a dedicated consultation with CRSV survivors for the amendment of the Transitional Justice laws.

## **Methodology**

The paper is derived from a larger research pursued on the participation of CRSV survivors in the conflict resolution process in Nepal. As illustrated in the Murad Code (2022), the research has foreseen adding value to the needs and concerns of CRSV survivors, who have not been listened to for almost two decades. Considering the power imbalances of the survivors with their perpetrators, transformative approaches employed in the study will focus on assessing, challenging, and changing the ways to have meaningful participation of survivors. Since the suffering of CRSVs is not only a social construction, but also the experiences of survivors, the study is built on the narration of the lived experiences of a few individuals who attended an FGD) organized for the research.

Studies related to CRSV survivors have talked about the need to listen to them. However, no particular research has focused on how they would be listed. Therefore, the study started by asking a simple question: What do the CRSVs in Nepal precisely expect to respond to the conflict resolution process? It then leads to the second question: How would they be better listened to for addressing their concerns? Around these two main research questions, the FGD was held

with the five participants on 18 January 2022. Considering the sensitivity of the issues of the CRSV survivors, a CSO working with and for CRSVs has helped to identify the participants and facilitate the interactions as well.

The Five CRSV survivors and a representative of the CSO who participated in the FGD not only stated their own stories of the sexual violence sustained but also referred to several other cases that they have collected while working for the CSO. This way, the FGD has helped to verify within the group the statements of survivors and the group has also validated several trends and nature of CRSV cases reported and publicized on the issues, sufferings, and challenges sustained by the survivors. One additional significance of the FGD was that they suggested how could the CRSVs take ownership and find the conflict resolution serving them in a real sense.

Respecting the request and assurance to maintain their confidentiality, to ensure causing no further harm, the names of the Six participants that attended the FGD are mentioned nowhere in this article. Following the inductive methods, this article has generalized and presented the outcomes of FGD to explain why and how the Conflict resolution processes matter to the CRSV survivors in Nepal.

## **Results and Discussions**

CRSVs have remained a general phenomenon in any armed conflict. Therefore, the UN Security Council Resolution 1820 (June 2008) stated that the CRSVs could be caused as a tactic of war, or as a part of a widespread or systematic attack against civilian populations. Researchers have shown that sexual violence is perpetuated not only as a strategic tool to achieve specific objectives in war but also as opportunistic or as a normalized practice in a war that is not ordered but condoned. (Schulz, 2022)

## CRSVs and political parties

The shocking testimony of a survivor of the decade-long armed conflict in Nepal (1996-2006) published in an online newsportal on 11 February 2022 and two other statements learned during an interaction with survivors of conflict-related sexual violence incited not only to learn more but also to engage with them for finding possible solutions. Both incidents signaled the severity and widespread incidents of Conflict-Related Sexual Violence (CRSVs) instigated during the Armed Conflict periods in Nepal. Similarly, a participant of an FGD organized in the course of writing this article also stated, ‘none of the women in custody have remained un-abused (CRSV survivor B, FGD participant, 18 January 2022). Furthermore, a news article published in Online Khabar, Budhathoki (2022) has covered some testimonies including of a 16-year-old Maoist combatant who was sexually abused within the custody of security forces. The security forces made her naked, hit by the tip of the gun in her sensitive body parts including her sexual organs, beat her after tightening her feet and hands, and then did everything forcefully despite her plea and cry for rescue. Another testimony of a victim from a claimant of Maoist also reflects a pathetic experience of a young mother of a six-months daughter and four-year son who was gang raped in her own home. The online news Article also highlighted that the testimonies covered in the news are just a few instances of a large number of untold stories and sufferings of CRSVs, where they have ‘no physical injuries to show all the time, but a huge pile of anguish’.

Irrespective of the widespread nature of the incidents caused as indicated in the aforementioned few facts, there are only 308 CRSV cases filed at the Truth and Reconciliation Commission of Nepal demanding justice and rehabilitation (UN Secretary-General, 2019). Many cases of CRSV survivors could not come

out due to the potential stigma and fear of the consequences in their existing family and social life (UN Secretary General’s report on CRSV, 2014). However, those who have not opened up their cases as CRSVs are also waiting to know the truth and reasons for the violations and attaining justice and reparations (CRSV survivor B, FGD participant, 18 January 2022). All these representative examples appeal to revealing and diagnosing the details without further due and proceeding swiftly with conflict resolution processes to ensure justice and reparation to all including the CRSV survivors and secure a dignified, peaceful, and prosperous life and social order for all.

Since the CRSVs may constitute a war crime, a crime against humanity, genocide, torture, or other gross violations of human rights depending on the situation (UN, 2014), they are logically required to be part of the Peace Agreements and peace process. Therefore, the UN documents including Basic Principles and Guidance on Remedy and Reparations (2005), and the Guidance Note of the Secretary-General (2014) have precisely required incorporating CRSV issues into Peace Agreements and during the peace-building process. CRSVs have also been a part of the ‘Bare Minimum’ (UN Mediation Guidance, 2012) as the means to foster positive peace. Scholars have also observed that addressing CRSVs in peace agreements and their effective implementation may serve as prevention before any conflict re-erupts into violence (*SAGE Handbook of Conflict Resolution*, 2009). All these factors elaborate on the significance of looking into the issues of CRSV survivors as a part of any conflict resolution process, which ultimately serves prosperity and happiness as envisaged in the PMPD program (Bhandari, 1993).

Despite the severity and widespread incidents of CRSVs caused during the conflict period in Nepal, the UN documents deliberately require

integrating them into the conflict resolution processes, the Comprehensive Peace Accord (CPA) signed by the then government of Nepal and the then rebellion – CPN (Maoists) has not explicitly incorporated the issues of CRSVs. At least, the CPA has committed to abiding by the principles of human rights and humanitarian laws. The CPA provisions have also moved on from simply ending the war or ‘negative peace’ approach to ending impunity by holding individuals and collectively accountable for the mistakes that happened in the past and gradually correcting them not to happen again, i.e. ‘positive peace’ (CPA, Section 8). However, the CRSV survivors (FGD participants E, FGD, 18 January 2022) observed that the CPA spirit was never translated into action, particularly in the case of CRSVs. Therefore, this article explores multiple facets of the conflict resolution processes formally commenced with the signing of the CPA in Nepal and makes a critical appraisal of integrating CRSV issues in the conflict resolution process of Nepal.

### **Human rights and basis for the resolving the conflict**

Conflict resolution initiatives in Nepal do not seem to go beyond the end of a war and address the concerns of survivors. Conflict resolution that ultimately aims at ending the conflict is defined in various kinds of literature either as the means to cessation of war or upholding peace and securing justice (Wallensteen, 2002). Wallensteen further states that conflict resolution finds itself at a bridge between a very narrow concept of peace (no war) and a very broad one (justice). The incompatibilities that Wallensteen referred to could be a central factor causing the eruption of conflict, but the escalation of conflict may cause or contribute to emerging new issues including heinous crimes/ serious violence against human rights. This way, the conflict resolution does not serve if only the central incompatibilities are addressed to end a war, without addressing the

consequences as well. This is how another school of thought considers simply stopping physical violence and loss of life is not sufficient to claim conflict resolution. It rather requires systematic approaches to both prevent violence and sustain peace agreements, which requires creating ‘positive peace’ as coined by Johan Galtung (Babbitt, 2009). This school believes in human rights-based methods of conflict resolution instead of conflict mediation methods.

Babbitt (2009) illustrates three main approaches to conflict resolution that differentiate human rights methods from conflict mediation methods. First, the way violators of human rights are treated: the human rights approach focuses on the prosecution of perpetrators whereas the conflict mediation approach puts forward the human rights agenda only if they do not cause confrontation in the negotiation process. Second, the interpretation of justice: while the human rights methods pursue retributive justice, conflict mediation opts forward-looking/not looking at in retrospection, and advocate for restorative justice. Third, the theories of social change: human rights methods expect the principles of human rights to guide the behavior and attitude of the society, whereas mediation focuses on the quality and sustainability of the relationship. In essence, both approaches wish to change the behavior and attitude of conflicting parties by deploying different methods. Babbitt concludes that Human Rights approaches impose external norms (looking outside-in) whereas the conflict mediation approach builds consensus through non-executory means (looking inside out) as the conflict resolution methods are driven by pragmatism but not by principles. Conflict mediators wish to change enmity to empathy, whereas the human rights approaches move on from a culture of impunity to accountability.

The conflict mediation school believes that an impartial application of human rights to all parties cannot be avoided in any method be that

a human rights or mediation method. In the spirit of this approach Kofi Annan, former UN Secretary-General has made remarks not to waive accountability for genocide, war crimes, or crimes against humanity (2004). For this school, conflict resolution ultimately aims at having peace and respect for human rights. Human Rights can be the set standards for ensuring that peace does exist. Therefore, Babbitt (2009,) suggests integrating human rights principles into the conflict resolution processes as a critical pathway toward positive peace. He Opines, ‘We must now press for “positive peace” if we are to prevent societies from using violence to settle their differences, or sliding back into chaos after emerging from a brutal civil war.’ He further argues that especially in the intra-state conflict in which human rights abuses have been either a cause or a consequence of the violence, peace cannot be achieved unless the human rights dimensions of the problem are explicitly addressed.

Before the Cold War era conflict resolution approaches were based on pragmatism and fostering Negative Peace. However, the evolution of the principles of ‘Bare Minimum’ has required applying minimum human rights principles as the means of fostering positive peace. In this direction, the UN developed various guidelines including Guidance Note on the Rule of Law (2008), Guidance Note on Transitional Justice (2010), and Guidance for Effective Mediation 2012. Along with these guidance notes the Mediation guidance of the UN (2012,) has precisely stated, ‘any peace agreement cannot endorse any amnesties for genocide, crimes against humanity, war crimes or gross violations of human rights, including sexual and gender-based violence’. Therefore, now the discourse is no more on whether or not to include the principles of human rights in any conflict resolution process. The discourse is rather on how explicit the peace agreements and the follow-up actions should be in terms of

addressing the principles of human rights and humanitarian laws.

The CPA signed in 2006 in Nepal seems to reflect positive peace approaches. Section 7 of the CPA - Human Rights, Fundamental Rights and Adherence to Humanitarian Law has included a provision to accord special protection to the rights of women and children, and to stop all types of violence against women and children including sexual exploitation. Similarly, Section 8 of the CPA has also provisioned to end impunity and being individually and collectively accountable for the mistakes that happened in the past and gradually correct them not to happen again. Furthermore, section 5 of the CPA has also provisioned to form Peace and Rehabilitation as well as Truth and Reconciliation commissions to investigate the truth and foster reconciliation on the serious violation of human rights and crimes against humanity. Despite these provisions fostering the approaches of positive peace, neither there is an explicit reference in the CPA nor have the subsequent peace-building initiatives in Nepal integrated precisely the issues of CRSVs.

Based on the above-mentioned references, the research has focused on the participation of survivors as the main variable of justice for the CRSV survivors. For this purpose, the ‘survivor-centric approach’ introduced by UNSCR 2467 may help to fill the gaps in terms of addressing the issues of CRSVs. Clark (2021) elaborates that the survivor- centric approach has called upon connecting the disconnects between elite-driven processes of dealing with the past on one hand, and the needs and priorities of victims and communities directly affected by conflict and human rights abuses on the other. Furthermore, CRSVs have to be treated differently due to their particular concerns and constraints compared to other survivors. Like other marginalized communities and groups, the CRSV survivors need to be capacitated and

supported so that they could have effective participation in substance. Therefore, full, effective, and meaningful participation is a must to ensure that CRSV survivors have listened to sufficiently and have credibility towards the conflict resolution process initiated. Waardt & Weber (2019) suggest victim participation is connected to broader societal transformation processes that tackle the root causes of the conflict, namely persistent structures of impunity, inequality, and violence.

In this regard, Madan Bhandari's People's Multiparty Democracy (PMPD) specifies the noble aims of protecting women's rights and ensuring their dignified lives. PMPD mentions:

Exploitation, repression, kidnapping, trafficking, prostitution, and social evils against women will be eradicated. . . .The equality of males and females will be guaranteed in all sectors of national and social life. . . . Special programs will be implemented to liberate women from ignorance and backwardness. Their security will be ensured; a system of severe punishment for the criminals will be formulated (Bhandari, 1993).

The quotation above reveals that PMPD aims to ensure women's rights and advocates that a woman should get justice if she is a CRSV. Unless they get justice, the PMPD refers to the battle of justice and peace cannot be closed as it is the battle of deliverance, prosperity, and the existence of humanity (Bhandari, 1993).

As in many other armed conflict situations, Nepal has also experienced pathetic cases of CRSVs that happened during the conflict periods. No research studies have justified that the CRSVs in Nepal have been tactical and systematic attacks against civilian populations. They have rather been opportunistic or as a normalized practice in a war that is not ordered but ignored. (Schulz, 2022). Plenty of stories and evidence of sexual

violence including rape have been reported mostly caused by the State Security Forces (HIMRIGHTS, 2011). However, it was not only the security forces but also the Maoist combatants who committed sexual violence. Those who refused to support their party activities have been the victims of Maoist combatants (Human Rights Watch, 2014).

FGD participants, who represented sustaining multiple sexual violence during the conflict periods and a harsh socio-economic condition at present shared their griefs and traumas. They have been tolerating not only the physical abuses including rape imposed during the conflict but also the mental distress and social abuses caused by the society. Existing socio-economic challenges have aggravated further their sufferings and distress. Initially, they were unwilling to talk about their stories as that may only reopen their wounds instead of supporting them to heal. Many of them fear that revealing their sufferings could even damage their existing family and social life. One of the participants said, "I will have to face huge social and familial consequences in case my family came to know the incidents of CRSVs happened to me" (CRSV survivor A, FGD participant, 18 January 2022). It exhibits the severity of the incidents and the huge stigma that several such survivors are still living in Nepal.

During the interactions, participants shared multiple stories of atrocity and physical and sexual violence caused during the conflict periods. They were sharing not only their own stories but also the stories that they were told by other survivors. A few of those stories they shared included how a woman handcuffed and feet tightened by the security personnel has been gang raped turn by turn. The survivor does not remember how many of them raped her on that day, and she got unconscious afterward. She even gave birth to a baby, but she does not know who the father is of that baby. In another case, a father-

in-law has been forced to rape his daughter-in-law who was already pregnant and delivered a baby after 14 days after the incident. A woman has been raped at her home while her husband was in custody. They also shared a case where both mother and daughter were raped at the same place by a group of security personnel. FGD participants also shared the brutalities caused by Maoist combatants. In a case they shared, Maoists kidnapped a young girl who managed to escape for the first time. However, they found her again, kidnapped again, raped, and killed on which no one knows who the perpetrator is.

Similarly, other violence includes a woman who has been made naked and touched upon on her sensitive body parts. In another case, a woman has got urinated in her face while she was lying down half unconscious and asking for water. A woman has also sustained verbal abuse. Participants of FGD even shared that a soldier had masturbated in the face of a woman while she was lying down half unconscious. The number of CRSVs has also been documented and covered in various reports including the one that Human Rights Watch published in 2014. In a report, the UN Secretary-General mentioned that due to the lack of a conducive environment, the female survivors of sexual violence have not been speaking about the violence that they have sustained (2019). The report also mentioned that victims face legal, social, economic, health-related, and psychological challenges, and always live in constant fear of ostracization.

The report of the UN Secretary-General (2019) further illustrates many consequences that the survivors and their families had to sustain due to CRSV. They include unwanted pregnancies resulted due to violence. Not only mothers but also children born out of wartime rape bear numerous challenges and stigmatization

from their community. Children can be at risk of abuse, abandonment, and marginalization and they may suffer a lifetime of detrimental consequences. Greco (2020) divided it into four categories of the multiple consequences that survivors and their communities have to sustain, namely social, psychological, medical, and economic consequences. The UN Guidance Note (2014) also states that all victims may experience serious suffering and lasting mental and physical harm along with related stigma and all their impact on the lives, families, and communities of the victims. FGD participants have also shared some of the examples that the CRSV survivors have been sustaining in Nepal. The sufferings include intolerable trauma, suffocation, physical injuries and long-term problems, mental distress due to the fear of the likelihood of their families knowing the facts at some point, and the potential consequences that they may have to sustain afterward including the possibility of being traumatized again, etc. Therefore, the FGD participants shared that the survivors despite being unwilling to talk about their personal stories desperately look forward to having redressal of their sufferings.

All these approaches are based on the principles of human rights that the PPDM principles also promoted for not only healing the survivors from their pain and suffering but also fostering further their contribution to social transformation.

### **Urging for an honest and dedicated response**

Peace dialogues held and facilitated to end the armed conflict in Nepal followed by CPA and subsequent peace-building initiatives are the references to analyze whether the conflict resolution process in Nepal has responded to the needs and concerns of CRSVs. A scrutiny of the UN documents has revealed that they have not responded to the concerns of CRSV despite the clear requirements and principle basis that the UN system has introduced beforehand.



The guiding principles for reparation of CRSVs (2014) state, ‘adequate judicial and/ or administrative reparations (including restitution, compensation, rehabilitation, satisfaction and guarantees of non- repetition) are needed to obtain prompt, adequate, effective, and individual remedies complemented by collective remedies with an inclusive and meaningful participation in all mapping, designing, implementation, monitoring and evaluation process. It has also proposed interim support to address immediate needs and adopted the principles of a non-discriminatory, gender and culture-sensitive, empowering, and transformative approach.

The responses that the UN guidance has suggested are both materialistic and provide mental satisfaction to the survivors. Material support includes psychosocial support, access to productive inputs, supporting their health care needs or supporting their children for education, etc., ‘No harm’ – not disclosing their names. Satisfaction includes an official declaration restoring dignity; judicial sanctions against the responsible; and Legal redress of the perpetrators. Reparations could also include important symbolic measures such as – i) public statements in recognition that violations took place and require remedies, ii) official apologies by political leaders for the implication of State actors in the violations, to avoid potential ostracization of victims, etc.

As mentioned earlier, the CPA as a means of conflict resolution in Nepal has mentioned that the concerns of women and children will be addressed. However, it has not included any explicit provisions on the CRSV. The CRSV Survivors consider that the parties in conflict left out their issues from this very moment. Implementation of the CPA started with the promulgation of the Interim Constitution of Nepal 2007. However, the Interim Constitution also did not have any explicit provisions to address the concerns of CRSVs. Though it has included some

forward-looking provisions as ‘no any physical, mental or other forms of violence against women shall be inflicted’ (Article 20), so far they remained ineffective in terms of implementation. Furthermore, the then Ministry of Peace and Reconstruction, established for the operational execution of the CPA in Nepal also did not include CRSVs as one of the categories of victims and survivors to be addressed at the operational level. Even the laws enacted afterward also undermined the concerns and issues of the CRSVs. This may be the reason why the UN Secretary-General in his report on Sexual Violence (2019) states, “I urge the Government (Nepal) to expedite the revision and adoption of the bill to amend the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, in line with its obligations under international law. He further states with precision, “I also call for a guarantee of interim relief and full reparations for victims of conflict-related sexual violence, including health services, psychosocial counseling, livelihood support, and adequate compensation. I urge the expeditious adoption of the second national action plan for the implementation of Security Council resolutions 1325 (2000) and 1820(2008) on women and peace and security, and with guarantees for its effective and well-resourced implementation, along with comprehensive monitoring.” Participants of the FGD confirmed that the gaps identified in the above-mentioned policies, programs, and actions are their present concerns and issues as well. They also said that the patriarchal mindset is the reason why the CRSV survivors have not been involved in any negotiation process and the CPA has not included precisely the CRSV issues despite the requirements of the UN guidance notes.

### **Survivors’ cautious hope about the adoption of NAP II**

The survivors of CRSV continued sustaining barriers to access services, justice, and reparations even after signing the CPA in 2006. The

government came up with the National Action Plan on the UN Security Council Resolution 1325 and 1820 and made commitments to gender-responsive peacebuilding by drafting a comprehensive bill to amend the Enforced Disappearances Enquiry, Truth, and Reconciliation Act.

Comprehensive Peace Accord (Section 5.2.5), 2006 states that both sides agree to set up a High-level Truth and Reconciliation Commission through mutual agreement to investigate truth about people seriously violating human rights and involved in crimes against humanity, and to create an environment of reconciliations in the society. In 2014, the Enforced Disappearance Enquiry, Truth and Reconciliation Commission Act categorizes rape and sexual violence, in addition to murder, abduction, enforced disappearance, and torture, as “gross violations of human rights.” It states that no amnesty can be recommended in cases of rape or offenses of a “grave nature.” As per a report published in a newspaper, Records at the Truth and Reconciliation Commission show that among the 63,700 cases it has received, 314 are related to rape or sexual violence (The Kathmandu Post, 2023).

Within 17 years periods, since the signing of the CPA, there has been no concrete response by the government except for some positive policy moves, to address the needs and concerns of the CRSVs in Nepal. While writing this article, the government of Nepal adopted the NAP –II on the Women, Peace, and Security Agenda. It has categorically referred to address the issues of CRSVs through the proposed four pillars: Participation, security and prevention, reparation, and capacity building of service providers. However, there is no assurance that the new NAP II will be implemented effectively.

FGD participants referred to the lack of priority, concerns, and willingness of the authorities and stakeholders to address the needs and concerns

of the CRSV and on that basis conclude that the conflict resolution process so far does not matter to them. All the participants echoed the following remarks of a participant:

Simply ending war does not mean anything to us, we rather want the conflict resolution process to address the root causes of the conflict, acknowledge the losses and sacrifices that we all had to make during the war, and implement forward-looking perspectives and actions through effective reparation programs. (CRSV survivor A, FGD participants, 18 January 2022)

The survivors shared that it is not possible to repair completely the damages that they had to sustain all the physical injuries, mental well-being, trauma, and the fear of being disclosed about the incidents of CRSVs and their potential consequences in their private, familial, and social life. In this sense, the FGD participants said, ‘The way conflict resolution is pursued in Nepal is just a myth as there is no one to listen to us and impart justice in reality.’

However, the participants of the FGD shared that the survivors will be ready to share their sufferings if they are provided with full security, confidentiality, and justice, which could be both materialistic and/or mental satisfaction. They expect that their family and society at large extend due respect to them for sustaining all the brutalities that someone else had imposed on them and they continue sustaining. They also suggested categorizing victims based on their sufferings and offering accordingly different reparation programs as there is no uniformity in the needs and expectations of all victims. Some of them may simply be satisfied with the apology and social respect, whereas many of them still need to have their basic needs and survivals addressed. Moreover, they suggested that it is equally important to have a social transformation fostering gender equality and even the revised school curriculum portraying

victims as the ones to be respected. Further, they shared that conflict resolution would matter to them in a real sense if they were assured that future generations will not have to suffer the similar challenges that they had to go through and continue going through even now. In addition, they expect that CRSVs are always respected in society and recognized as socially proud who have contributed to bringing changes irrespective of their sufferings. All of these testimonies are very important not only to listen to them but also to help them to respond (Aroussi, 2020).

## **Conclusion**

The literature review and FGD done while writing this article have illustrated the widespread cases and severe nature of sexual violence caused by both the state forces and rebellions during the armed conflict in Nepal. Sexual violence has been a common feature of any armed conflict globally. Therefore, the principles of ‘conflict resolution’ evolved with the idea of ‘no war’ or ‘negative peace’ and broadened up to ‘justice and peace’ or ‘positive peace’ already urged as referred in the abovementioned academic literature and the UN documents, to address precisely the issues of sexual violence as well. As a result, the academic discourses on conflict resolution mostly after the adoption of the UN document in the 1990s have moved on from pragmatism to the principles base of conflict resolution. It means all conflict resolution processes including Peace Agreements have been required deliberately to specify the principles of human rights and humanitarian laws, i.e., the source of ‘positive peace’. CRSVs as the subject matter of serious human rights violations all the UN documents, feminists, and scholars have urged an explicit reference to any peace-building processes including peace agreements.

The academic discourses have also alerted that the absence of addressing explicitly the serious

violations of human rights caused during the conflict resolution process results in stigma, discrimination, exclusion, etc. Ultimately the frustrations accumulated by non-addressing their concerns may lead to a resurgence of another conflict. The CRSV survivors in Nepal as illustrated in the literature and the FGD also believed that conflict resolution is a myth until ‘positive peace’ prevails in both processes and outcomes of conflict resolution. Irrespective of all these mandatory requirements and the realization neither participated in nor benefitted from the conflict resolution processes including interim relief packages offered to ‘all’ conflict-affected communities.

The article concludes that CRSV survivors acknowledged that it is not possible to undo the wrongdoings caused to them during the conflict periods. They believed that ‘positive peace’ may render both material and mental satisfaction, which they termed as ‘justice’ in the real sense. They strongly believed that conflict cannot be resolved unless the CRSVs can overcome their stigma and live a dignified life with opportunities to foster prosperity. They referred that in Nepal the lack of recognition of the CRSVs and their concerns during the negotiation process and in the Peace Agreement signed in 2006 has weakened the survivors, their concerns, and their voices. They are concerned that continued stigma and discrimination of the CRSVs together with increased impunity, and the absence of confidence-building measures may fuel in the long run the resurgence of yet another conflict. This is also the PMPD perspective that the battle of justice cannot be closed since they are the battle of deliverance, prosperity, and the existence of humanity. In this context, the survivors suggested explicitly referring to CRSVs in any peace deals followed by prudent actions of the conflicting parties and the society, which will contribute to resolving conflict and prevailing peace in reality.

The study has revealed that conflict resolution processes so far in Nepal do not address the concerns and issues of CRSVs. Non-addressing the CRSV's concerns will not only result in the continued suffering of the survivors but also fuel yet another conflict in the long run. Therefore, the research recommends as suggested by the CRSV survivors using the ample opportunities available at the moment and responding to their concerns as well thereby correcting the course of conflict resolution processes in Nepal. It further concludes by referring to the suggestions of the survivors that effective participation of the CRSV survivors in all conflict resolution processes, acknowledgment of their contribution to the society, and living a dignified social life with the response to basic needs of the survivors and their belongings may respond to their concerns. The study has also revealed that a prudent and effective implementation of the recently adopted NAP II may serve as the means to respond to all concerns of the CRSVs thereby leading the country towards lasting peace and prosperity for all.

Today, the Maoists are in the government, and one of the consequences of their ultra-leftist atrocities prevails as the issue of CRSVs. From the PMPD perspective, the Maoist armed insurgency broke because they took Marxist dogma without truly understanding PMPD principles. Moreover, they failed to take Marxism as a scientific theory; and treated it as dogma. As MBF records, Marxism as a scientific theory has to be adopted as a creative approach, so that it could fit well in the existing socioeconomic situation of a nation and fulfill the basic objectives laid down in the theory (Bhandari 2021: 48). In that sense, the Maoist armed struggle has been resulted in trauma with

the victims, such as CRSVs. First, the PMPD has been asserting its perspective against ultra-leftist and revisionist forces since 1990. Second, it proposes a peaceful socio-political transformation, warning against the harsh consequences of ultra-leftism. Thirdly, as MBF records, one of the 14-salient features of the PMPD could be taken as a guideline to provide justice to those CRSVs.

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