

Situation of
Human Rights in 2012:
Overall Assessment

Chapter

1



1. Background

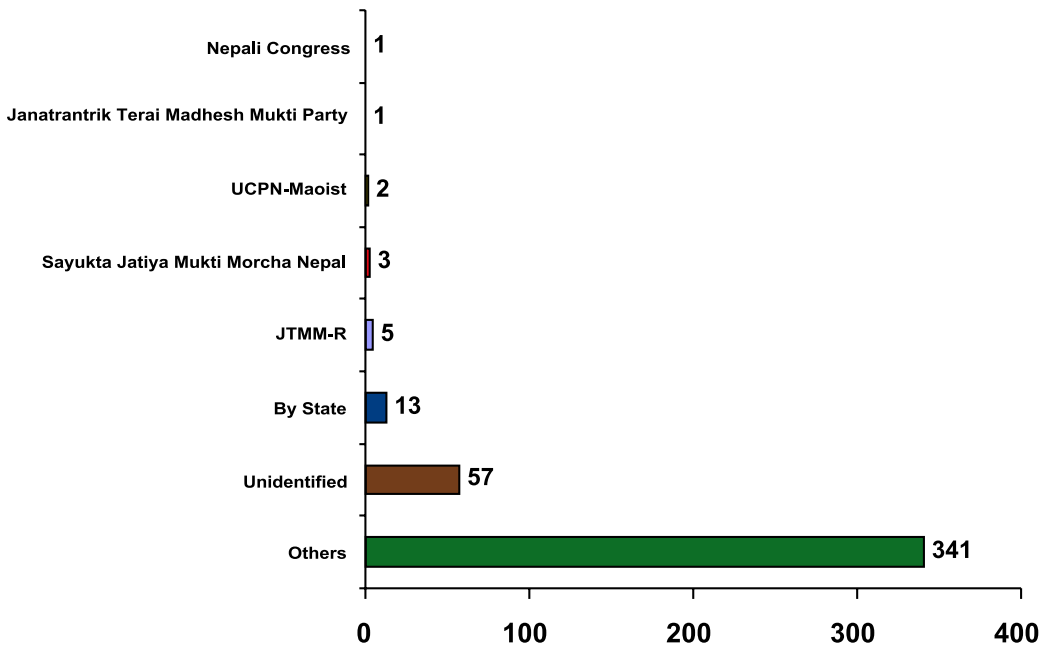
Nepal is already a state party to 24 international human rights instruments as of 2012. These instruments should be taken as a standard while reviewing or analyzing the present situation of human rights in Nepal. Equal importance should be given to the Comprehensive Peace Agreement (CPA), the Interim Constitution of Nepal 2007 and other agreements and understandings because a number of human rights issues are embedded also with the 10-year long armed insurgency and the six-year long peace process.

The decade-long armed conflict which began in 1996 came to a formal conclusion on November 21, 2006 with the signing of the CPA between the then rebel CPN-Maoist and the Government of Nepal. However, the human rights situation of the country did not improve as expected even during six years since the

signing of the CPA. No remarkable headway was made except the integration of the former Maoist combatants into the Nepal Army (NA).

The Government, which is responsible to protect human rights and resolve various other problems of the country, seemed apathetic towards its responsibilities. As a result even the international communities criticized the Government expressing their concerns over the possible crisis Nepal could face in the future due to the apathy. Several decisions made by the Government challenged human rights instead of containing the state of impunity. The government, whose legitimacy was called into question, decided to withdraw sub-judice cases including the criminal ones. However, the judiciary invalidated the decisions. The competence of the Apex Court was questioned as only one-fourth of total number of judges remained in

Figure 1 No. of People Killed by Type of Perpetrators (2012)

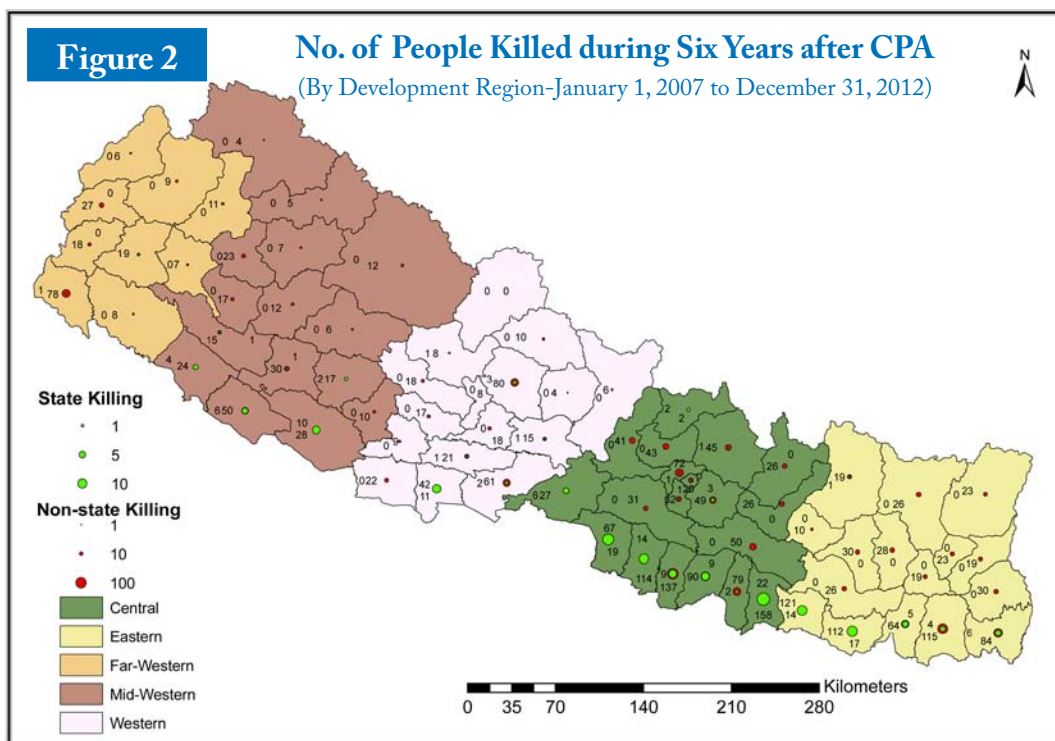


their posts by the end of the reporting year. However, the courts did make several important and remarkable verdicts this year.

Formed with a two-year mandate to write a new constitution, the CA failed to deliver its function whereas its tenure was extended by two more years. The Government dissolved the CA thereby taking the country to a state of uncertainty. The CA, which was functioning simultaneously as the Legislature-Parliament could not formulate the Commissions on transitional justice mechanism, which are provisioned in the CPA and the Interim constitution. Rather, it was embroiled in unnecessary issues most of the time. As there was no elected body in place to form, direct and monitor the government, it started to be feared that the Government could gradually turn into totalitarian and autocratic one, which directly affected human rights

and general life of the country

Women, children and senior citizens became more vulnerable. Human rights defenders were targeted by both the state and the non-state actors this year. So much so that an official publication of a ruling party issued threat through the publication against some of the prominent human rights activists of the country. A judge of the Apex Court was shot dead in Lalitpur in broad daylight but his mysterious murder remained unsolved until the end of the year. This year, there was no remarkable contribution towards protection and promotion of human rights as per the commitments made by the country to the international community and to the treaties to which Nepal is a state party. Similarly, the roles from the national mechanisms to protect and promote human rights were seen as unsatisfactory and ineffective. The



Government did not show any willingness in implementing the NHRC recommendations.

INSEC representatives based in all 75 districts of the country monitored the human rights situation throughout the year. Nepal Human Rights Yearbook, which is published every year depicts country's overall situation of human rights. With the view to contribute towards ensuring victims' justice and punishment to perpetrators, the norms and values of human rights, the national legal provisions and state obligations to the international community are taken into consideration while documenting and analyzing the incidents of human rights violations and abuses. Nepal Human Rights Yearbook 2013 is the continuation of that very tradition.

2. Incomplete Peace Process

The conflict victims of the decade-long armed insurgency, in which 13,276 people lost their lives as per INSEC data, have been waiting for justice for the last

six years. The Government seemed to have misinterpreted the concept of victim's justice merely as monetary support. In 2012, the Government conceded that the number of killings during the conflict period it collected was in fact incorrect. The government had revealed on March 19, 2011, based on the taskforce formed to find out the extent of loss in the conflict, that the number of killings in 10 years of armed conflict was 17,265. The Ministry of Peace and Reconstruction instructed the concerned office to amend the data saying 3,900 persons enlisted in the report of the taskforce as dead were alive.

The Truth and Reconciliation Commission and the Commission on Disappearances which were supposed to address the human rights violation and crimes perpetrated by the warring parties during the conflict could not be formed. The commitments expressed through the CPA for the protection and promotion of human rights were not accomplished even after six years of the signing of the CPA.

Table 1 No. of Victims by Region (2011)

| Type of Events | Eastern | Mid | Western | Mid Western | Far Western | Total |
|--------------------------------------|------------|------------|------------|-------------|-------------|-------------|
| Abduction | 58 | 61 | 9 | 11 | 5 | 144 |
| Arrest & Torture | 9 | 36 | 7 | 36 | 6 | 94 |
| Beatings | 115 | 68 | 82 | 139 | 53 | 457 |
| Child Rights | 101 | 121 | 82 | 73 | 36 | 413 |
| Death in Detention | | 1 | | | 1 | 2 |
| Death in Jail | 4 | 4 | | 1 | | 9 |
| Economic, Social and Cultural Rights | 6 | | 9 | 11 | 7 | 33 |
| Inhuman Behavior | 6 | 4 | 4 | 2 | 3 | 19 |
| Injured | 28 | 127 | 36 | 59 | 22 | 272 |
| Killing | 91 | 168 | 46 | 53 | 19 | 377 |
| Racial Discrimination | 12 | 7 | 15 | 19 | 19 | 72 |
| Right to Assembly | 119 | 204 | 13 | 27 | 24 | 387 |
| Threats | 33 | 16 | 9 | 31 | 23 | 112 |
| Women Rights | 130 | 181 | 104 | 187 | 46 | 648 |
| Total | 712 | 998 | 416 | 649 | 264 | 3039 |

Acting against the commitments, the Government made an attempt to introduce an ordinance on TRC with the view to grant blanket amnesty to all kinds of crimes that occurred during the conflict period.

Though violation of the rights to life by the state seemed to have been decreased since the signing of the CPA, INSEC data reveals that it has been unable to provide security to the civilians. INSEC documentation showed that between 2007 and 2012, 2639 were killed by the non-state actors while 185 were killed by the State. Of those killed by the non-state actors, 28 were killed by the UCPN-M which is the largest party in the CA. It is also one of the signatories to the CPA and which led the Government twice after the CPA.

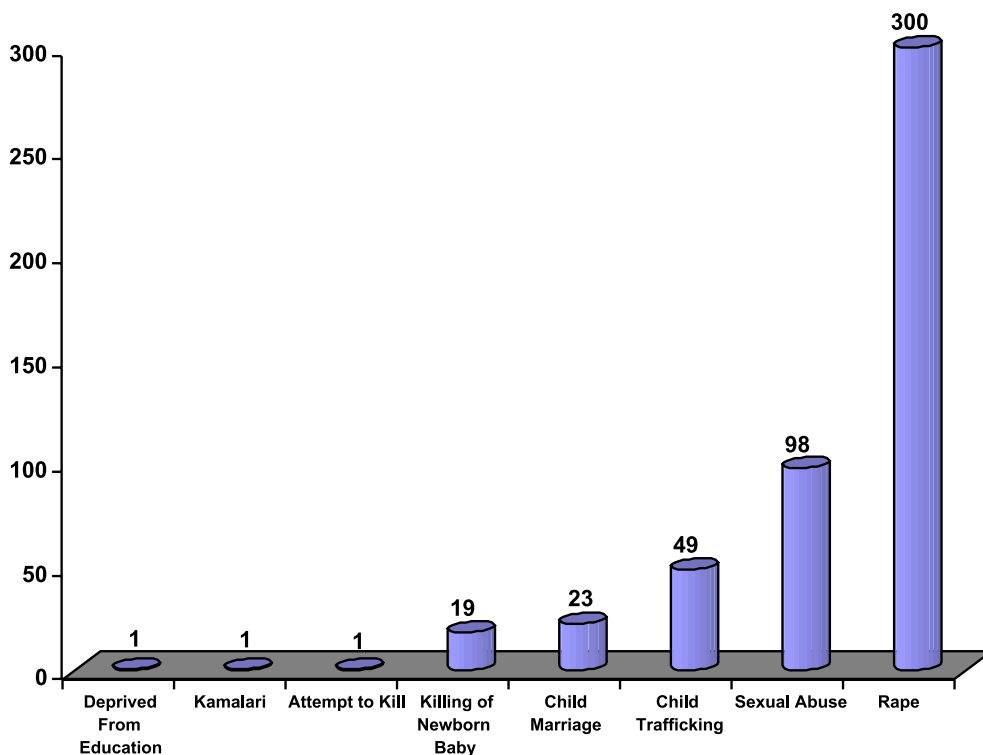
The only one significant aspect ac-

complished this reporting year in connection with the peace process was the integration of the former Maoist combatants. As were the cases last years, the Government remained indifferent to restitute the land and properties seized by the rebels during armed conflict and to provide compensation to the families of the victims. The problem of displaced persons also remained unaddressed.

2.1 Integration of Maoist Fighters : An Achievement

The most important and complex issue of the six-year long peace process - the integration and management of the Maoist combatants was accomplished this year. Under the peace process that began with the endorsement of CPA on No-

Figure 3 No. of Child Victims (2012)



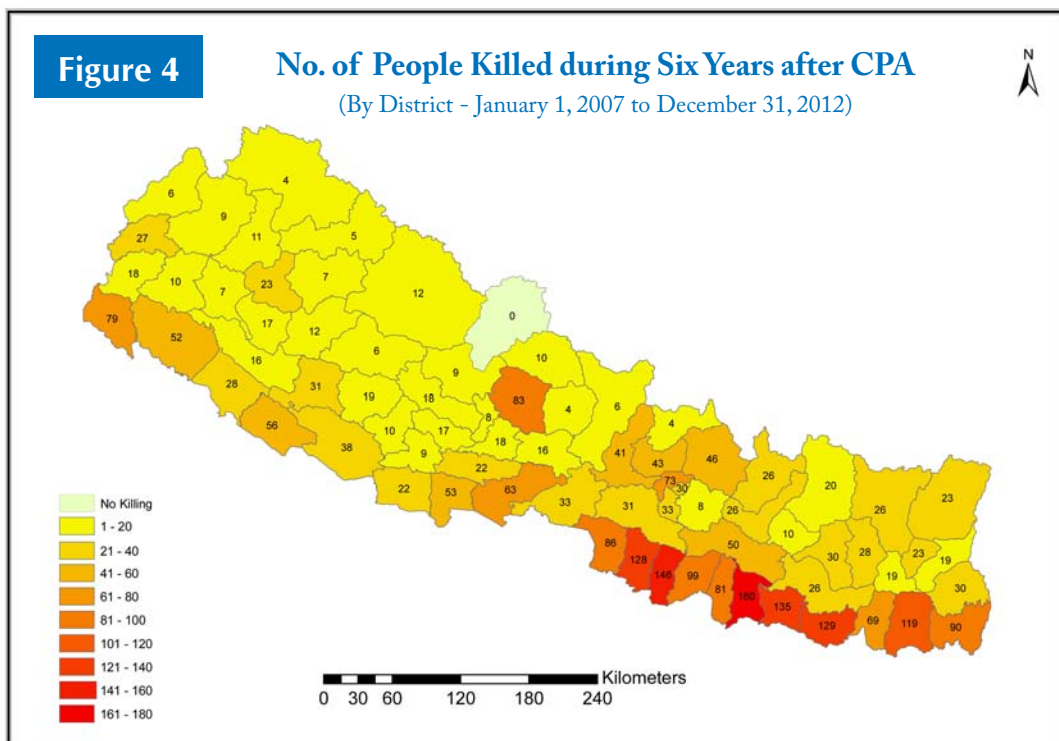
vember 21, 2006, the Interim Constitution was promulgated on January 15, 2007 and a provision in the Constitution stated that the Maoist combatants would be integrated and managed through a special committee.

Scores of rounds of discussions were held regarding the integration of the combatants in the previous years. However, the disagreement over the number of Maoist combatants to be integrated into the NA stretched the initial plan of resolving this issue to nearly six years

Of nearly 32,000 Maoist combatants participating in the verification process of UNMIN, 19,602 were verified. Of the verified Maoist combatants, less than 10 per cent were enthusiastic to be integrated into the NA.

The number of the Maoist fighters verified by UNMIN was 19,602, however,

the figure came down to 17,052 when the Army Integration Special Committee updated their numbers, said Secretariat of the Army Integration Special Committee. Of them, 1,460 opted for integration, 15,585 combatants desired voluntary retirement and six opted for rehabilitation. (*for details see chapter Executive*). Among those who opted for integration, 1,460 of them joined training under the NA on November 25, 2012. Among them, 16 were selected for the rank of Major, 30 for Captain, and 25 for Lieutenant - making a total of 71 officers and the rest were selected for other lower ranks. Following the pass-out from army training, the former Maoist combatants were supposed to be posted to be established Directorate of the NA. Very few combatants chose to be integrated whereas a political agreement, on November 1, 2011, was reached to integrate



a total of 6,500 combatants. The Government provided the amount ranging from Rs 500,000 to 800,000 to each combatant opting for voluntary retirement. Saying that those choosing to retire voluntarily had to contribute up to 40 per cent of the amount to their party, the commanders in the cantonments seized the cheques of the combatants. As a result, the combatants resorted to vandalism and agitation in the cantonments.

2.2 Transitional Justice: Government's Apathy to Conflict Victims

The TRC and the Commission on Disappearances, which is envisaged by the CPA, could not be formed this reporting year as well. Though formation of the Commissions was mentioned in the Interim Constitution and political agreements were also reached thereafter for the same several times, these mechanisms

were not materialized. The then government had tabled a Bill on the TRC and the Commission on Disappearances in the Legislature Parliament and attempts were made to forge agreement for the endorsement of the Bills. These were tabled in the Legislature-Parliament three years ago; however, deliberations could not take place on the Bills due to continuous disruption of the Parliament. This year, the organizations working on conflict victims and the concerned international communities expressed their serious discontent when the Bhattarai-led Government presented bills on the TJ Mechanism. After the dissolution of the CA, the Government, despite criticisms from the concerned national and international communities, presented an ordinance to form a single commission by merging the TRC and Commission on Disappearances before the President but it remained pending.

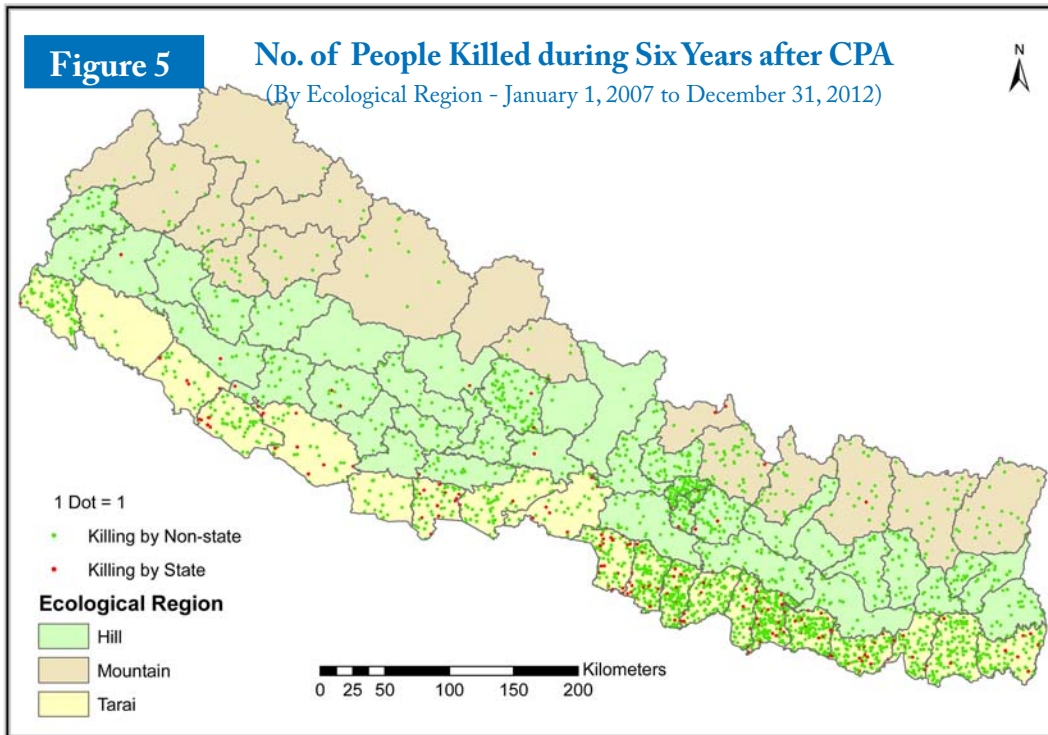
Table 2 No. of Victims by Region (2012)

| Type of Events | Eastern | Mid | Western | Mid Western | Far Western | Total |
|--------------------------------------|------------|-------------|------------|-------------|-------------|-------------|
| Abduction | 18 | 48 | 1 | 3 | 1 | 71 |
| Arrest & Torture | 13 | 19 | 15 | 19 | | 66 |
| Beatings | 142 | 118 | 131 | 134 | 59 | 584 |
| Child Rights | 102 | 208 | 74 | 63 | 45 | 492 |
| Death in Detention | | 1 | | | | 1 |
| Death in Jail | 3 | | 1 | | | 4 |
| Disappearance | | 1 | | | | 1 |
| Economic, Social and Cultural Rights | 7 | 10 | 4 | 7 | | 28 |
| Inhuman Behaviour | 10 | 10 | 9 | 3 | 2 | 34 |
| Injured | 34 | 105 | 6 | 14 | 50 | 209 |
| Killing | 114 | 202 | 34 | 34 | 39 | 423 |
| Landless and Squatters Problem | 8 | | | | | 8 |
| Racial Discrimination | 21 | 26 | 12 | 21 | 31 | 111 |
| Right to Assembly | 88 | 126 | 141 | 69 | 18 | 442 |
| Threats | 27 | 17 | 14 | 63 | 15 | 136 |
| Women Rights | 163 | 222 | 113 | 328 | 85 | 911 |
| Total | 750 | 1113 | 555 | 758 | 345 | 3521 |

2.3 Nepal Conflict Report, 2012 and Universal Jurisdiction

The UN OHCHR made public a report entitled *Nepal Conflict Report-2012* this year. The incidents of human rights violation and abuses that occurred from February 13, 1996 to November 21, 2006 were systematically documented in the report. The report consisting of documentation and analysis of the incidents of violation of Human Rights and International Humanitarian Law that occurred during the conflict in Nepal is an official view of the UN. The report is based on the studies by OHCHR and on the reports of various national and international organizations. Similarly press releases of the security agencies in Nepal, the reports and press release of then CPN-M and the news related to human rights violations, among others have also been used. The incidents of sexual violence and arbitrary arrest,

which are given less priority in connection with transitional justice in Nepal, are systematically documented in the report. Names of the victims are mentioned while perpetrators' names are not disclosed in the report as per the theory of presumption of innocence. There is a minute analysis of the policy of the then Government and Maoists. The report has also given the timeline of conflict besides mentioning the chain of command of both parties in conflict viz. the government and the Maoists. The report has clearly indicated that the investigation which was carried out with the intention of giving amnesty would not be validated by the UN. Extra judicial killing was the policy of the conflicting parties and the Maoists were also involved in the acts of rape and sexual crimes, the report claims. The report regrets the failure on the part of Nepal to bring the perpetrators of war crimes to justice. It has further un-

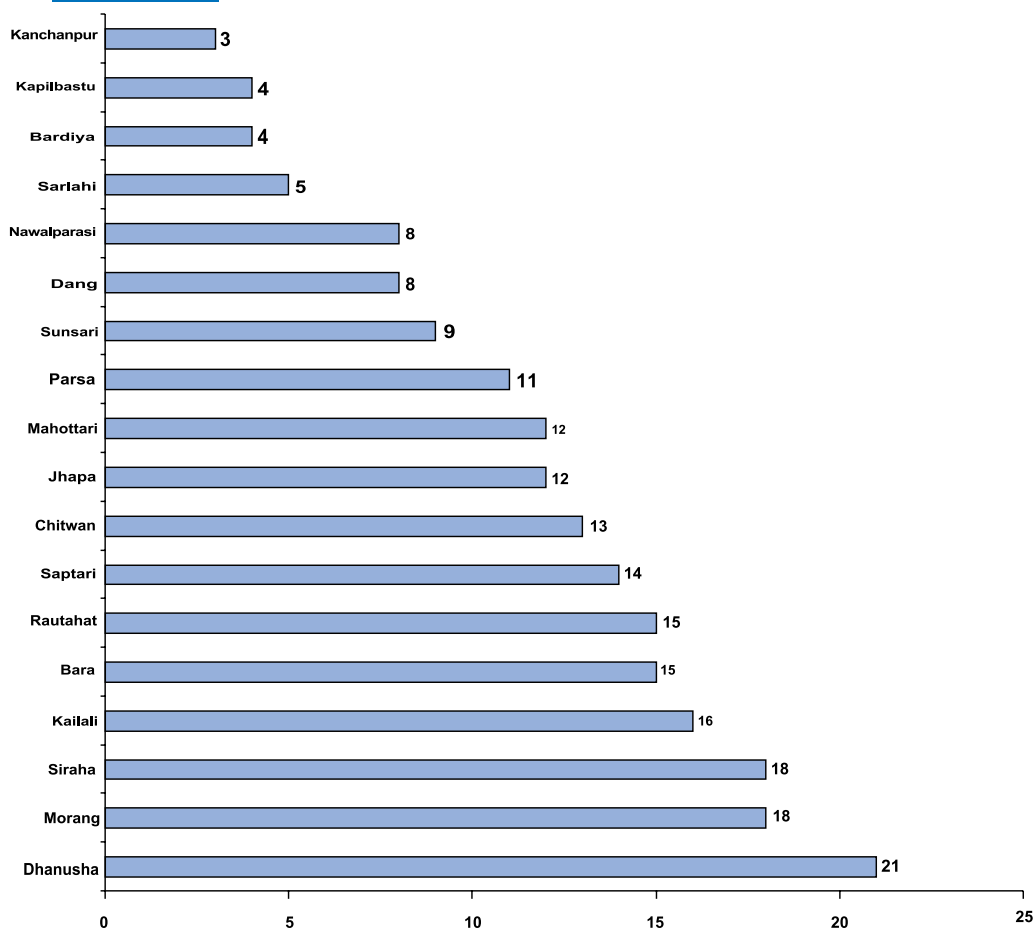


derscored the need for establishing transitional justice mechanisms of international standards. Mentioning in the report that amnesty would weaken the foundation of lasting peace, the report has cautioned that if the incidents of serious violence of human rights were not addressed as per international standards, universal jurisdiction could be attracted. Though the Government led by the UCPN-M rejected the UN OHCHR report outright saying that it was unilaterally released, the Government cannot escape from the responsibility arising the UN – a common obligation of the World.

The report concludes that there was serious violation of international humanitarian law in some 2,000 incidents of killing that took place during armed conflict in Nepal and that that all incidents of killing falls under the war crime. The report further stressed that enforced disappearances had also violated the international law and concluded that war crime was committed in Nepal during armed conflict.

Universal Jurisdiction means that in cases of grave human rights violations including such as war crime, crime against humanity, genocide, enforced disappearance and extra judicial killing which oc-

Figure 6 No. of People Killed in Tarai (2012)



cur violating international law, irrespective of the place of the incident, there will be right to detain, prosecute and pronounce verdict against the perpetrator, no matter when that person resides. Due to the non formation of the required transitional referral mechanisms from the national mechanisms to prosecute the accused and deliver the justice to the victims the Universal Jurisdiction could be attracted.

There are several instances of taking action against the accused involved in serious incidents of human rights violation through universal jurisdiction. Augusto Pinochet, former dictator of Chile was arrested in London. Ariel Sharon, former Prime Minister of Israel and former US Secretary of State Henry Alfred Kissinger have been canceling their international visits. The state remained apathetic towards using all existing national mechanisms to deal the international crimes as war crime, crime against humanity, genocide, enforced disappearance, torture, violence against women, child soldiers, legal mea-

sures should be adopted, however, the government has not heeded it though these crimes are also criminalized by the law of the land.

2.4 Talks That Yielded No Results

During the period between CA election and December 31, 2012, the government held talks with 53 underground groups operating in mountain, hilly and Terai regions. Of 26 armed groups that were in contact with the government, some surrendered weapons to the Government; some others were in contact with Government while some renounced armed activities and joined Terai-based parties.

Some groups did not come into contact after the first round of talks, informed the Ministry of Peace and Reconstruction, adding that talks could not be held with some of the groups as they put forth demands in the first phase of the negotiation in such a way that those demands were not possible for the Government to fulfill. It is clear that some armed groups

Table 3 No. of Victims Above 60 Years of Age (2012)

| Types of Events | By State | | | By Non-State | | | Total |
|--------------------------------------|----------|-----------|-----------|--------------|-----------|-----------|------------|
| | Female | Male | Total | Female | Male | Total | |
| Injured | | | | 2 | 9 | 11 | 11 |
| Inhuman Behaviour | | | | | 1 | 1 | 1 |
| Economic, Social and Cultural Rights | | | | | 1 | 1 | 1 |
| Abduction | | | | 1 | | 1 | 1 |
| Women Rights | | | | 21 | | 21 | 21 |
| Landless and Squatters Problem | 1 | 2 | 3 | | | | 3 |
| Right to Assembly | 1 | 10 | 11 | | | | 11 |
| Death in Jail | | 1 | 1 | | | | 1 |
| Racial Discrimination | | | | | 4 | 4 | 4 |
| Arrest & Torture | | 2 | 2 | | | | 2 |
| Beatings | 3 | | 3 | 6 | 9 | 15 | 18 |
| Threats | 2 | 2 | 4 | | 2 | 2 | 6 |
| Killing | | 1 | 1 | 15 | 25 | 40 | 41 |
| Total | 7 | 18 | 25 | 45 | 51 | 96 | 121 |

have utilized talks as an opportunity to expand their organizations and to escape legal proceedings. Six persons were killed by armed groups in 2012. A group that was involved in detonating of bomb in Janakpur also sat for the dialogue with the Government this year. Given that the crimes such as killings and abduction were being carried out by unidentified groups in the country, the involvement of those groups that engaged in dialogue were suspected to have been involved in these crimes.

3. Constitutional Crisis

The vacant posts of the constitutional bodies were not filled up while the CA was functioning. The Legislature Parliament dissolved along with the expiry of the CA thereby inviting a constitutional

vacuum. Some provisions of the Interim Constitution were in need of amendments but could not be ammended as the institution authorized to amend the constitution no longer existed. As the nation is facing constitutional crisis, it is, for sure, gradually heading towards anarchy.

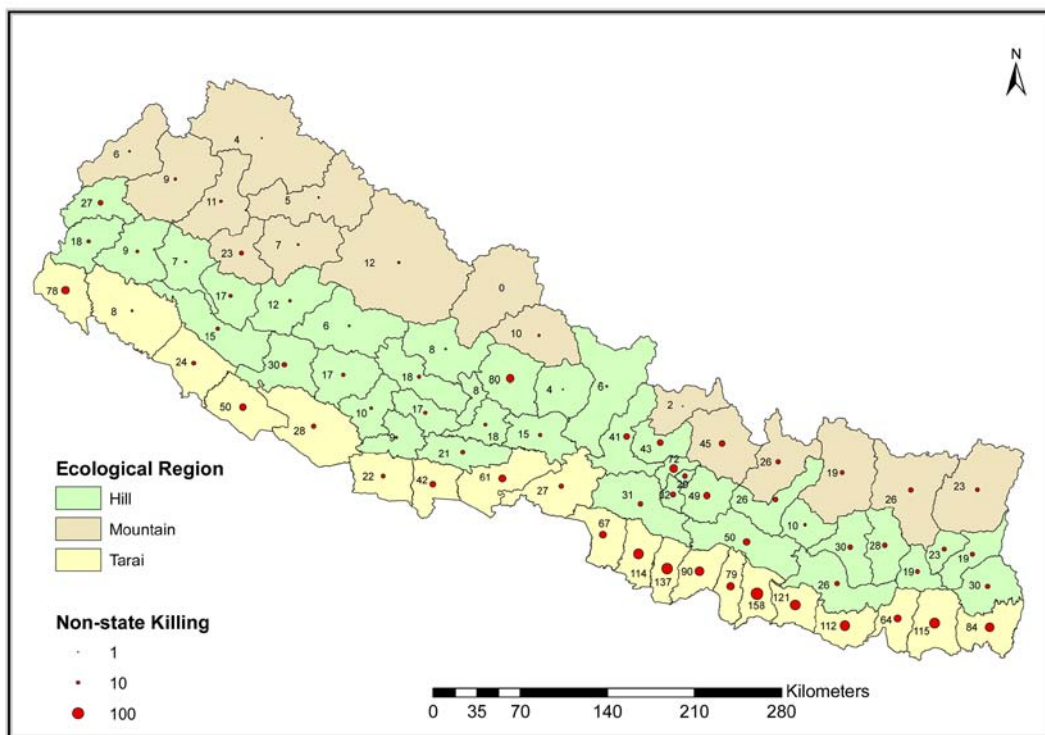
3.1 Legitimacy of the Government Under Question

The Interim Constitution had mandated the CA to write a new constitution within two years but the task could not be accomplished even four years after its constitution. The CA, whose tenure was extended successively on the basis of agreements among the parties, was dissolved due to the obstruction of the Supreme Court and inaction of the political parties. A

Figure 7

No. of People Killed during Six Years after CPA

(By Non-state in Ecological Region -January 1, 2007 to December 31, 2012)



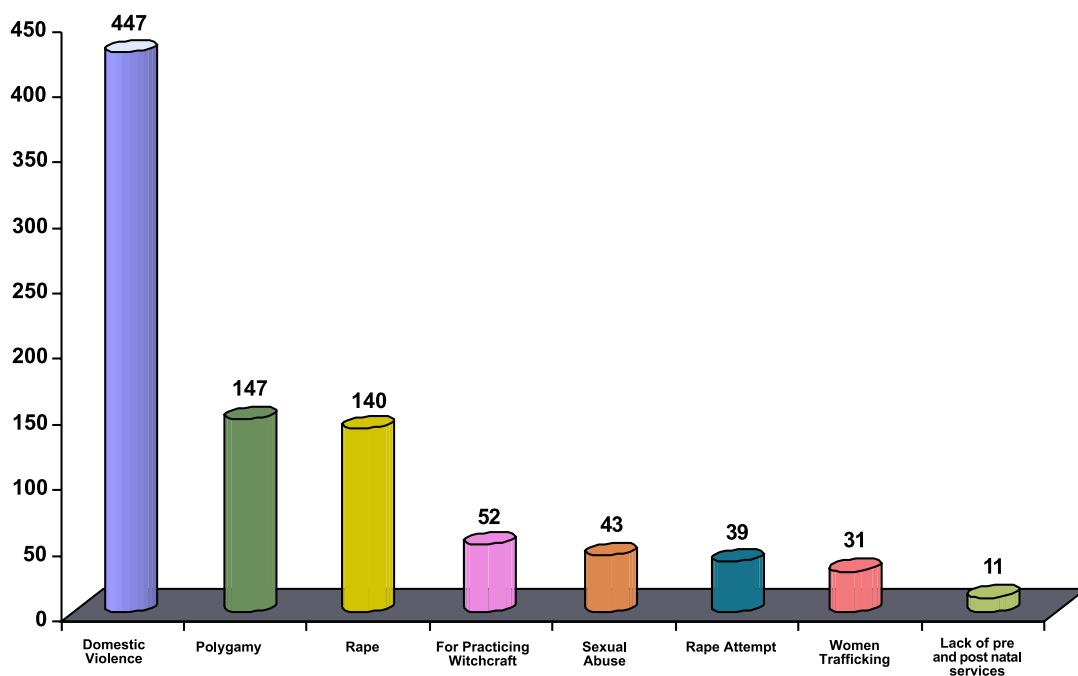
constitutional crisis emerged also because no constitutional provision was in place on what would happen if the CA expired without writing constitution. Amendment of the constitution was necessary to hold elections. Political consensus was the only outlet in this situation; however, political consensus just remained rhetoric, as a result a deepening national crisis ensued.

3.2 Constitutional Positions Being Vacant

More constitutional posts became vacant with the simultaneous dissolution of Legislature-Parliament and the CA. Nilkantha Upreti, the acting Chief Commissioner of the Election Commission retired on November 12. The tenure of remaining two EC Commissioners, Dolakh Bahadur Gurung and Ayodhi Prasad Yadav also expired on January 10. Thus, it will

be challenging for the EC to hold elections in the absence of the commissioners. As it requires parliamentary hearing for the appointment of the EC Commissioners, it was not possible to appoint commissioners in absence of the Parliament. As the parliamentary hearing is impossible now, vacant posts are likely to remain as they are. The tenure of seven judges expired this year as parliamentary hearing of temporary judges could not be held in the Apex Court. Though there were piles of cases in the Supreme Court, only seven judges including the Chief Justice were working in the court by the end of this reporting year. The ordinance forwarded to the President's office remained pending. The ordinances introduced by the Government for the appointments in the constitutional posts widened the rift between the parties.

Figure 8 No. of Victims of VAW (2012)



4. Situation of Human Rights in 2012

Nepal Human Rights Yearbook 2013 has documented the incidents of human rights violations and abuses that took place between January and December, 2012. This Yearbook prepared by incorporating the incidents committed by the state and non-state actors on the basis of reports from all 75 districts. This documentation gives a bleak picture of human rights situation of 2012 and also challenges the State and other stakeholders who keep expressing their pledges to the norms and values of human rights.

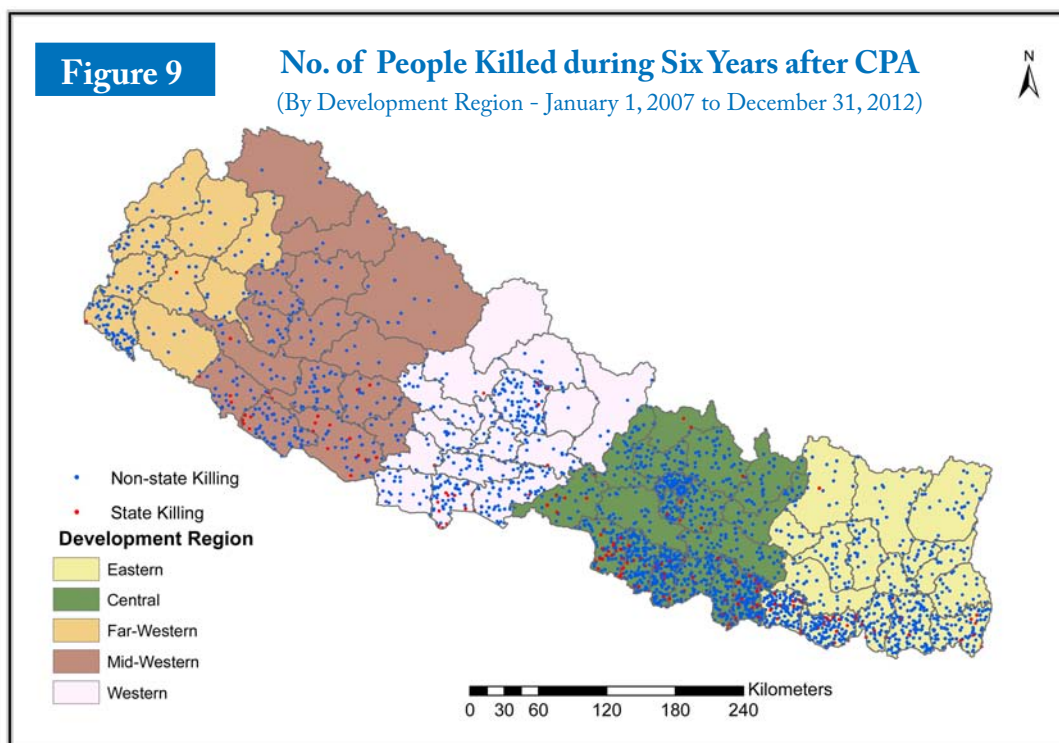
A total of 423 people were killed at the hand of state and non-state actors among them, 13 were killed by the state. The killers of 57 people could not be identified until the end of the year.

4.1 The State & Human Rights

A. Promising Capable Judiciary

Some verdicts of the Supreme Court this year proved that even the high ranking officials can be held accountable for their actions. The Supreme Court sent incumbent Minister Jaya Prakash Prasad Gupta, former Ministers Govinda Raj Joshi and Khum Bahadur Khadka to prison different dates.

In addition, the SC on November 25 issued an interim order against the Government's decision to adjourn the case filed against the UCPN-M spokesperson and former Minister Agni Prasad Sapkota. Last year, human rights activists had filed a writ petition against Sapkota claiming that appointment of Sapkota to Minister was illegal as an FIR filed against him was under consideration at the police's. The



Supreme Court, in its verdict, stated that Sapkota could not be relieved from the post of Minister just on the ground of FIR filed against him, however, it was the Minister to think, on the basis of his morality, to leave or stick to the post when such charge was labeled. Thus, it is the duty of the Government to ensure the implementation of the verdicts of the courts. Does not matter how good a court decision is, non-implementation of the decisions deny justice to victim. It was found that several verdicts made by the courts were not implemented by the Government and its subordinate agencies this year. Such acts are detrimental for democracy and human rights.

B. Irresponsive Government

The Government, which had the caretaker status, made several decisions which were not in compliance with legal provisions. In some instances, the decisions of the Government were controversial while the Supreme Court voided some of the decisions. Such arbitrary activities of the Government repeated the whole year. Court verdicts were not implemented due to which the court was undermined. Taking advantage of constitutional and political vacuum, attempts were made towards passing ordinances as per their discretion. The Government, made several controversial decisions disregarding the fact that it did not have any mandate to take decisions that have long term effect. The incumbent Ministers landed in controversies one after another. *(for details See Chapter on Executive)*

C. Dissolution of the CA: A Step towards Representativelessness

Prime Minister Dr Baburam Bhattarai announced dissolution of the CA just 15 minutes before its deadline on May 27,

Table 4 No. of Victims of Dowry-induced VAW (2012)

| Event District | Killing | Domestic Violence | Polygamy | Total |
|----------------|----------|-------------------|----------|-----------|
| Banke | | 1 | | 1 |
| Dhanusha | 1 | | | 1 |
| Humla | | 1 | | 1 |
| Morang | | 2 | | 2 |
| Parsa | 3 | | | 3 |
| Rautahat | 1 | 1 | | 2 |
| Saptari | | 3 | | 3 |
| Sarlahi | | 1 | | 1 |
| Sindhuli | | 1 | | 1 |
| Siraha | | | 1 | 1 |
| Surkhet | | 1 | | 1 |
| Total | 5 | 11 | 1 | 17 |

leaving no options ahead. Though the Interim Constitution 2007 mentioned that the tenure of the CA was for two years, it was extended by another two years through political agreements. As the CA could not function as expected though its tenure was extended the fourth time, the Supreme Court, responding to a writ filed against the extension of the CA tenure, capped CA's tenure for the next six months on November 24. Before this, the extended three month of the CA was expiring on August 30 but, the tenure was extended by three months by amending the constitution before November 24. The three-month extension of the CA was expiring on November 30, however, the Supreme Court on November 24 ordered the CA to extend its term only by six month. The Supreme Court had already restricted that, further extension of CA was not possible after May 27 and there were no preparation of promulgating constitution in the given time frame, the CA was dissolved by the Government without leaving any options. Constitutional amendment could have

been an option but PM Bhattarai's unilateral decision to dissolve the CA blocked the process of election as well. Though the opposition parties were equally responsible for the dissolution of the CA, the Government was morally responsible for the situation. People's rights to be governed by the elected representatives were violated after the dissolution of the CA.

5. Challenges of Human Rights

5.1 Unabated Impunity

Impunity remained a much talked about topic this year as it used to be in past years. The Government made recommendations to withdraw cases involving those accused of criminal activities. Simi-

larly, many of the verdicts of the Supreme Court were disregarded. The state itself was involved in promoting impunity. Attorney General (AG), who is a part of Government, threatened to revive the kangaroo court of conflict period. The AG had given such view while defending the action taken against a Minister for allegedly masterminding the killing of Kashi Tiwari, Chairperson of Vishwa Hindu Mahasangh. The remarks made by the AG against CPA, the Interim Constitution and international instruments of human rights were quite shocking. Such examples demonstrated the government's unwillingness to adhere to the rule of law.

Historically viewing the acts of case withdrawal by the different Governments, 57 cases were withdrawn in the premiership of Girija Prasad Koirala, 349 were withdrawn in the premiership of Pushpa Kamal Dahal, 255 cases were withdrawn when Madhav Kumar Nepal was leading the Government and during the premiership of PM Bhattarai's Government so far some 700 cases have been withdrawn. Though the effects of the withdrawal of cases are not reflected in the society immediately, they affect the society in the future. Compared to previous years, the year 2012 turned violent. There were 8,000 inmates in the jails in 2008. The figure reached 14,000 by the end of 2012, an assumption that the criminal activists are on the rising scale .

Table 5 No. of Victims of Abduction (2012)

| District | Female | Male | Total |
|-----------------|-----------|-----------|-----------|
| Rasuwa | | 1 | 1 |
| Rautahat | 3 | 3 | 6 |
| Saptari | | 9 | 9 |
| Sarlahi | | 5 | 5 |
| Baitadi | | 1 | 1 |
| Bara | | 3 | 3 |
| Banke | | 1 | 1 |
| Bardiya | 1 | 1 | 2 |
| Makwanpur | 1 | | 1 |
| Mahottari | | 6 | 6 |
| Jhapa | 1 | | 1 |
| Siraha | | 7 | 7 |
| Chitwan | | 1 | 1 |
| Kaski | 1 | | 1 |
| Kathmandu | 7 | 9 | 16 |
| KavrePalanchowk | | 1 | 1 |
| Taplejung | | 1 | 1 |
| Dhading | 1 | 2 | 3 |
| Dhanusha | 2 | 3 | 5 |
| Total | 17 | 54 | 71 |

5.2 Poor Security Situation

With the endorsement of the CPA, people expected an end to the incidents of killings and that they could live in peaceful environment. Contrary to their expectation, people's faith on security mechanisms kept on decreasing due to weak security provision. Rana Bahadur Bam, Judge of the Apex Court was shot dead in the capital city itself. Similarly, three persons were

killed when a bomb planted just 100 meters away from Singh Durbar went off. Bishwa Kranti and most of the cadres of Samyukta Jatiya Mukti Morcha, who owned up the incident, were active as PLA fighters during the armed conflict. Though intensity was not same, all parties were involved in violation of human rights. Such acts are increasing as the tendency of releasing cadres of respective parties is being institutionalized. Not only the political parties but their sister organizations were also involved in violating human rights. A total of 250 persons were victimized by major political parties including by the UCPN-M, NC and CPN- UML and armed groups of Tarai during 2012.

Abduction has been established as alarming crime in the country. According to INSEC documentation, 71 persons were abducted in 2012. Of them, four were abducted by the UCPN-M, five by armed groups of Tarai, 43 persons were abducted by others while unidentified gangs abducted 19 persons this year. 16 persons were abducted in Kathmandu and over five persons were abducted in Saptari, Siraha, Rautahat, Dhanusha, Mahottari and Sarlahi.

5.3 HRDs at Risk

Over 264 HRDs were rendered victims of human rights violation in 2012. Human rights activists, journalists, lawyers, health workers and social workers were abducted, arrested, tortured, beaten and killed in many places this year. Journalists were victimized most. A total of 163 journalists were threatened and beaten in different parts of the country.

5.4 Increasing Incidents of Violence Against Woman (VAW)

Compared to previous years, more incidents of VAW were recorded in IN-

SEC documentation this year. Father killed daughters, men killed their wives and women from minor girls to elderly women were raped by police. Daughter and daughter-in-laws were subjected to honor killing. Family members were accused for killing Bindu Thakur in Rautahat, Shiwa Hasami in Bardiya and Sangita Yadav in Kapilvastu.

A total of 910 incidents of women rights violations were recorded in INSEC documentation this year. The figure under this category was 648 in 2011. Five women were killed over dowry issue in 2012. In most of the cases, husbands were involved in killing their wives for dowry. In Dhanusha, family members including husband killed a woman and all family members

Table 6 No. of Victims in Tarai (2012)

| Districts | Beatings | Injured | Women Rights |
|--------------|------------|------------|--------------|
| Banke | 8 | 1 | 9 |
| Bara | 1 | 1 | 7 |
| Bardiya | 12 | | 64 |
| Chitwan | 7 | 10 | 13 |
| Dang | 4 | 4 | 3 |
| Dhanusha | 11 | 32 | 10 |
| Jhapa | 2 | 3 | 7 |
| Kailali | 22 | 36 | 21 |
| Kanchanpur | 17 | 12 | 2 |
| Kapilvastu | 10 | 1 | 6 |
| Mahottari | | 6 | 4 |
| Morang | 10 | 1 | 24 |
| Nawalparasi | 38 | 3 | 18 |
| Parsa | 1 | 1 | 7 |
| Rautahat | | 18 | 21 |
| Rupandehi | 19 | | |
| Saptari | 23 | 1 | 26 |
| Sarlahi | 4 | 10 | 10 |
| Siraha | 17 | 3 | 10 |
| Sunsari | 18 | 3 | 5 |
| Total | 224 | 146 | 267 |

went into hiding following the incident. A total of 52 women were victimized in the name of practicing witchcraft while 140 women were subjected to rape. 82 women were rendered victims of sexual mistreatment, nine women above 60 were rendered victims of sexual violence. Minor girls were also victimized. A total of 398 minor girls became victims of sexual violence, of them, 244 were 12 to 17 years old.

A girl was raped and looted by the staff of the Department of Immigration and police. A 45-year-old woman was mistreated alleging her of practicing witchcraft and was forcibly fed human excreta in Sarlahi. A woman was burnt to death alleging her of practicing witchcraft in Chitwan. A woman was beaten on the allegation of practicing witchcraft in Kathmandu while DIG of Armed Police Force killed his wife in Kathmandu. The Government's tendency to encourage compromise and poor prosecution process made the Government weak in tackling the violence against women.

5.5 Rights of Senior Citizens

The Government introduced 50 per cent discount in public fare and same per cent of discount for the treatment of the senior citizens above 60. Section 9 (2) of Senior Citizen Act, 2061, has provided

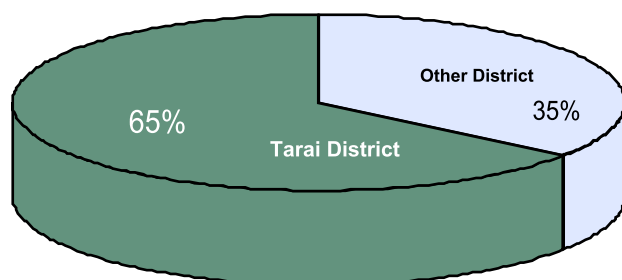
Table 7 No. of Victims of Abduction in Tarai (2012)

| Districts | Abduction |
|--------------|-----------|
| Banke | 1 |
| Bara | 3 |
| Bardiya | 2 |
| Chitwan | 1 |
| Dhanusha | 5 |
| Jhapa | 1 |
| Mahottari | 6 |
| Rautahat | 6 |
| Saptari | 9 |
| Sarlahi | 5 |
| Siraha | 7 |
| Total | 46 |

for this, however, its implementation was not encouraging. The Supreme Court, in March 11, ordered the Government to make provision for senior citizens but implementation was rather sluggish. The Government was forced to make provision for the elderly citizens this year after Senior Citizens' Struggle Committee staged a fast-unto-death strike. It is imperative to ensure the rights of senior citizens in the constitution.

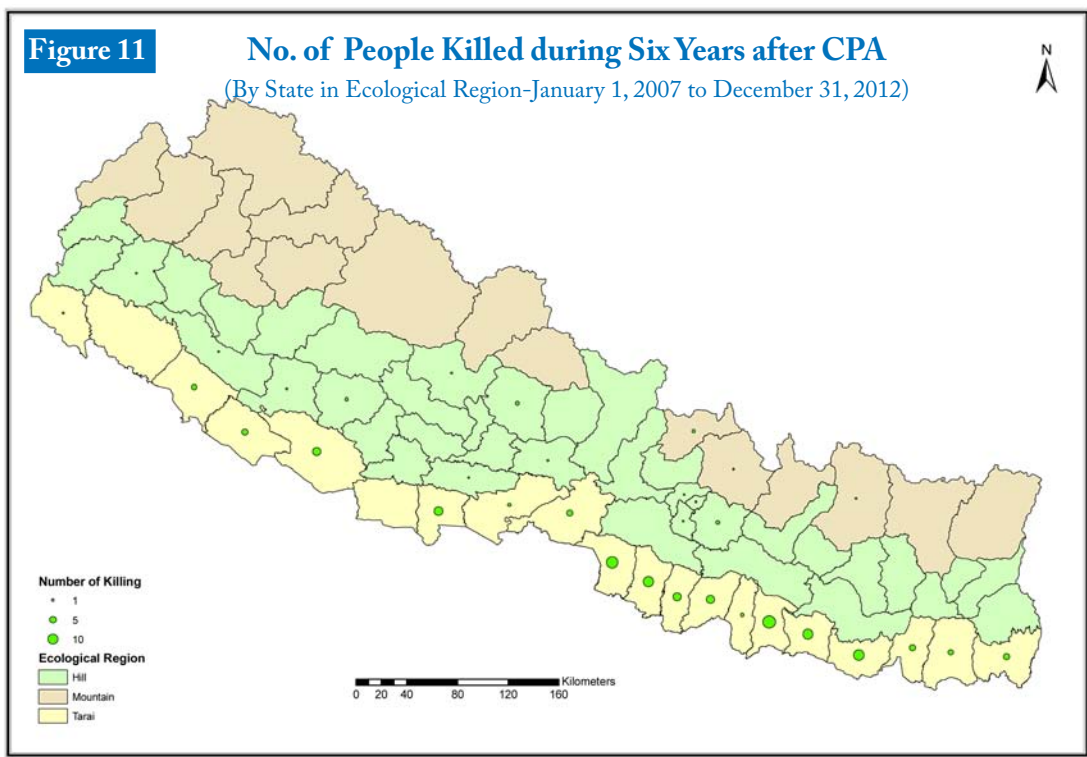
By keeping the changing economic scenario of the country into mind, it is necessary to give special care for the security of elderly citizens. As the trend of leaving country for foreign employment and the formation of nuclear families are on the rise, the state and society should give due attention to the security of the elderly citizens. This year a total of 41 persons above 60 years of age were killed. Among them, one man was killed by state, 15 women and 25 men were killed by non-state actors.

Figure 10 No. of Victims of Abduction (2012)



5.6 Weakening Social Justice

The issues of social justice were not addressed properly even this year. Price hike of the essentials affected livelihood



of the poor families. The incidents of food crisis, the lack and absence of medicines and doctors continued. People died of diarrhea while pregnant women in labor died in several parts of the country. The Government acted cruelly by evicting the settlement on the bank of Bagmati River at Thapathali, Kathmandu by using bulldozer. The huts of the landless squatters were demolished. No policy was introduced to feed the Chepangs of Chitwan. Raute people died by not getting medical treatment.

Conclusion and Suggestion

During six-year long journey of the peace process, the year 2012 has become gloomier one from the human rights perspective. There is no formal platform to discuss human rights concerns after the dissolution of the CA which was the only democratically elected body. There is no alternative to give outlet to constitutional

crisis except political consensus. Thus, the stakeholders should be aware of that constitutional provision while trying to find a way out for the country as no decision taken without consensus of the parties will last for long.

The act of withdrawing cases by making mockery to the rule of law has been going on unabated for the past few years. There is no respite from criminal activities and impunity in the country. Nepal is being increasingly perceived by the international community as a state incapable of or unwilling to investigate war time violation of human rights and crime against humanity. It should be noted that it is impossible to get impunity in any crime against humanity as civilized countries of the world have been coming together as a large single community on the issue of human rights. Nepal Conflict Report 2012 made public by UN body has depicted new

facts in connection to transitional justice process in Nepal, which the Government should have been able to resolve through TRC and Disappearances commission.

INSEC, last years, made some recommendations on reforming the Acts and Regulations enacted to address VAW few years ago. The incidents of VAW which surfaced frequently this year indicate that the existing laws on VAW are incomplete.

The concern of the nation towards those involved in foreign employment should not be limited to the remittance it receives from them. Those Nepalis working in other countries have been contributing largely to the GDP after the agriculture sector, but they have been deprived of the services of the state and neglected by the Government. Similarly, senior citizens account for 10 per cent of total population in the country. Voices have been raised to address their concerns in the constitution.

The Government tried to curtail the right to information so as to discourage the freedom of press but the court foiled the government's attempt this year. Some orders made by the court has uplifted the prestige of judiciary, however, increasing vacant posts of judges in Supreme Court has been taken as bad omen.

Absence of elected representatives, the enmeshed peace process, impunity, obstruction in the rule of law and the increasing gender based violence portrayed a disappointing situation of human rights in 2012.

Suggestions

- ❑ Form a new Government on the basis of agreement and fix new date for new polls. For this the incumbent Baburam Bhattarai-led Government should resign
- ❑ Establish TJ mechanism without delay as per the international standards to end impunity. Stop harboring criminal in the name of withdrawing cases
- ❑ The Government should be accountable to implement the verdicts of the court by protecting prestige of independent judiciary. Fill up the vacant posts of the constitutional bodies by abiding the interim provision of democratic system
- ❑ Amend the existing laws on VAW and establish Fast-Track Court to address the issues of women and senior citizens
- ❑ Implement the recommendations made by the NHRC and make it resourceful as well as powerful
- ❑ End politicizing crime and empower police administration resourceful to contain and prevent crimes
- ❑ Ensure the rights of the senior citizens constitutionally
- ❑ Introduce an effective plan of action with the view to protect the Nepalis working in various countries under foreign employment

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