









former Panchayat regime. These links became a strength for the Committee when dealing with state officials.

### **Access to state officials**

The Ministry of Home Affairs sent a circular to the concerned authorities, asking them to cooperate with the Committee. Nevertheless, even if anybody refused to provide all relevant information, the Committee did not have the power to put additional pressure or to take any action (interview Dhun-gana in INSEC 1999, 12). Still, regarding the seven disappearances in relation to the 1985 bombings, the Committee received documentation on detention facilities, records of the detainees, and had access to police officers who had been in charge of detention centres from where people had disappeared.

Hiranya Lal Shrestha notes the role of Basudev Dhungana, one of committee members who had been a Minister during the Panchayat regime, as one factor for state officials being ready to attend the requirements by the Committee. He stated, 'Dhungana was former Minister and he had very good rapport. Even CDOs [Chief District Officers], Police Chiefs could communicate with him' (personal interview Shrestha, 2015).

Committee member Dr. Pahari explained how his prior role as a palace doctor gave him an advantage when meeting key figures. He recalls,

When we gave reasons, why we wanted to meet (...), they might hesitate to come out with 100 per cent truth. This was the reason why D.B. Lama [former Inspector General of Police in 1985 who at the time of the inquiry was imprisoned on the basis of corruption charges] called me for a second time. He thought he had not vomited out sincerely in front of the group, so he sent a message he will come out with more truth if he could see me one-to one (personal interview Pahari, 2014).

Nevertheless, the Committee on Disappearance did not have access to the palace or the Nepal Army. Sushil Pyakhurel who supported the Committee's work, remembers, 'everybody would say: yes, it happened but we got [an] order from above. What is above? Above means the King, but we didn't have access [to him]' (personal interview Pyakhurel, 2014).

### **Findings in the Final Report**

On 21 April 1991, the Committee on Disappearances submitted its report to the interim government. The Committee registered a total of 205 cases of disappearances. It investigated 61 cases. In 35 out of 61 cases, the investigation was completed. In 26 cases, the investigation was still pending at the time the report was submitted to the government, on 21 April 1991.

The Committee classified 61 disappearances into 5 groups: (a) 9 persons who were disappeared during confrontation with the army or disappeared after being arrested by the army; (b) 14 persons disappeared who were involved in political activities, but who could not be confirmed that they were arrested by security forces at the time of their disappearance; (c) 5 persons had disappeared and found to have died; (d) 26 persons that include those whose information were received too late to undertake detailed investigation and those whose cases remained incompletely investigated due to inadequate support; and (e) 7 persons who were arrested and disappeared during the 1985 bombings.

Although the Committee's report discussed all these categories of cases, it mainly focused on the seven disappeared in relation to the 1985 bombings. Half of the report (page 5–65) refers to 54 cases of disappearances with very little detail, sometimes only a few lines. The other half of the report (page 65–129) examines thoroughly the seven disappearances linked to the 1985

bombings. The second volume of the report provides testimonies and documents related only to these seven dis-appearances.<sup>2</sup> In short, it would seem that Committee members decided to focus their investigation on the seven disappearances.

### **The Findings on the seven**

The Committee's report disclosed new facts and evidence surrounding the enforced disappearances of these seven detainees. It demonstrated the seven had been arrested by state agents. It also traced and documented how they were moved from one detention centre to another until the last place where they were kept without evidence of release. The report presents evidence obtained from fellow detainees that some of the disappeared had been severely tortured while in detention. Further, the Committee found that the police had forged the signature of one of the detainees on a document showing his release as well as the signature of a police officer who allegedly acted as a witness to the release. S.K. Pahari, former Committee member, recalls,

It was very difficult to take the truth out because maximum what you can do is trace. The seven were taken from here to there and from there no one knows what happened. We could trace them, but not to get the final answer (personal interview Pahari, 2014).

The report did speculate with their fate by concluding 'that a decision regarding these persons must have been made at a high-profile policymaking and implementation level and that these persons must have experienced the same results' (Final Report of the Committee on Disappearances 1991, 129). While not stating that the seven had been killed, the report did refer to the practice by security forces of killing politically active citizens. Others had previously referred to the existence of anti-national elements elimination committees integrated by ex-servicemen to eliminate opposition during Panchayat (Baral [1977] 2006, 62). The report states,

During the Panchayat era, there was a custom for the government's agents to secretly kill people who were involved in politics that was opposed to the state power; to arrest and disappear them; and to destroy proof and evidence (Final Report of the Committee on Disappearances 1991, preface).

The report did name police officers under whose command those who had been detained disappeared as well as administrators at the zonal and district levels. Due to lack of publicity of the report, the fact that perpetrators were named did not entail any real accountability.

### **Follow up to the Committee's findings**

After the submission of the report by the Committee, the interim government did not take any action. As one of the committee members expressed,

We submitted it to the Prime Minister. The Prime Minister sent it to the Home Minister, and that was it; no action was taken thereafter. The government did not send the report to the Attorney General for further actions (inter-view Dhungana in INSEC 1999, 15).

Another former committee member recalled,

We were ready to make the report public and call a press conference. All of a sudden it was postponed. We never had a press conference. It was the duty of the government to call a press conference and make it open [to the public]. [That the report] was incomplete, that was the pretension they [the government] put forward [not to release it to the public]. We had the answer, but it never came to the public (personal interview Pahari, 2014).

Despite the efforts by committee members, the report was not published. As a former committee member stated,

We put a lot of pressure [on the government] to bring this report before the general public. We even issued press statements. We provided information for the public through that press statement. But still, no other additional information other than that was made public (interview Dhungana in INSEC 1999, 15).

Significantly, there was no pressure by civil society or human rights groups to compel the government to publish the report or to take action against those named in the report. Sushil Pyakhurel, who supported the Committee, gives two reasons for not putting pressure after the report was submitted: '[first] the priority was to cultivate a weak democracy; and, second, civil society was weak at the time' (personal interview Pyakhurel, 2014). Those interviewed in relation to the Committee appear to agree that one of the reasons for the lack of interest by the media was the fact that on 21 April 1991, at the time of the submission of the report, Nepal was already in election mood. Political parties had started campaigning for the 12 May elections, the first democratic elections since 1959.

However, lack of pressure from civil society to the government to publish the report needs to be framed within the compromised nature of the 1990 transition from Panchayat to multiparty democracy. The 1990 movement ended in a compromise which included the King and his people and this compromise was designed to bring about a mutual reduction in risks; consequently, the guilty could not be punished because they were party to the compromise (Brown 1996, 148). This compromise was articulated in the November 1990 constitution that generally favoured the demands of the Democracy Movement but still reserved important powers and privileges for the monarchy (Hutt 1991, 1035).

In this context, publishing a report that named alleged perpetrators within the police and state officials also meant holding the Panchayat regime, and ultimately the King, accountable. Particularly, because those named were responsible for the disappearances in response to the 1985 bombings that had targeted the monarchy. According to the secretary of the Committee, in five of the seven cases, there was enough evidence to prosecute those responsible (personal interview Bhattarai, 2014). Radha Krishna Mainali, acting chairperson of the United Left Front during the Jana Andolan, stated that the Disappearances Committee report became controversial. According to him, 'the government hid the report and put it aside' (personal interview Mainali, 2015).

Importantly, this compromise also affected civil society and human rights activists, as they also had their political affiliation. Some of them were political party members. With the end of Panchayat and the ban on political parties lifted, these activists became officially political party members who had to follow the party discipline. Such party discipline was dependent on the compromise political leaders had reached with the king, which excluded any prospect of prosecuting figures from the previous regime (Fernandez Torne 2019, 37).

## Conclusion

The Committee on Disappearances is one of the less known TCs both inside and outside Nepal. The Research Note sheds light on the work of this Committee, the way it was established, who were its members, and its primary focus on investigating the disappearance of seven people who were detained in relation to the 1985 bombing. The article argues that the lack of any follow-up measure by the government to publish the report and to punish perpetrators needs to be circumscribed within the compromised nature of the 1990 transition from Panchayat to multiparty democracy. A compromise that also affected civil society and human rights activists, as they had their political affiliation and had to follow the party discipline. As a result, the whereabouts of those disappeared remain, still today, unknown.

Fast forward thirty-two years and thousands of Nepali families are no closer to knowing the truth of what happened to their missing loved during the decade-long armed conflict that ended in 2006. This time around, the Commission of Investigation on Enforced Disappeared Persons has made public a list of 2506 persons who were allegedly made disappeared, either by the state security personnel or the rebelling armed party. Still, the new Commission has failed to establish what happened to a single victim, and nobody has been held accountable. This time around, however, it is victims who persevere in their demands for a credible process to learn the truth of what happened to their loved ones. Fifteen years after the peace agreement, it is finally time for the government of Nepal to fulfil those demands.

## Notes

1. Documental sources were originally in Nepali language. Parts of book one and two of the Committee on Disappearances' final report (around 30,000 words) and a written interview to a committee member were translated to English.
2. In the second volume, Annex 1 includes 39 documents under the heading 'Statements and responses provided by former and incumbent police officers and other officers in the context of 1985 bombings.' Annex 2, 43 documents under the heading 'Important statements, affidavits and responses relating to individuals in the context of 1985 bombings.' Annex 3, 22 documents under the heading 'Important documents.'

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## **Appendix. List of people interviewed**

1. Bhattarai, Ananda Mohan. Secretary of the 'Committee to investigate persons disappeared in the course of restoration of democracy'. 9 April 2014, Kathmandu.
2. Mainali, Radha Krishna. Acting chairperson of the United Left Front, during the People's Movement. 25 March 2015, Kathmandu.
3. Pahari, Sachche Kumar. Member of the 'Committee on to investigate persons disappeared in the course of restoration of democracy'. Royal physician and President of the Nepal Medical Association in 1990. 10 April 2014, Kathmandu.
4. Pyakhurel, Sushil. As a member of the Forum for the Protection of Human Rights (FOPHUR), he collaborated with Prakash Kafle, one of the members of the 'Committee to investigate persons disappeared in the course of restoration of democracy'. 16 April 2014, Kathmandu.
5. Shrestha, Hiranya Lal. Member of Parliament from Mawanpur in the first Parliament 1991. Chairperson of the Foreign Affairs and Human Rights committee of the House of Representatives. 26 March 2015, Kathmandu.