

SPECIAL REPORT



NEPAL PROTEST & REPRESSION

STATE RESPONSIBILITY FOR 37 KILLINGS
DURING PROTESTS IN TERAJ

FROM AUGUST 2015 TO FEBRUARY 2016

Asian Human Rights Commission (AHRC)
Terai Human Rights Defenders Alliance (THRDA)



NEPAL: PROTEST & REPRESSION
*Special Report on State Responsibility for
37 Killings During Protests in Terai*

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PREFACE

The focus of this report is on the use of force by the Nepal Government against protestors during the period from August 16, 2015 to February 5, 2016 in the context of demonstrations against the Constitution passed on 20 September 2015. The Terai Human Rights Defenders Alliance ('the THRD Alliance') in close consultation with the Asian Human Rights Commission (AHRC) monitored these protests from the beginning to the end through the participation of regional THRD Alliance members based in Tikapur (Kailali), Birgunj (Parsa), Janakpur (Dhanusha), Jaleshwar (Mahottari), Rajbiraj, Bhardaha (Saptari) and Rangeli and Dainiya (Morang) districts. Based on credible eyewitness testimony and relevant documentary evidence and a detailed analysis conducted by AHRC and THRD Alliance, the report concludes that the Nepal Police (NP) and Armed Police Force (APF) engaged in a consistent pattern of excessive use of force, resulting in the deaths of 34 people; three others died in situations where the police could have intervened to stop their killing by counter-protesters, though more investigation is needed.

In two incidents on August 24, 2015 in Tikapur, Kailali district and September 11, 2015 in Bhagawanpur, Mahottari district, individual protestors were responsible for the deliberate killing of 8 NP and one APF personnel respectively. The AHRC & THRD Alliance condemn these killings in the strongest terms.

We demand independent investigations, prosecutions, and reparation measures as required by law, and urge the Government to fulfill its obligation to address the long-identified institutional and systemic problems that lead repeatedly and tragically to the unnecessary loss of life and the arbitrary restriction of civil and political rights. We present recommendations at the conclusion of the report with the intention of contributing constructively to institutional reform and accountability. These measures have repeatedly been called for by the AHRC and THRD Alliance, by other non-governmental organizations, by the NHRC, and by the United Nations, since similar patterns of excessive use of force were reported during the April 2006 Jana Andolan and after the Madhes Andolan of 2007.

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Abbreviations

AHRC – Asian Human Rights Commission

APF - Armed Police Force

ASI – Assistant Sub-Inspector

CA - Constituent Assembly

CDO - Chief District Officer

CPN-UML - Communist Party of Nepal- United Marxist Leninist

DSP- Deputy Superintendent of Police

FSF-N - Federal Socialist Forum - Nepal

NC - Nepali Congress

NP - Nepal Police

OHCHR - Office of the High Commissioner for Human Rights

RPP-N - Rastriya Prajatantra Party-Nepal

SP - Superintendent of Police

SSP - Senior Superintendent of Police

THRD Alliance - Terai Human Rights Defenders Alliance

UCPN-M - Unified Communist Party of Nepal- Maoist

UDMF - United Democratic Madhesi Front

UN - United Nations

VDC - Village Development Committee

YAN- Youth Association of Nepal

Executive Summary

This report assesses the use of force by the Nepal Police (NP) and Armed Police Force (APF) during protests that occurred between August 16, 2015 and February 5, 2016 across the districts of the Terai. The protests occurred largely under the umbrella slogan, “Now or Never”, and challenged the legitimacy of the constitution approved on September 20, 2015. The focus on the use of force is important because it has long been identified as a systemic and institutional problem in Nepal. In spite of exhaustive investigations and detailed recommendations regarding the police excessive use of force during the April 2006 Jana Andolan and later Madeshi Andolan of 2007-08, this report concludes on the basis of credible eyewitness testimony and other documentary evidence that these systemic problems have not been addressed. The THRD Alliance and Asian Human Rights Commission (AHRC) conclude that the result of this failure was a repetition of longstanding patterns of excessive use of force, resulting in the deaths of 34 protestors and bystanders.

Overall chronology

The Terai protests can be divided into two phases, beginning on August 16, 2015 and then, in a second phase, from September 23, 2015 until 5 February 2016. Protests mainly took place in Tikapur (Kailali), Birgunj (Parsa), Janakpur (Dhanusha), Jaleshwar (Mahottari), Rajbiraj, Bhardaha (Saptari) and Rangeli and Dainiya (Morang) districts with most of the protest-related killings occurring in these places.

On August 23, 2015, the Chairperson of the Constitutional Drafting Committee, Krishna Prasad Sitaula, tabled the first draft of the proposed new constitution in the Constituent Assembly (CA), as the Constitution Bill of Nepal. After clause-wise discussion, the CA approved the new text on September 16, and the President promulgated the new constitution on September 20.

On September 23, 2015, as the public demonstrations against the new constitution escalated across the Terai, some protesters began to blockade border entry points with India, marking a second phase. The border blockade ended on February 5, 2016, following increasingly polarized debate nationally and locally about the impact of the blockade and the demands of the protestors.

Twenty-seven out of the protest-related deaths occurred before the border blockade as the government declared one area after the other (including parts of the East-West Highway) to be a zone prohibited from protesters. As the protesters defied those zoning restrictions, the government imposed a series of curfews in these areas. The demonstrators defied the imposition of prohibited areas and curfews, leading to clashes with the NP and APF.

The nature of the protests

Protesters vandalised property of some lawmakers and their relatives in the Terai including the house of the elder brother of senior NC leader, Bimalendra Nidhi, in Janakpur on February 2, 2016.

Most demonstrators viewed the UDMF as the main leading political force during both phases of the protest. While spearheading the movement, however, the UDMF was concerned about the dangers of communal fallout and urged its followers not to do anything that could create communal hatred or communal conflicts in the country. Apart from the killing of three Madhesi men by a mob in Rupandehi in August 2015, the AHRC and THRD Alliance are unaware of the targeting of any other individuals, whether of Madhesi or hill origin. Media reports and public statements by government and civil society actors reveal a protracted failure of dialogue as well as a willingness of some actors to exploit this divide for personal, political and institutional motives.

While the NP and APF were responsible for many human rights violations during the protests, protesters were also responsible for serious violence, including for the killings of police personnel in Kailali and Mahottari districts. On August 24, 2015, eight police personnel, including SSP Laxman Neupane, were brutally killed by the protesters in Kailali. There is a continuing confusion as to who shot dead a 2-year-old child on that day.

On September 11, 2015, APF Sub Inspector Thaman Bahadur Bishwakarma was dragged by a mob from a moving ambulance and brutally killed in a field in Bhagawanpur, Mahottari district.

In total, 59 people may have died directly or indirectly related to the protests. This report only focuses on the killings in the Terai where evidence of state responsibility is incontrovertible.

The killings of police by mob violence attracted national and international condemnation and notoriety and are still the subject of a police investigation. No other incidents of these kinds occurred during the 160 days of protest. THRD Alliance and AHRC investigations indicate that these killings angered and provoked the police personnel in the eastern and central parts of the Terai and became an improper factor in the way force was deployed against protestors.

Use of Force by Nepal Police

The focus of this report is on State responsibility for the use of force, which is governed by the Constitution of Nepal and by applicable international norms. Applying applicable international UN standards of policing to this evidence, the report concludes that in 34 cases there is substantial and convincing evidence that the NP and APF responded with unnecessary and disproportionate force in reaction to stone throwing or other minor levels of violence by protestors.

The basic principle is that lethal force is permissible only in response to a specific and imminent threat to life. While this threat from armed protestors clearly existed in the case of the murdered police officials in Kailali and Mahottari, the THRD Alliance and AHRC investigations found no evidence of this threat in the cases of 34 protestors investigated. In each of these cases, the evidence shows that there were alternatives to the use of lethal force.

The 34 cases of police killings in this report can be divided into three groups: in only 4 cases (11%) those killed challenged the police authority; in 12 cases (33%), those killed were peaceful protestors and in a staggering 18 cases (51%), those killed were not involved in the protests and were mere bystanders or people killed in their houses in the surrounding areas of protests. The three other cases have been included as evidence suggests that the police chose not to protect those killed from a mob attack.

Applicable norms do not permit police to use lethal force in response to an abstractly perceived threat to life: it must be sufficiently specific, identifiable, and imminent. The enormous power given to police is constrained by this principle under Nepal's Constitutional guarantee of the right to life and by international human rights obligations. To the extent it is institutionalized and officials made accountable, this principle protects civilians from the abuse of power while also empowering police officials to defend and protect civilian life and instill public trust.

The victims of indiscriminate police firing which killed many bystanders include Ranjana Singh, Binod aka Bindu Kumar Lacaual, Nandani Pandey and 4-year-old Chandan Patel. Those deliberately killed while they were already under police control include 15-year-old Nitu Yadav, Sanjay Chaudhary, Hifajat Miya and Mohammed Sams Tabrez. Police deliberately and summarily killed them while lying injured, hiding in a bush or behind a wall, or running away. Of the 34 protesters killed, 89% were wounded in the head or thorax, contrary to the Local Administration Act, which requires police to aim below the waist.

In addition, in eleven cases, the NP and APF obstructed the efforts of family members and others to transport the victims to hospital (including Rajiv Raut, Raj Kishor Thakur, Nandini Pandey and Dilip Sah).

To date, not one member of the security forces responsible for these serious human rights violations is known to be under investigation, let alone being prosecuted - once again reconfirming the deep-rooted problem of impunity in Nepal. The AHRC and THRD Alliance are also concerned that the NP leadership was not sufficiently capable at an institutional level to anticipate and prevent targeted reprisals by its personnel against members of the Tharu community and protestors more generally. One of the most important lessons learned from this and other incidents of police use of force is the need to ensure that in all cases, lethal force is used solely on the basis of a professional judgment of a specific and imminent threat to life. Police use of force must never be motivated by revenge or other external motives that can only lead to a loss of innocent life and public trust, the demoralization of professional officers and their leadership, and the exacerbation of the risk of violent clashes.

Recommendations to the Government of Nepal

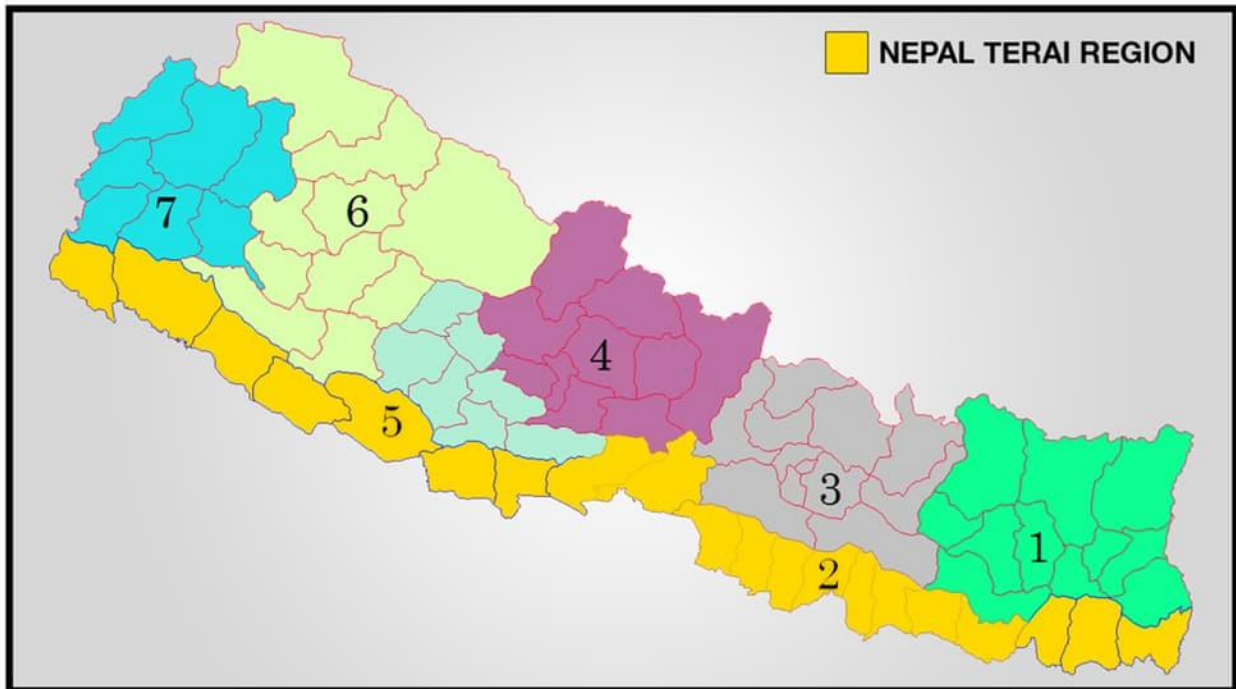
The Government of Nepal has made arrests in the killings of police personnel in Kailali and Mahottari but despite call for probe into the killings in the Terai by the National Human Rights Commission (NHRC) and national and international human rights organisations like Amnesty International, Human Rights Watch, the International Commission of Jurists, AHRC and THRD Alliance, the government has not instituted an independent investigation yet. An end to impunity is necessary to protect human rights and therefore, the government must form a commission without delay to carry

out an independent probe into the protests-related killings. The government must also ensure that its actions are not aimed at silencing dissenting voices and needs to ensure that all those arrested are given a fair trial.

The state is liable to investigate all these killings but none of the state organs are taking actions towards that end. Such lack of accountability on the part of the government gives an impression of complete impunity where prosecutions against the powerful and security officials are almost impossible. Had the government formed a commission to independently probe into the killings of 2007 and 2008 Madhes movement and had the perpetrators of rights violations been brought to justice, such serious violation of human rights might not have occurred this time. This means if no action is taken against the perpetrators of recent serious human rights violations, it could only encourage perpetrators to commit more violations of human rights in the future.

Impunity remains rampant in Nepal and there is every possibility that those responsible for these extrajudicial killings will never be brought to justice. It has been 10 years since the CPA was signed and yet nobody - neither any Maoist cadre, nor any security official who may have been responsible for human rights violation during conflict, has been punished for the crime(s) they might have committed. The Supreme Court of Nepal has asked the Government of Nepal to revise the TRC Act but the government has not done so yet. As long as impunity prevails like this, the human rights of all-Nepalese - whatever their background - cannot be guaranteed.

Map showing the 7 provinces as defined in the constitution



Methodology

THRD Alliance in close consultation with AHRC conducted research between September 20, 2015 and February 27, 2015 in the Terai districts, including Kailali, Parsa, Dhanusha, Mahottari, Saptari and Morang, where most of the reports of human rights violations during the protests involved use of lethal force.

AHRC and THRD Alliance deployed its local human rights defenders who monitored the protests. In some cases, where they could not do so, they deployed their monitors to the sites after the protests to investigate into police's use of force that resulted in deaths and injuries or where protesters killed security personnel. THRD Alliance and AHRC interviewed witnesses, local people, journalists, human rights activists, security personnel, victims' families and medical staff who had treated the victims.

THRD Alliance and AHRC conducted several interviews on the same incident to verify the details of protest-related deaths and applied force by the police. They also collected videos that were shot by locals during the protests. The videos were reviewed to verify the accounts of eyewitnesses and local residents. No monetary or other incentives were offered to anybody for providing information. The identities of the eyewitnesses and other persons who provided information were kept confidential as per the request of these individuals. Their names have not been included in the report.

AHRC and THRD Alliance interviewed security personnel as far as possible. In addition, they collected postmortem reports from hospitals in various districts. However, THRD Alliance and AHRC failed to collect postmortem reports in some places mainly due to non-cooperation of hospital staff.

Standard of Proof

This report in general adopts a 'balance of probabilities' approach to present its findings. On this standard, unless there is sufficient evidence (at least 51% probability) to state that "it is reasonable to conclude", AHRC and THRD Alliance have not drawn a conclusion. Where it is not reasonable to make a conclusion, THRD Alliance and AHRC may nonetheless state that there is significant evidence so that "it may be reasonable" to make a particular conclusion. For more serious conclusions, particularly where we are investigating whether the findings show a pattern that constitutes a state policy, we have applied a higher standard, requiring that the

evidence “**is very clear**” (at least 60% probability), with more evidence in favour of the conclusion than against. In many cases, our level of confidence is even higher, allowing it to report overwhelming evidence (at least 80%) that does not rise to ‘proof beyond a reasonable doubt’ but does allow us to say that the evidence is “**highly convincing**”.¹

¹ Stephen Wilkinson (2011), “Standards of Proof in International Humanitarian and Human Rights Fact-Finding and Inquiry Missions”, Geneva Academy of IHL and HR (www.adh-geneve.ch/docs/Standards%20of%20proof%20report.pdf), p. 5.



Funeral procession at Birgunj Ghantaqhar © AHRC & THRDA

CHAPTER 1

BACKGROUND TO **THE PROTEST**

Chapter 1: Background to the protest

Writing a new constitution through a Constituent Assembly (CA) was a key element of the roadmap of the Comprehensive Peace Accord (CPA) signed between the government and the UCPN-M in November 2006. The first attempt from 2008 to 2013 failed as the UCPN-M and Madhesi parties on the one hand and the NC and the CPN-UML on the other remained deeply divided on some agendas of change including the issues of provincial boundaries. The NC and the UML rejected the UCPN-M and Madhesi parties' demand that provincial boundaries be demarcated on the basis of the reports of the State Restructuring Commission and the thematic committee of the CA.

The NC and the UML refused to consider ethnic and geographical identity as one of the criteria for demarcating provinces while the Madhesi, Janajatis and the UCPN-M insisted on this as one criterion for the delineation of provinces.

The elections for the second CA were held in 2013. The NC and the CPN-UML emerged as the largest and second largest political parties in the second CA respectively.

Differences between the UCPN-M and Madhesi parties and the NC and the UML continued to prevent the change process envisaged in the CPA. This included differences on the boundaries of the provinces and issues of proportional representation, citizenship, inclusion and representation based on the population.

In the aftermath of the devastating earthquake that struck Nepal on April 25, 2015, the UCPN-M broke away from the coalition of the Madhesi and Janajati parties. It allied itself with the NC and the UML in June 2015 to fast track the constitution-making process. The Madhesi Janadhikar Forum-Democratic, a constituent of the opposition alliance, also joined this alliance. These parties signed a 16-point deal on June 8, 2015, which paved the way for a fast track constitution.

In the eyes of many Madhesis, this agreement threatened to postpone the question of federalism. The Supreme Court in response to a writ filed jointly by Madhesi activists Vijay Kant Karna and Rita Sah stayed the implementation of the 16-point agreement. A bench of Justice Girish Chandra Lal passed the order on June 19 saying that a constitution without names and borders of the states will be against Articles 82 and 138 of the Interim Constitution.

After this order, the parties included six provinces in the first draft of the constitution.

People in Surkhet and Kailali protested against this delineation of six provinces forcing the major parties to amend the first draft and change the six provinces to seven. Yet, Madhesis and Tharus remained frustrated at their own demands not being met and continued their protests over the issues of provincial boundaries, inclusion, and representation by population and proportional representation.

The main reasons for the continuation of the protests were the following:

1. Madhesis and Tharus wanted only two provinces in the Madhes but the proposed demarcation of the boundaries put the districts of Morang, Sunsari, Jhapa, Chitwan, Kailali and Kanchanpur as part of hill provinces.

Madhesi and Tharu groups argued that the seven-province model rejected the agreements that the State had signed with them and ignored the relative population densities in those districts.² Madhesis and Tharus believe that since the above districts are in the area of Terai/Madhes, they should remain in the Terai provinces while the major parties (particularly the NC and the UML) argued that if Terai areas were not included in hill areas, it could divide people along communal lines.

2. The dilution of commitments to affirmative action to increase representation in state organs was a second factor. There were only seven clusters for reservation in the interim constitution (including Madhesis, Janajatis, Dalit and women). In the new constitution, these clusters have been increased to 17 (the first amendment to the constitution brought it down to 15 as 'youths' and 'adivasis' were dropped from the clusters), which in practice means no community would be able to benefit from the provisions of affirmative action. Madhesi and Tharu forces say: reservation for everybody means reservation for nobody and hence they continue to demand further amendments to the constitution.

3. The new constitution proposes to grant citizenship by descent only if a person, at the time of acquiring citizenship, can prove that both the parents are the citizens of the country. It gives naturalised citizenship only to the children of Nepali women married

² People of hill origin constitute approximately 71 per cent in Jhapa, 52 per cent in Morang, 44 per cent in Sunsari, 85 per cent in Chitwan, 55 per cent in Kailali and 72 per cent in Kanchanpur.

to foreign men, but not vis-a-versa. The agitating parties say this will create statelessness, especially among the Madhesi community, within which trans-border marriages are very common.

4. Another major issue concerns the delineation of the parliamentary constituencies. The new constitution stipulates that the election constituencies would be demarcated every 20 years and geography and population would both be criteria for delineating electoral districts. The new constitution also says that each province will send eight representatives to the Upper House. Madhesi and Tharu forces oppose these provisions saying this will continue to dilute their strength in political structures of the country.

After the new constitution was passed, the UDMF decided to impose a blockade on the Nepal-India border customs points on September 23, the 43rd day of the protests. This blockade created an immense shortage of commodities and fuel in Kathmandu and other parts of the country. The Government of Nepal accused India of unofficially imposing a blockade on Nepal, an allegation India denied.

An amendment to the new constitution was passed on January 23, 2016 making population the primary consideration in constituency delineation and geography the second, while districts - to be contained within larger states - will each have at least one constituency. Madhesi parties and protesters claim this leaves too much for interpretation and ask why districts remain the basis for delineation of constituencies when they will cease to exist as administrative units.³

The role of districts in the new structure of the state remains unclear. Critics claim that the use of the term "geography" would not guarantee the Madeshis the electoral districts in proportion to their population. The main parties argue that this means the Terai would get almost 79 out of 165 first-past-the-post seats in the Parliament but according to some analysts, the Terai would not get more than 70-71 seats.⁴

Furthermore, Madhesi parties strongly oppose the delineation of constituencies every 20 years. They argue that since the continuous migration pattern shows that people from the hills migrate to the Terai areas, the gap of 20 years in delineation of

³ See, Dipendra Jha, "Tarai will get 71 seats, not 80, even after amendment", <http://www.madhesiyouth.com>, February 16, 2016.

⁴ The present parliament has 601 seats and the next is to have 275.

parliamentary constituencies would again deprive the Terai region of its representation because the population is expected to increase at a relatively higher rate in the Terai than the hills but the constituencies would remain the same for 20 years.

Terai protests

Protests broke out across the Terai but Kailali, Parsa, Mahottari, Dhanusha, Rupandehi, Saptari and Morang were at the centre. Many of the human rights violations described in this report occurred in these districts.

The agitating UDMF initially declared a general strike across the Terai on August 15, 2015 for three days, which it later intensified. This resulted in the crippling of the transport services across these districts. The government declared one after another areas as riot hit and prohibited zones under the Local Administration Act. In some places the government also imposed curfew such as in Kailali where a curfew was imposed after the killing of eight police personnel and one child.

In addition to the killings investigated by the THRD Alliance and analysed in detail in this report, there were several other incidents of possible deaths resulting from excessive use of force during this period, which are not included in this report. They are:

- the killing of three people in Surkhet district during protests organized against the six-province model of the draft constitution in August 2015.
- the killing of one protester in Jumla district in August 2015.
- the death of Shailendra Srivastav on August 24, 2015. He was attacked by a Pahadi mob with a *khukuri* in his chest, while trying to help his fellow protester Kanhaiya Kurmi in Rupandehi district on August 20. He got treated for his injuries in a private medical centre in Lumbini and left the hospital after he felt better. On August 24, he felt pain in his chest following which he was rushed in an ambulance to a Bhairahawa-based medical centre but he died on the way to hospital.
- the death of Radhika Devi Kathbaniya, 40, on December 18, 2015. She died while participating in a protest organized by the UDMF. The family members said that she died due to police's beating but the police said she died due to cardiac arrest.
- Chinku Chaudhari, a protester of Kailali died while returning from an agitation (no further details).

- Umesh Kapar, of Mahottari died on October 1, 2015 while participating in an UDMF-organized human chain protest programme, possibly due to heat stroke.
- Ram Nibesh Kushbaha of Parsa died on October 26, 2015 allegedly as a result of stones thrown at him by agitators. Other sources said he died in a motorbike accident.

In addition, a mob killed eight NP personnel in Tikapur, Kailali district on August 24, 2015 and ASI Thaman BK of the APF on September 11, 2015 in Bhagawanpur, Mahottari district. Another member of the APF, Kashiram BK, died on August 17, 2015 in Nawalparasi district when a bullet accidentally discharged from his own gun while running away from the agitators. He had sustained a bullet injury in his right thigh, and later succumbed. It is not clear who shot head constable Dev Bahadur Pandey who succumbed to bullet injuries in Bardiya district on September 4, 2015. Both protesters and police blamed each other for the incident.

CHAPTER 2



APF in action against unarmed protestors in Terai © AHRC & THRDA

LEGAL STANDARDS

Chapter 2: Legal standards

As set out in detail in the report by the UN High Commissioner for Human Rights in Nepal documenting the use of force during the 2006 *Jana Andolan*, a number of international principles and standards rule the use of force by security forces.⁵ Chiefly among them are the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.⁶

It has to be noted that these standards must be followed even during exceptional circumstances such as internal political instability or public emergencies.⁷ In addition, they apply to police as well as military authorities and other members of State security forces who exercise police powers.⁸

Use of force generally

When using force, law enforcement officials must act according to the principles of necessity and proportionality. The principle of necessity requires that law enforcement officials use force only when strictly necessary,⁹ and that they use non-violent means as far as possible before resorting to the use of force.¹⁰ Force may therefore be used only when nonviolent means remain ineffective or without any promise of achieving the intended result.¹¹

While the principle of necessity governs the circumstances under which force may be used, the principle of proportionality governs the actual manner in which force is used. The principle of proportionality requires that force be used with restraint, and only to the extent required.¹² The means and amount of any force, which is used, must

⁵ OHCHR-Nepal, *The April Protests. Democratic Rights and the Excessive Use of Force*. September 2006, available at http://nepal.ohchr.org/en/resources/Documents/English/reports/IR/Year2006/2006_09_21_OHCHR-Nepal.Report%20on%20The%20April%20Protests.pdf. This chapter draws in detail from the analysis presented in this OHCHR report (pages 10-13).

⁶ The Code of Conduct for Law Enforcement Officials (“Code of Conduct”), adopted by General Assembly Resolution 34/169, 17 December 1979; and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (“Basic Principles”), adopted by the Eighth United Nations Conference on the Prevention of Crime and the Treatment of Offenders, 7 September 1990. See also Amnesty International,

⁷ Basic Principles, Principle 8

⁸ Code of Conduct, Commentary (a) and (b) to Article 1 and Basic Principles, Note 1

⁹ Code of Conduct, Article 3

¹⁰ Basic Principles, Principle 4

¹¹ Basic Principles, Principle 4

¹² Code of Conduct, Article 3; Basic Principles, Principle 5 (a)

therefore be in proportion to the seriousness of the offence and the legitimate objective to be achieved.¹³ When using force, law enforcement officials must also minimise damage and injury, and respect and preserve human life.¹⁴

Use of firearms

In addition to the general principles of necessity and proportionality, law enforcement officials are subject to further requirements with respect to the use of firearms. Law enforcement officials may use firearms only in the following specific circumstances: a) in self-defence or in defence of others against imminent threat of death or serious injury; b) to prevent a particularly serious crime involving grave threat to life; or c) to arrest a person posing such a threat and who is resisting efforts to stop the threat, or to prevent his escape.¹⁵ In any case, firearms may only be used when less extreme means are insufficient and when their use is strictly unavoidable to protect life.¹⁶

Before using firearms, law enforcement officials must identify themselves as law enforcement officials and give a clear warning that firearms will be used. Further, sufficient time must be provided for the warning to be observed, unless this would unduly create a risk of death or serious harm to the officer or other persons, or would be clearly inappropriate or pointless in the circumstances.¹⁷

Use of force in public assemblies

Law enforcement officials must allow persons to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR).¹⁸ In dispersing assemblies, which are unlawful but non-violent, law enforcement officials must avoid using force, or where this is not practicable, must restrict force to the minimum extent necessary.¹⁹ In dispersing violent assemblies, law enforcement

¹³ Basic Principles, Principle 5 (a)

¹⁴ Basic Principles, Principle 5 (b)

¹⁵ Basic Principles, Principle 9

¹⁶ Basic Principles, Principle 9

¹⁷ Basic Principles, Principle 10

¹⁸ Basic Principles, Principle 12

¹⁹ Basic Principles, Principle 13

officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary.²⁰

In any case, firearms may only be used in the specific circumstances noted above, i.e., in self-defence or in defence of others against imminent threat of death or serious injury; to prevent a particularly serious crime involving grave threat to life; or to arrest a person posing such a threat and who is resisting efforts to stop the threat, or to prevent an escape.²¹

National norms regarding the use of force

The CDO has the responsibility for maintaining order, peace and security at district level and is the Chairperson of the District Security Committee (DSC).²² The committee also includes the Chief of the District Police Office (DPO), the Chief of the District Office of the National Investigation Department, the Chief of the APF local barracks and the Chief of the NA local barracks as members.²³

According to the Local Administration Act, the CDO must direct the police to prevent any gatherings, which are likely to result in a breach of order.²⁴ If the police are unable to prevent such a gathering, the CDO or a subordinate officer must go immediately to the site and try to persuade the crowd to stop.²⁵ If the crowd does not stop, the police may use force, including batons (*lathis*), blank shots, teargas and water cannon, as the situation may require.²⁶ If peace still cannot be restored, the police may open fire after receiving a written order from the CDO and after warning the crowd that they will be fired upon if they do not disperse.²⁷ However, if time does not permit the issuance of a written order, the CDO may issue an oral order, to be followed by a written order within 24 hours.²⁸ When opening fire, the police may only shoot at persons below the knee.²⁹ If there is a serious breach of law and

²⁰ Basic Principles, Principle 14

²¹ Basic Principles, Principle 14

²² Local Administration Act, Section 5 (5a)

²³ Local Administration Act, Section 6 (7)

²⁴ Local Administration Act, Section 6 (1a)

²⁵ Local Administration Act, Section 6 (1a)

²⁶ Local Administration Act, Section 6 (1)

²⁷ Local Administration Act, Section 6 (1b)

²⁸ Local Administration Act, Section 6 (1d)

²⁹ Local Administration Act, Section 6 (1b): according to international human rights standards, law enforcement officials may use firearms only in the following specific circumstances: a) in self-defence or in defence of others

order, which cannot be controlled by the police or if there is such a possibility, the CDO may request the assistance of the APF and the NA.³⁰ The CDO must inform the Regional Administrator and the Home Ministry within 24 hours of requesting such assistance.³¹

Neither the Police Act nor the Police Regulations contain any provisions on the use of force by members of the NP. Similarly, the Armed Police Act and the Armed Police Regulations do not contain any provisions on the use of force by members of the APF. However, the APF training manual includes a section on “principles on the use of force”. The manual states that the following principles must be applied when using force: 1) no use of unnecessary force; 2) no use of force in the form of punishment; and 3) use of force to be stopped once objective is achieved. The manual also provides a summary of the provisions of the Local Administration Act, according to which the CDO may order the APF to use force.

It is unclear whether the NP or APF have received any crowd control training. The United Kingdom and the United States have been providing assistance to the NP and APF respectively. It is not clear whether there is any human rights conditionality attached to their assistance.

against imminent threat of death or serious injury; b) to prevent a particularly serious crime involving grave threat to life; or c) to arrest a person posing such a threat and who is resisting efforts to stop the threat, or to prevent his escape.

³⁰ Local Administration Act, Section 6 (2)

³¹ Local Administration Act, Section 6 (2): the Regional Administrator may also inform the Ministry of Home

CHAPTER 3



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KILLINGS OF PROTESTORS AND BYSTANDERS

Chapter 3: Killings of Protestors and Bystanders - Data Analysis

Based on empirical findings, this chapter identifies patterns in the use of force by security forces. It presents a profile of victims and alleged perpetrators and the way in which lethal force was used during the almost six-month period of political protest between August 16, 2015 and February 5, 2016. It focuses on the question whether the State used force in compliance with its international and domestic legal obligations.

3.1 The Victims

THRD Alliance and AHRC's analysis shows that the large majority of the 37 people who were killed during the protests were young males between the age of 21 and 25. Among them are 5 women representing 14% of cases. Their average age is 30.

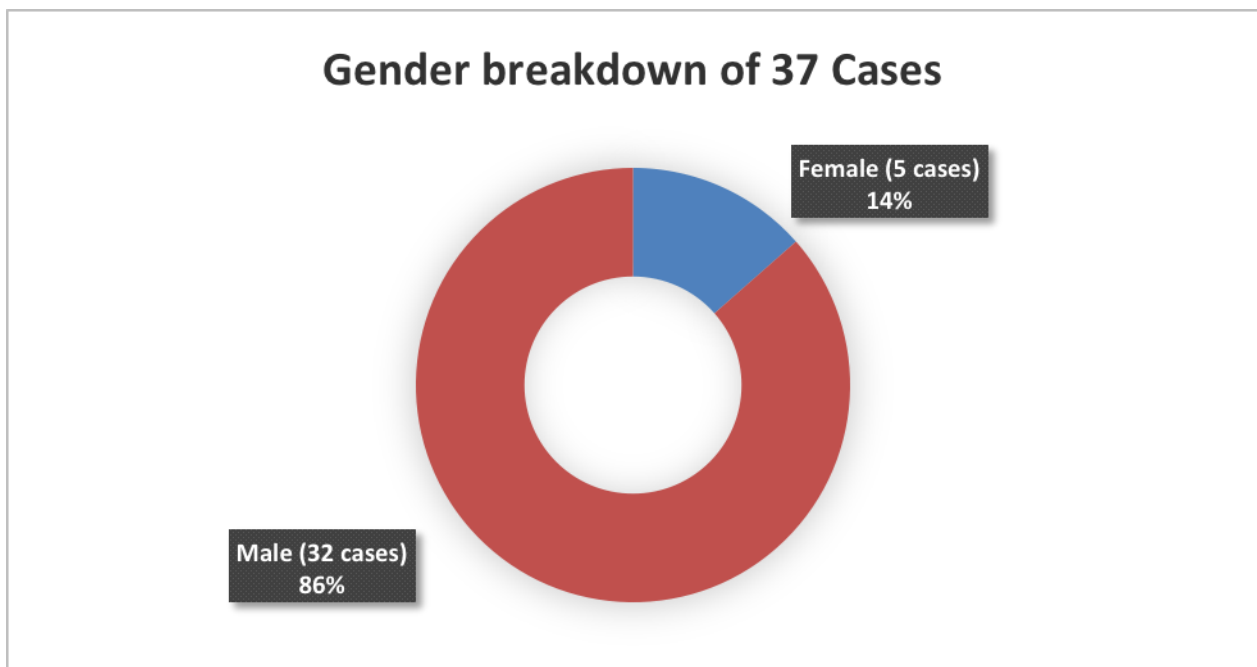
There are six children (16%) among those killed:

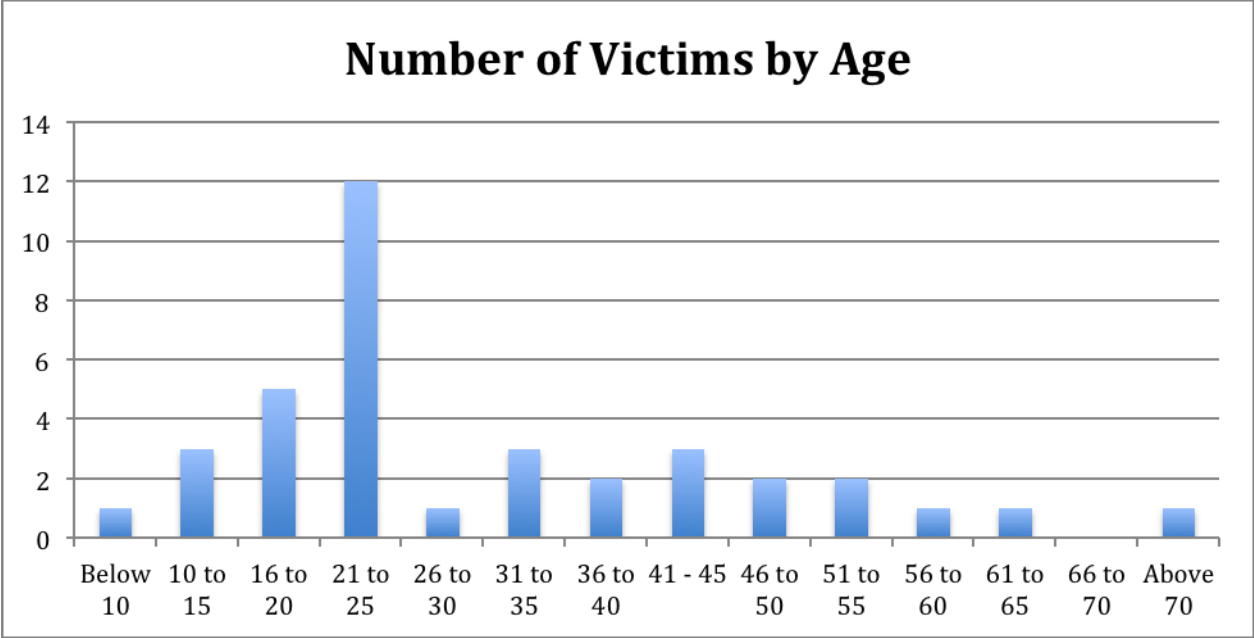
- 4-year-old Chandan Patel (Case 23 in Chapter 4) was killed when police indiscriminately opened fire at Bethari market on September 15, 2015.
- 12-year-old Ranjana Singh (Case 24) was killed in the same incident as Chandan Patel. She was inside her grandparents' house on the first floor preparing tea. As firing was going on outside in the market, Ranjana tried to watch from the window and a bullet hit her in her neck. She was killed on the spot.
- 13-year-old Dilip Yadav (Case 19) was killed while returning home on his bicycle in Janakpur, Dhanusha district on September 11, 2015. According to six eyewitnesses, police personnel shot at him from a moving van. The bullet hit him in the head, killing him on the spot.
- 15-year-old Nitu Yadav (Case 17) was deliberately killed by APF personnel who dragged him from a bush where he was hiding after taking part in protests in Janakpur, Dhanusha district on September 11, 2015 and summarily executed him.
- 16-year-old Mohamed Sams Tabrez (Case 34) was killed while taking part in student protests at Gaur, Rautahat district on December 20, 2015. Police kicked and beat him while he lay injured on the ground. He later died in hospital.

- 17-year-old Rohan Chaudhary (Case 13) was killed by police trying to disperse a protest while he was returning home from a tuition class in Jaleshwar, Mahottari district on September 9, 2015.

Five people over 50 (14%) were killed, including 71-year-old Ganesh Chaudhary (Case 21), a local resident of Bajarahi, Nawalparasi district and grandfather of 17-year-old Rohan Chaudhary, who was killed two days earlier. He was buying vegetables and tobacco in the local market on September 11, 2015. According to eyewitnesses, three vans with APF came from Jaleshwar and APF personnel started shooting in the air without any warning. This happened a few hours after APF ASI Thaman BK was killed by an unidentified mob (see Chapter 1). A bullet fired by the APF out of one of the vans hit Ganesh in the left eye. He died instantly.

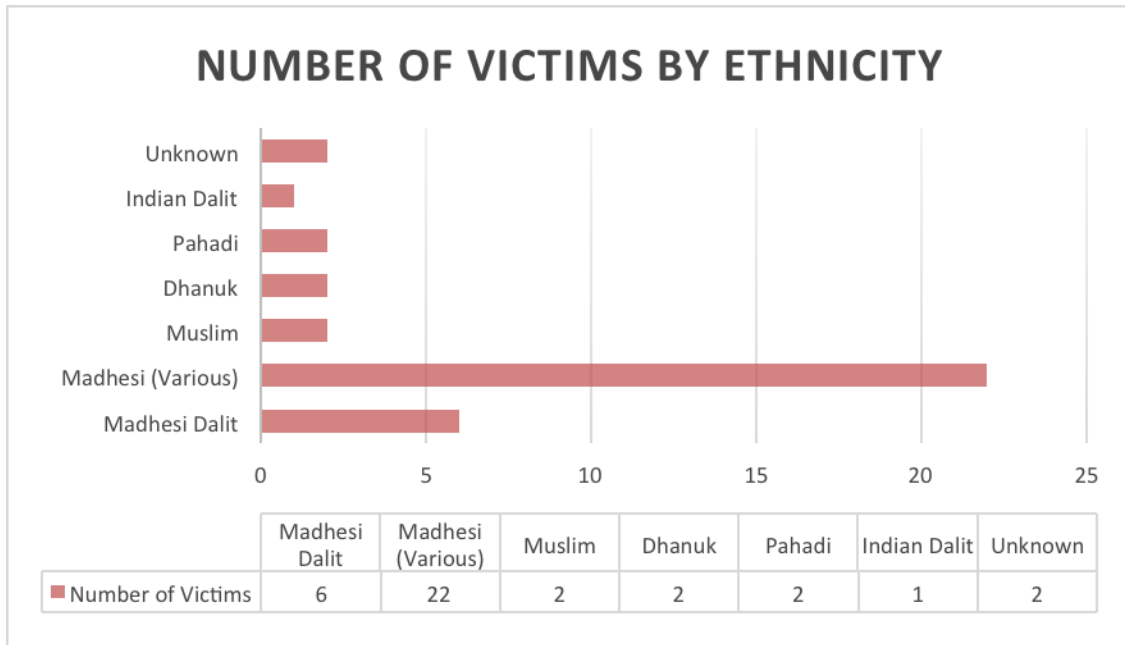
The graphs below show the gender and age profile of the victims.





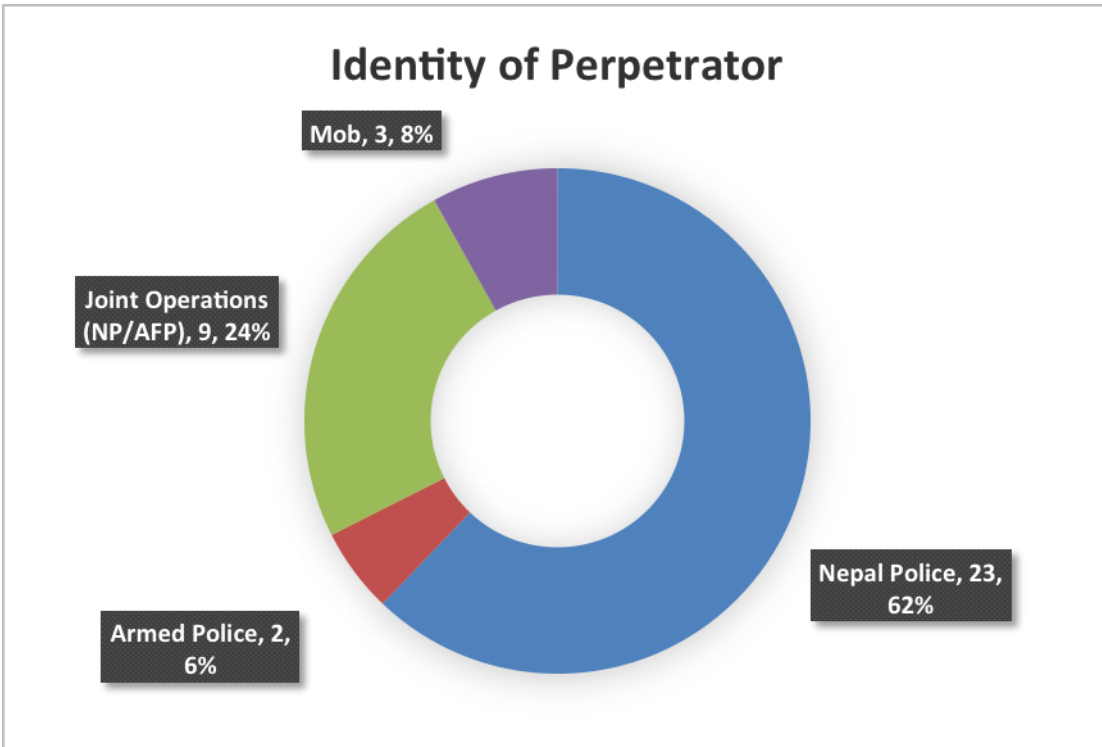
The majority of those killed were of Madhesi origin: 28 (75%), including six (16%) Madhesi Dalits. 2 of those killed were of Pahadi origin (5%). The Pahadi victims include 12-year-old Ranjana Singh, who was making tea on the first floor of her grandparents' house at Bethari, Rupandehi on September 15, 2015 (Case 24 in Chapter 4).

The graph below shows the number of victim by ethnicity.



3.2 The Alleged Perpetrators

In the majority of cases, witnesses have identified NP acting independently (23 cases) (62%) with APF personnel acting independently in two cases (6%) as being responsible for the killings. In 9 cases (24%), the NP and APF were jointly deployed and it was not possible to determine to which force the perpetrator belonged. In three cases, a group of counter-protesters were responsible for a fatal attack on demonstrators. In those cases, though more investigation is needed, it appears that the NP personnel present did not act to protect the lives of those who were attacked. (See Cases 3, 4 and 5 in Chapter 4).



3.4 Analysis based on International Standards on the Use of Force

THRD Alliance and AHRC conducted an analysis of the available evidence on the use of force by the NP and APF. As set out in the previous chapter, a decision by a law enforcement officer to use force must be:

- Necessary to achieve the lawful purpose; and
- Proportionate to the threat presented.

Lethal force can only be used if there is an imminent threat to the life of the officer or to others. When this threat level is not present, other levels of force are appropriate and subject to continuous assessment by trained officers in order to determine what is proportionate. The level of force can go up or down depending on the trained officer's continuous assessment regarding necessity and proportionality.

The following data is presented in order to determine whether these applicable norms were applied in practice in relation to the killings reported in this report.

Whether warnings were issued and whether law enforcement personnel resorted to lesser crowd control means before using lethal force

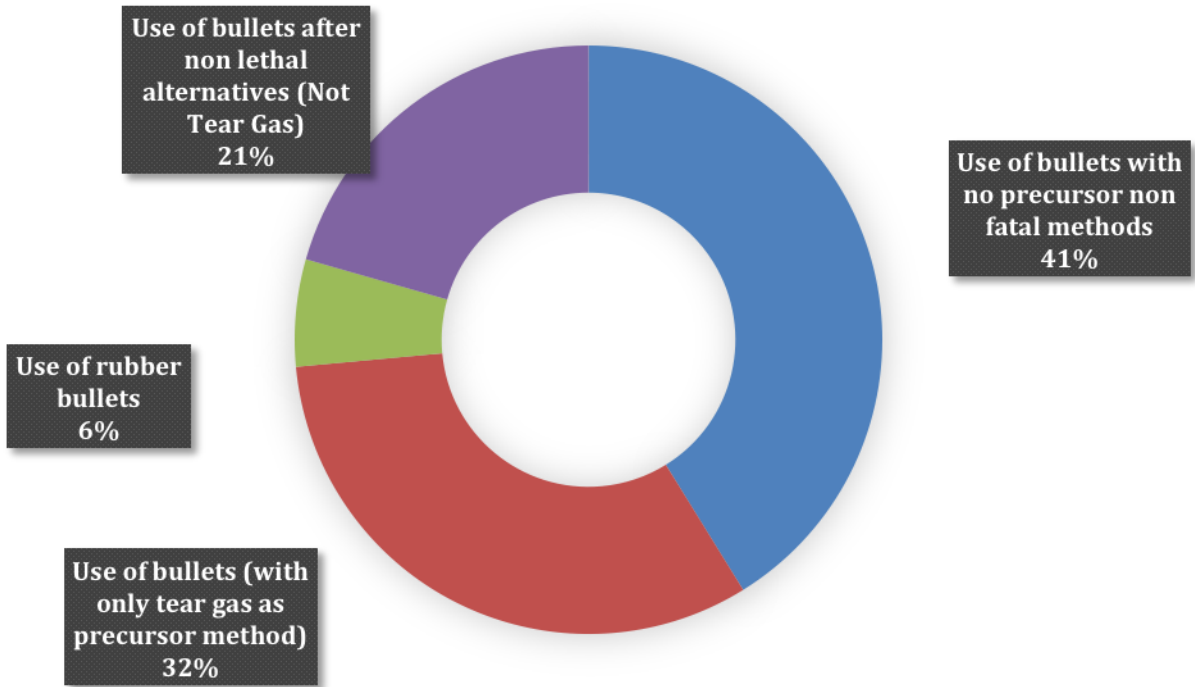
Police practice typically uses warnings in order to give protestors an opportunity to obey lawful orders and to avoid the further use of force by police. However, according to evidence gathered by THRD Alliance and AHRC, in 41% of cases, the NP and APF immediately resorted to live ammunition without previous non-lethal methods being employed and without there being a clear risk to life that could have justified the use of lethal force.

- In Rangeli, Morang district on January 21, 2016, APF and NP fired without warning into a crowd of UDMF protesters, killing three people.³² The group had gathered in protests against a UML event being organised there. Though the situation was tense with the UML supporters and UDMF protesters throwing stones at each other and being armed with sticks, it appears that the law enforcement officers resorted to tear gas and then lethal force without warning.

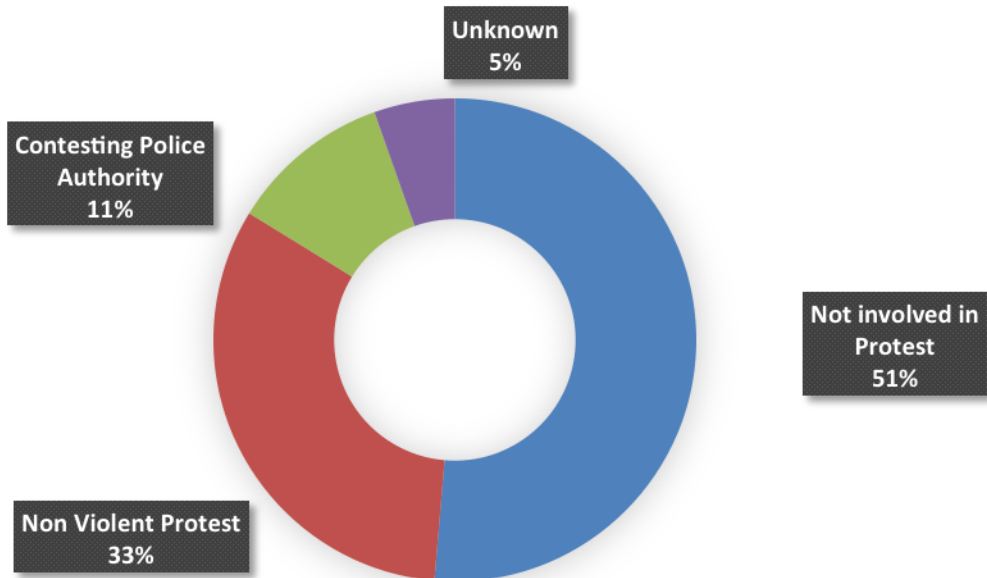
In 32% of cases, it is very clear that the NP and APF used teargas but soon after they resorted to live ammunition. In 100% of the cases where lethal force was used, it appears no warnings were issued.

³² See cases 35, 36 and 37 in Chapter 4.

Escalation of use of Force



Actions of Victim at Time of Fatal Incident



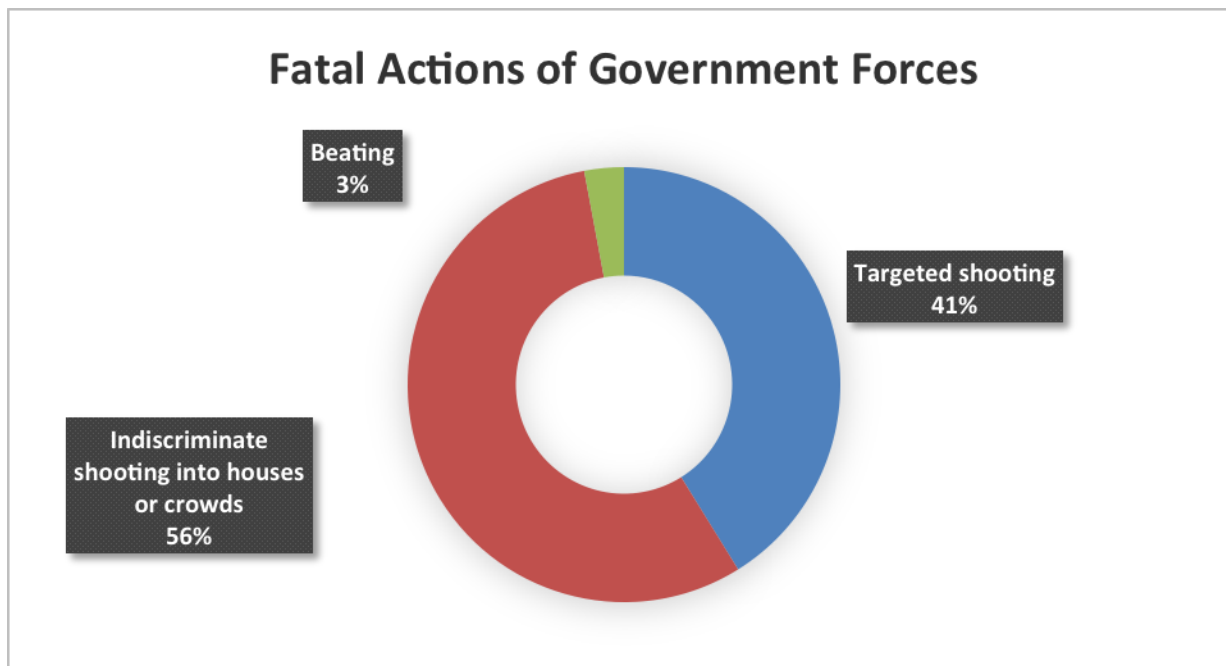
The actions of those killed at the time of the fatal incident shows that only 11% were involved in contesting police authority at the time when they were killed. This includes throwing stones or occupying a place against direct order of police.

In 12 cases (33%) those killed were protesters participating in a peaceful protest despite a curfew declared by the local authorities or using a route through a prohibited zone. Other victims tried to stop the police from escorting trucks past roadblocks they had erected, or they had plans to paint "Madhesh Sarkar" on the official boards of government offices. In one case, protesters were seen carrying symbolic wooden swords (Case 2).

A staggering 51% of those killed were not involved in the protests at the time of the fatal incident. This includes those watching the protests from afar and those that may have been a part of the protests but who, acting upon police violence fled and were shot during attempts to run or hide from the aggression from the government forces.

In not one of these cases is there compelling evidence however to suggest that the NP and/or APF were facing a situation where their lives or the lives of others were at imminent risk - the international human rights standard that would apply. THRD Alliance and AHRC were able to reach this finding with a high level of confidence.

The evidence suggests that the NP and APF personnel were under orders to use lethal force in the face of any resistance, regardless of whether it posed a threat to life. Their aim was lawful (to enforce curfews, enable transport, protect buildings and disperse crowds) but the means employed were unnecessary and disproportionate. As set out below the actions of the government forces at the time of fatal incident show 41% of victims were targeted whilst 56% of the fatalities were the result of indiscriminate shooting into crowds' marketplaces and houses.



Below we further elaborate on the three main ways in which the law enforcement personnel failed to uphold Nepal’s international human rights obligations.

Indiscriminate police gunfire into crowds of unruly and sometimes violent demonstrators

An analysis of the actions of the victims at the time they were killed shows that only in 4 cases (11%) the victim was involved in challenging the police’s authority.³³ Many of these protestors were challenging police authority by occupying a place that the police had decided to forcefully clear such as Nageshwar Yadav (Case 31) who was engaged in a protest on the highway when the police attempted to move protestors to make transportation through the highway easier. In his case, the police used tear gas quickly followed by live ammunition to move the crowd from that area.

Deliberate killings of individuals already under full physical control

The evidence is very clear that at least 14 cases of those killed (41%) were deliberately targeted. Below are three clear examples of such deliberate killings by the APF:

³³ See cases 35, 36 and 37 in Chapter 4.

- Fifteen-year-old Nitu Yadav (Case 17) and 43-year-old Sanjay Chaudhary (Case 18) were killed in Janakpur, Dhanusha District on September 11, 2015. On that day, the CDO Dhanusha had imposed a curfew in different parts of the city. Over 3,000 protestors marched defying the curfew shouting slogans such *chalu Janakpur, bharu Janakpur* (Let's go to Janakpur, Let's fill Janakpur). Police stopped them at Pidari Chowk, Janakpur. When the police prevented protestors from marching, the protestors began to throw stones at the police whereupon the police started to fire teargas canisters to disperse the crowd and then soon started to shoot. When the police fired shots indiscriminately at the protesters, Nitu Yadav ran away and tried to hide in the bush on the western side of the Mills Area. According to three eyewitnesses, 3-4 APF members chased him. The police then dragged him from the bush where he was hiding, threw him to the ground, and shot him in the head from close range, according to eyewitnesses. He died on the spot. Before shooting the child, police was heard saying, *thok m*** lai* (shoot this m*****). Police also kicked him and then left.
- Immediately afterwards, Sanjay Chaudhary was shot when he tried to flee after seeing the APF shoot Nitu Yadav. According to eyewitnesses, after the first bullet fired by the police missed Chaudhary, the police fired another shot hitting him in the back. The victim fell to the ground. He was taken to hospital where he succumbed to his injuries after half an hour.
- Dilip Yadav, a 13-year-old child, was returning home on his bicycle. There was no reason for him to believe that he was entering a prohibited area or that he was breaking curfew. According to six eyewitnesses, when a van carrying APF personnel passed Pidari Chowk, the protesters started to throw stones at it. Eventually, the van moved away and officers then shot Dilip Yadav from the moving van. The bullet hit him in the head, killing him on the spot.

On September 1, 2015 in Birgunj, Parsa District, NP personnel deliberately targeted Dharma Raj Singh (Case 10):

- He was leading a peaceful protest at a time curfew had been declared. As the protesters reached Ramraj bridge, the police started firing randomly, injuring one of the protesters in his leg. Dharma Raj Singh carried the injured man five feet south towards the bridge. Around 2-3 minutes later, a bullet hit Dharma Raj

Singh in his head. The bullet exited from the left side of Dharma Raj Singh's head and pierced the neck of Prajwal Tiwari. Dharma Raj died on the spot.³⁴

The NP has been implicated by eyewitness accounts in another six cases (Cases 6, 7, 10, 16, 17 and 18) of deliberately and lethally targeting protestors and bystanders. Among them were:

- Sohan Sah Kalwar (Case 7) who was involved in a protest at Birgunj on September 1, 2015 had fled the scene after police started to fire into the crowd. He was taking cover behind a wall. When he raised his head to assess the situation, police deliberately shot at him, hitting him in his left eye. He died instantly.
- In the case of Hifajat Miya (Case 11), a non-lethal injury from an apparently indiscriminate bullet caused him to stumble as he was running from police. After he fell, police surrounded him and one officer shot him twice in the chest from close range. He died on the spot.

Individuals taking no active part in demonstrations killed by indiscriminate police firing

A staggering 37% of those killed were not taking part in the protests at the time they were hit by a bullet and 14% had some involvement with the protests but had, at the time of the lethal action, fled the scene and were taking cover or hiding from police. AHRC and THRD Alliance is able to report this with a high level of confidence. Several examples illustrate this pattern:

- On September 15, 2015 at Bethari, Gonaha, Rupandehi District, APF and NP killed six people using indiscriminate firing. At around 5.15 pm, a group of around 40 protestors tried to stop the last three out of a total of 112 trucks being escorted by police. The police baton charged them whereupon the protestors hurled stones at the police. In response, the police lobbed 14-15 teargas canisters. Some protestors fled towards Chhapiya, north of Bethari Chowk and others towards Bethari village. At around 5.40 pm, some 150 APF personnel arrived and fired from the Tinau Bridge towards the local market, which is located at the distance of 15 meters to the south. Over 200 police consisting of both members of the NP

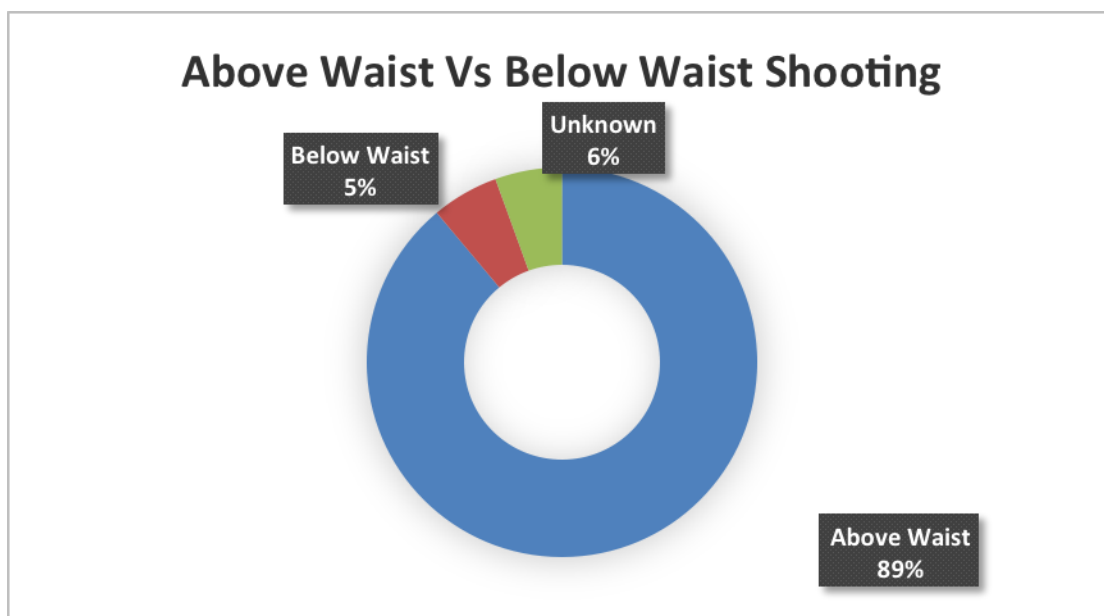
³⁴ See Case 10 in Chapter 4.

and APF fired indiscriminately towards the local market. They appeared to be firing in the direction of the market because they suspected that some of the protesters had fled in that direction. Among those killed were 52-year-old Nandani Pandey (Case 22) who was trying to close her grocery store and 4-year-old Chandan Patel (Case 23). Witnesses told THRD Alliance that all the people who were shot in the incident were innocent and had not been involved in the protests.

- Twenty-one-year-old Dilip Chaurasiya (Case 6) was killed while he was going to the market to buy vegetables in an area that had been the site of a protest and was controlled by police. He had waited until the area was calm to fetch vegetables. Police shot him in the back.

Analysis of Lethal Injuries Against National Legal Standards

As set out in Chapter 3, law enforcement personnel when using lethal force are expected to aim below the waist under Nepal’s Local Administration Act. However, in the overwhelming majority (89%) of cases investigated by THRD Alliance and AHRC, this was not followed. See chart below.



3.5 Denial of Medical Treatment

THRD Alliance and AHRC have also documented cases of law enforcement personnel kicking the injured, sometimes even as they lay unconscious,³⁵ refusing to call an ambulance,³⁶ not allowing members of the public to take injured persons to hospital or beating them for doing so.³⁷ THRD Alliance and AHRC were not able to verify this aspect in each instance, but in 11 cases (30%) the organisations found that law enforcement personnel blocked the area preventing the injured from being taken to hospital.³⁸ For example, when Nandini Pandey (Case no. 22) lay seriously wounded, police personnel did not allow movement of vehicles for some time creating obstruction in the treatment of the injured victim. She died later while undergoing treatment.

In one instance, the wife of Dilip Sah, a man shot by police in his home in Rajbiraj on November 22 was threatened not to go out. She nevertheless rushed her wounded husband to hospital. However, at that stage, the doctors were on strike against police misconduct against them. They assisted her to secure an ambulance to take Dilip Sah to another hospital, but he died on the way.³⁹

³⁵ See Cases 2 and 31 in Chapter 4

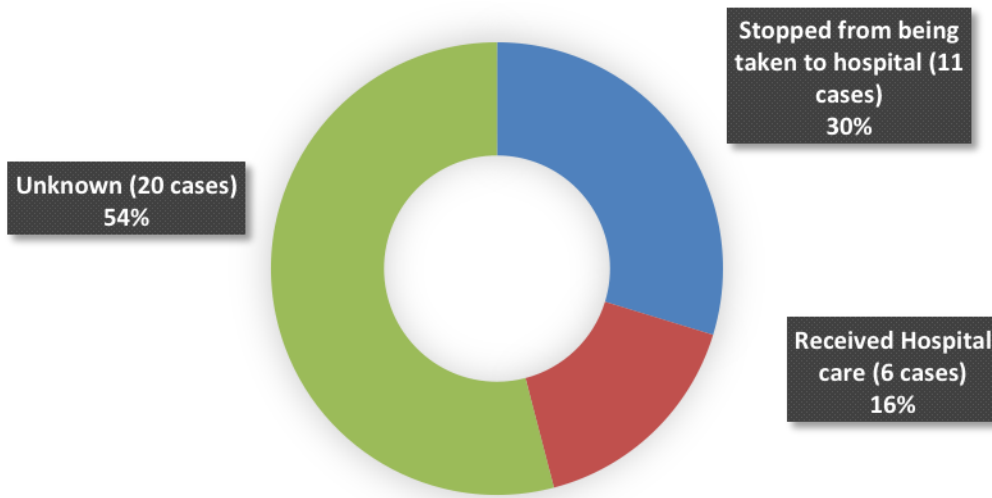
³⁶ See Case 8 in Chapter 4

³⁷ See Case 32 in Chapter 4

³⁸ See Case 1 in Chapter 4

³⁹ See Case 32 in Chapter 4

Prevention of Medical Treatment



CHAPTER 4



Relative of a victim at Birgunj © AHRC & THRI

CHRONOLOGICAL LIST OF CASES

Chapter 4: Chronological list of cases

Case 1: Rajiv Raut 32, resident of Bhardaha-1, Saptari killed in police firing on August 18

On August 17, 2015, tension ran high in Bhardaha. In the evening, the SPs of the NP and APF visited the FSF-N Central Committee member, Shailendra Shah, and FSF-N District Chairperson, Dinesh Yadav, who were leading the protest, and urged them to ease the strike so that 100-150 vehicles stranded in the areas could pass.

Normally the protesters were letting the vehicles pass at around midnight. The two leaders told the police officers that they would consult with their supporters and respond to them within an hour. The two police officers, however, kept telling them to ease the general strike imposed by them, which led to heated exchanges between the two sides. Some police officers vandalized the motorbikes of Yadav and Shah, which irked the protesters. They did not allow the vehicles to pass that evening.

On the next day, the protesters began to erect a tent at around 8 am on the road with the clear intention to block the road to enforce their general strike. At this moment, the police came to the spot and started beating the protesters with *lathis*. Thereupon a group of almost dozen protesters surrounded the police. Locals who felt humiliated by the police's aggressive behaviour called in people from the nearby villages to protest against the brutality of the police.

A large number of people gathered from villages and some of them threw stones at the police. Then a member of the NP without giving any warning opened fire with live bullets at the protesters. Rajiv Raut, who was killed in the police firing, was half a kilometer away from the protest place. He fell to the ground after receiving the first bullet in his chest. The police also blocked the areas preventing people from taking him to hospital.

Some of the bullets aimed at the protesters hit the nearby houses making holes in the roof, walls and other structures. A further ten people including some other bystanders were injured in the firing. Vijay Thakur, who did not take part in the protest, also

sustained a bullet injury in his foot. A policeman beat up FSF-N youth leader, Ashok Yadav, when he was being transported to hospital in an ambulance.

Case 2: Raj Kishor Thakur, 21, resident of Mahuliya-6, Rautahat killed in police firing on August 24

On August 24, 2015, protesters gathered in Gaur, Rautahat to oppose the proposed seven-province model. According to local residents, the demonstrators had decided to paint "Madhesh Sarkar" on the official board of the government offices. A large number of women participated in the demonstration carrying symbolic "swords" (made of wood). According to eyewitnesses the protest remained peaceful until 4 pm when suddenly, without any warning, the police started to beat the protesters with batons and fired rubber bullets and live ammunition at the protesters. Over 65 protesters sustained injuries from rubber bullets and baton charge. Five women protesters suffered bruises and cuts when the police baton charged the protesters.

Raj Kishor Thakur (21), a resident of Mahuliya, 6, Rautahat was killed on the spot when the police fired shots. A man who accompanied Thakur at the time told THRD Alliance: "Raj Kishor had gone to buy medicine. I was with him. We were on the same bike. When we reached the Gupta petrol pump, we saw a group of people protesting. We watched them. The situation was very tense. Raj Kishor received a call. At that time, a bullet fired from the police hit him in the back and he fell to the ground. All the protestors ran away. We saw police encircling Thakur's body. I saw police repeatedly kicking him with their boots even as he lay seriously injured on the ground.

After half an hour, an ambulance arrived and his body was taken to Rautahat District Hospital. Later, when we tried to enter the hospital, the police did not allow us to go in. I went to the hospital from the back of the building and asked a doctor about the victim's condition. The doctor told me that Raj Kishor had succumbed to his injuries."

Cases 3, 4 and 5: Durgesh Yadav, 23; Sunil Yadav, 19; and Rameshwar Pasi, 34; allegedly killed by a Pahadi mob on August 20, 2015

On August 20, 2015, a few thousand people went to shut down Belahiya customs. As they walked through the market areas, they tried to shut down shops in Belahiya market. Suddenly, over 200 unknown people from hill origin, which opposed UDMF's

protests, started to beat the protesters. Around 50 to 60 people in civil clothes with short hair, suspected of being members of NP and APF, were seen in the company of the group who opposed the UDMF's protests. The counter-protesters were seen beating the protesters with iron rods, baton and attacking them with *khukuris* (kitchen knives).

Durgesh Yadav was one of the protesters who stood in the frontline of the crowd. The counter protesters supported by plainclothes police attacked him, and he tried to run away. Eyewitnesses said the counter protesters hit Durgesh with an iron rod on his head as he attempted to escape the attackers. He fell to the ground. Two police officers and a human rights defender who was monitoring the demonstration took him to Bhairahawa Medical College of Science in an ambulance. On the way, around 40-50 non-Madhesi protesters beat Durgesh mercilessly with iron rods and batons. They beat him up for 15 minutes in front of the police, according to an ambulance driver. Moreover, the police did not take any step against the attackers. Durgesh succumbed to his injuries at the hospital on August 25, 2015.

During the same protest, Sunil Yadav, 19, of Lumbini Sanskriti Municipality, Rupandehi was also attacked by the mob supported by the plainclothes police but he was caught and brutally beaten by them. A day after the incident, on August 21, his dead body was found on the western bank of Danda Bridge. Local human rights defenders examined the body and found wounds and bruises on Yadav's eyes, head and chest.

Rameshwor Pasi, who had taken part in the UDMF protest on August 20, was reported missing later that day. His dead body was found on August 31 near Danda Bridge in a decomposed state with a cut injury to his head. There is suspicion that he was attacked, tried to hide from a mob in a place near the bridge and died of his injuries.

Case 6: Dilip Chaurasiya, 21, killed in police firing in Birgunj, Parsa district on August 31, 2015

On August 31, around 12 pm, around 4,000 protesters, who had gathered from nearby villages, were demonstrating at Radhemai Chowk, which is located in *Hulaki Marga* (Postal Road). At the same time, around 40 to 50 police personnel were deployed under the command of police inspector Khagendra Parasad Rijal.

When the protesters marched towards the *ghanta ghar* (clock tower) from Postal Road, the police tried to stop them whereupon clashes erupted between them. The police

lobbed many teargas canisters and fired 50/60 rounds of shots forcing the protesters to disperse.

At around 4 pm the situation was calm in Birgunj but a curfew remained in force in the central area of Birgunj. Eventually, by 5.30 pm, Dilip Chaurasiya, went to Radhemai Chowk with his friends to buy vegetables. When he reached Postal Road from Radhemai Chowk, a bullet hit him in his back. He was rushed to Narayani Sub-Regional Hospital but he died on the way.

Case 7: Sohan Sah Kalwar, 24, killed in police firing in Birgunj on September 1

Over 40 people, including UDMF cadres Rajesh Man Singh and Shashi Kapur Miya, were staging a sit-in at around 11 pm on August 31, 2015 in front of Naguwa Police Post at Ward No. 19 against the killing of Dilip Chaurasiya (see Case 6 above) in the police firing at Radhemai Tole in the same afternoon. Members of the NP baton charged these protesters and they fled.

When around 4,000 protesters coming from Musaharwa village reached Naguwa Chowk, 100 police officers tried to prevent them from marching ahead telling them that a curfew had been imposed. The protestors started to throw stones at the police around 12 pm. This prompted the police to fire teargas. The police then fired shots in the air and some live ammunition. Almost all protesters dispersed after a bullet had hit Amiri Lal in his shoulder. Some protesters were hiding nearby. Sohan Sah Kalwar was hiding behind the walls of Bawa Hotel. When he raised his head to check the situation, the police deliberately fired shots at him, hitting him in his left eye and killing him on the spot.

Case 8 and 9: Jay Prakash Sah and Dinanath Sah killed in police firing in Birgunj on September 1

The police baton charged a group of protesters near Pratima Chowk, Birgunj, firing 20 rounds of teargas canisters and 10-15 rounds of live bullets in the air after the protesters started shouting slogans against the police. Some live ammunition was fired. Protesters ran away from the spot. According to local residents, protesters fled towards Laxmanwa village and the police suspecting them of hiding in the village,

dragged innocent people out of their homes and beat them. Fearing the brutality of the police, villagers fled from their houses to their farmland.

At around 2 pm, Jay Prakash Sah was accompanying Dinanath Sah who was going to meet somebody near Birgunj Transport Office. When Jay Prakash Sah reached Pratima Chowk, he only found police in riot gear and no locals in the area. Both Jay Prakash Sah and Dinanath Sah, got off their bicycle and tried to find out what had happened there. As soon as they got off the bicycle, they heard someone shout, “Thok, Thok (Shoot them, shoot them).”

Jay Prakash tried to flee towards the area he had come from but was fired at by a member of an APF team that had just arrived. A bullet hit Dinanath Sah in the left shoulder. Another bullet hit Jay Prakash in the chest. Both victims fell to the ground but the police did not call an ambulance to transport them to hospital. It was only after almost an hour that residents of Laxmanwa Village called an ambulance and the victims were rushed to the National Medical College in Birgunj where they were declared dead. The victims’ bodies were then taken to Narayani Sub-regional Hospital for a post-mortem examination.

Case 10: Dharma Raj Singh, 27, killed in police firing in Birgunj on September 1

On September 1, 2015, people from nearby villages were going to Birgunj to protest the killing of Dilip Chaurasiya, who was killed in police firing on August 31, at Radhemai Tole. There were over 5000-6000 thousand people at that time and 10-12 people including Dharma Raj Singh who was leading the protestors. A curfew had been imposed in Birgunj. Seven police officers under the command of Police Inspector Khagendra Prasad Rijal from Shripur Police Post were deployed near Ramraj Bridge, south of Radhemai Tole in order to prevent the crowd from marching towards Birgunj. Police personnel were standing under the fig tree (*pipal*), which is at the distance of 300 meters from the Ramraj Bridge. Around 1 pm, the protestors who were being led by Dharma Raj Singh, Upendra Yadav and Prajwal Tiwari shouted slogans as they were marching ahead. They were peaceful. As they reached 20 feet distance from the bridge, the police started firing randomly, injuring Upendra Yadav in his leg. Dharma Raj Singh carried the injured man five feet south towards the bridge. Around 2-3 minutes later, another bullet hit Dharma Raj Singh in his head. The bullet exited from the left

side of Dhamra Raj Singh's head and pierced the neck of Prajwal Tiwari. Dharma Raj died on the spot while the other two - Upendra Yadav and Prajwal Tiwari - were taken to Kathmandu for treatment.

Case 11: Hifajat Miya, 21, deliberately killed by police in Bara district on September 1

On September 1, 2015, residents of Kalaiya were agitating in the city against the provisions of the new constitution. Sporadic clashes took place between police and agitators. There were 150-200 protesters that day in the city of which 25 protesters were demonstrating in Kalaiya Chowk. Meanwhile, DSP Binod Sharma came with a van full of police and opened fire on the protesters. According to eyewitnesses, Hifajat Miya, 21, a resident of Kalaiya fell to the ground after he sustained a bullet injury on his right arm. The police encircled him while he lay seriously injured and one officer shot him twice in the chest.

A video of this incident taken by a local resident shows police encircling Hifajat Miya after he was shot in the arm but the footage does not clearly show if Miya was shot dead from point blank range as claimed by local residents.

Case 12: Birendra Bichchha, 35, killed in police firing in Jaleshwar, Mahottari on September 9

On September 9, 2015, Birendra Bichchha, resident of Pigauna-6, went to participate in the protest called by UDMF. He went with a group of 4-5 teachers from the school he used to teach in. Around 2.30 pm, he was close to the Mahendra Chowk where the police had fired teargas canisters forcing the protesters to disperse. Bichchha used water to get relief from the burning sensation caused by firing of teargas canisters in his eyes. In the meantime, a bullet fired by police hit him on his right temple. It is not clear whether he was deliberately targeted, or whether the bullet was aimed at another targeted but hit him accidentally.

He was rushed to Jaleshwar Hospital, from where he was referred to Kathmandu for treatment. He died at Norvic Hospital Kathmandu - two days after his admission.

Case 13: Rohan Chaudhary, 17, Jaleshwar killed in police firing on September 9

On September 9, 2015, around 8,000 protesters gathered at Mahendra Chowk, Jaleshwar, headquarters of Mahottari district. It was around 2 pm, when the crowd rushed towards the DPO, which is located towards Rajdevi Mandir (*Rajdevi Temple*). In the meantime, a vanload of police was coming from the DPO. Some of the protesters threw stones at the police. Following this, police personnel lobbed a dozen of teargas canisters at the protesters forcing them to disperse.

Rohan Chaudhary, a secondary school boy from Bajrahi VDC, Ward No. 7, was on his way home from his tuition class walking through the street that connects Mahendra Chowk and Land Revenue Office when he was shot on the right side of his chest. According to the doctors at District Hospital Jaleshwar, Chaudhary's cause of death was due to bleeding from his vital organs.

Case 14: Ram Krishna Raut, 62, killed in police firing in Saptari on September 9

On September 9, 2015, Ram Krishna Raut left his house at 11.30 am to meet Parmanand, his brother-in-law whose house is located near Hanuman temple on the Bhardaha-Hanuman Nagar road, which is approximately 500 meters from a police post. There is a fig tree at a distance of 100 meters from his house where a group of four people were chatting with each other.

As he joined them, a clash erupted between the police and the protesters who were protesting against the draft constitution organized by the UDMF. Fearing that the police might target them, Ram Krishna Raut and the group fled towards Parmanand's house. As Ram Krishna Raut entered the house, a member of the APF fired a shot in his back.

Ram Krishna fell to the ground and nobody dared to go to the victim for 10-15 minutes for fear of being targeted by the police. After 15-20 minutes, a group of 25 police personnel came to the place where the victim had been shot. The locals started to throw stones at the police forcing them to flee. Enraged police barged into houses of the

locals and beat them in their houses. After one hour, the body of Ram Krishna was brought to his house. The victim's body was taken to Sagarmatha Hospital at 9.30 am the next morning for the postmortem examination. His body was cremated at around 8 pm the same day.

Case 15: Rambibek Yadav, 22, a resident of Mahottari killed in police firing in Jaleshwar on September 9

On September 9, 2015, Rambibek Yadav went to Jaleshwar to take part in protest called by UDMF. When the crowd gathered at Mahendra Chowk they were throwing stones at the police. The police lobbed a dozen of teargas canisters and fired indiscriminate shots to force the protesters to disperse.

When the police officers clashed with the protesters, Rambibek was at Rastriya Baniya Bank (National Commercial Bank) at around 3.30 pm. The police fired two live bullets at Rambibek hitting him in his right armpit. Rambibek tried to return to his home via Hospital Road. He was rushed to Jaleshwar Hospital, but he succumbed to his injuries while undergoing treatment.

Case 16: Amit Kapar, 22, a local resident of Jaleshwar-14, killed in police firing in Jaleshwar on September 9

On September 9, 2015 in the afternoon, Amit Kapar went to Jaleshwar to watch the protest organized by UDMF, according to his family members. At around 2.30 pm, clashes erupted between the protesters and the police. The police lobbed teargas canisters at the protesters forcing them to disperse. All of a sudden the security personnel started to fire shots indiscriminately at Mahendra Chowk and its vicinity. According to an eyewitness, a group of police officers came from Mahendra Chowk to Shankar Chowk and indiscriminately fired at the protesters, hitting Amit twice in his right shoulder. He succumbed to his injuries shortly afterwards.

Cases 17, 18 and 19: Nitu Yadav, 15, Sanjay Chaudhary, 43, and Dilip Yadav, 13, killed in police firing in Janakpur, on September 11

On September 11, the CDO Dhanusha imposed a curfew in different parts of Janakpur Sub-metropolitan City to prevent the UDMF from organising a large protest in the city. The UDMF supporters had given the slogan of *chalu Janakpur, bharu Janakpur* (Let's

go to Janakpur, Let's fill Janakpur). Over 3,000 protestors marched defying the curfew. Police stopped them at Pidari Chowk, Janakpur. When the police prevented the protestors from marching, the protestors began to throw stones at the police whereupon the police started to fire teargas canisters to disperse the crowd and then soon started to shoot.

When the police fired shots indiscriminately at the protesters, Nitu Yadav ran away and tried to hide in the bush on the western side of the Mills Area. According to three eyewitnesses, 3-4 APF members chased Nitu. Eyewitnesses stated that two of them had covered their faces with handkerchiefs. The police then dragged him from the bush where he was hiding, threw him to the ground, and shot him in the head from close range, according to eyewitnesses. He died on the spot. Before shooting the child, police was heard saying, *thok m*** lai* (shoot this m*****). Police also kicked him and then left. All the police personnel were dressed in black armor.

Sanjay Chaudhary, a member of Sadbhavana Party, was hiding on the veranda of a nearby resident's house. Chaudhary was shot when he tried to flee after seeing Nitu Yadav being shot by the police. According to eyewitnesses, after the first bullet fired by the police missed Chaudhary, the police fired another shot hitting him in the back. The victim fell to the ground. He was taken to hospital where he succumbed to his injuries after half an hour.

A police bullet also killed 13-year-old Dilip Yadav who happened to be passing by while returning home on his bicycle. According to six eyewitnesses, when a van carrying police personnel passed Pidari Chowk, the protestors started to throw stones at it. Eventually, the police van moved away and then shot Dilip Yadav from the moving van. The bullet hit him in the head, killing him on the spot.

Case 20: Ramshila Mandal, 41, killed in police firing in Jaleswar on September 11

On September 11, 2015, people had been protesting since the morning. The situation became tense around Mahendra Chowk at 12 pm as the news of the killing ASI Thaman BK spread in the area. The police and protestors clashed in several places of the city. A

dozen of protesters got injured in police firing as the Jaleshwar Hospital confirmed to THRD Alliance team.

Local residents told the THRD Alliance team, that police officers appeared aggressive after the ASI Thaman BK was killed by an unidentified mob. At around 2 pm, Ramshila (a member of Rastriya Prajatantra Party-Nepal (RPP-N)) was watching the protest at Shankar Chowk, Jaleshwar. She was standing at the gate of Juli Beauty Parlor located in the south of Mahadev Temple where police and protesters clashed with each other. As the situation became tense, the police fired a dozen of teargas canisters at the protesters and in the houses located on the Shankar Chowk forcing the protesters to disperse. Although the protesters had left the area, the police continued to fire indiscriminately. In the meantime, a police bullet hit Ramshila in her forehead killing her on the spot.

Four houses of the area bore bullet marks. More than a dozen people whom THRD Alliance interviewed said the police fired shots indiscriminately close to Shankar Chowk and Saujipatti.

Case 21: Ganesh Chaudhary, 71, killed in police firing on September 11, near Raniratbara Market, Mahottari

Ganesh Chaudhary, 71, a resident of Bajarahi was killed by APF hours after APF ASI Thaman BK was killed by an unidentified mob on September 11. On that day, Ganesh had gone to buy vegetables and tobacco in the local market, Raniratbara, which is in the north of Jaleshwar.

Chaudhary was the grandfather of Rohan Chaudhary, a 17-year-old schoolboy who was killed in police firing in Jaleshwar on September 9, 2015 while returning from his tuition class. (See Case 13 above.)

According to the eyewitnesses, around 5 pm on the same day, three vans with APF came from Jaleshwar. The APF started shooting in the air without any warning. In the meantime, Ganesh who had gone to the market on his bicycle grabbed it and tried to return home. At this point, a bullet fired by the APF out of the van hit him in his left eye.

While Chaudhary was shot he was almost 40 meter away from the road, according to local residents.

Case 22, 23, 24, 25, 26 and 27: Nandani Pandey, 52, of Rupandehi, Chandan Patel, 4, of Parsa, Ranjana Singh, 12, Binod aka Bindu Kumar Lacaual, 48, Raj Kumar Barai and Sahwati Murau, 52, killed in indiscriminate police firing at Bethari on September, 15

On September 15, 2015 at around 5.15 pm, police escorted a total of 112 trucks that had loaded products from local factories including the factory of Shashi Neupane. A group of around 40 protesters tried to stop the last three of these vehicles at Bethari Chowk, Gonaha VDC-6, which is two kilometers west of Bhairahawa on the Lumbini road section. The police baton charged them whereupon the protesters hurled stones at the police. In response, the police lobbed 14-15 teargas canisters. Some protesters fled towards Chhapiya, north of Bethari Chowk and others towards Bethari village. At around 5.40 pm, some 150 APF personnel arrived at Bethari Chowk, Bhairahawa and fired from the Tinau Bridge towards the local market, which is located at the distance of 15 meters to the south. Over 200 police consisting of both members of the NP and APF fired indiscriminately towards the local market. The police suspected that some of the protesters had fled towards the market.

During the indiscriminate firing, Nandani who was trying to close her grocery store was hit with a bullet on her left thigh. She writhed in pain but as the police was continuously firing the bullets, nobody tried to take her to hospital. The police did not allow any movement of the vehicles. After two hours she was taken to the Bhairahawa based Universal College of Medical Science for treatment. After a day she was referred to Lucknow for further treatment at the PGI Hospital. As she could not afford the expensive treatment she returned to Bhairahawa where she succumbed to her injuries in Universal Medical College of Science while undergoing treatment.

As the police fired indiscriminately, 4-year-old Chandan Patel was shot in the right side of his head - two inch above the right ear. Following the shooting, his mother took him through the village and paddy fields and reached the nearby road. Then she took a rickshaw and went to the factory where her husband was working. Her husband took Chandan to Bhairahawa Hospital where the child died while undergoing treatment.

Locals residents were terrified by the actions of the police and told THRD Alliance that all the people who were shot in the incident were innocent and had nothing to do with the protests.

Ranjana Singh was killed in the same incident when she was inside her grandparents' house on the first floor preparing tea. As firing was going on outside the market, Ranjana tried to watch from the window and it was then that a bullet hit her in her neck. She was killed on the spot.

Bindu Kumar Lacaal, who temporarily lived in Gonaha VDC-6, was working with his brother at a hotel on that day. A group of APF came towards the hotel chasing the demonstrators who allegedly had thrown stones at them while they were escorting trucks carrying goods. The APF fired indiscriminately throughout the area where Bindu's hotel was located. Following the firing local people ran head over heels, most of them towards Tinau Bridge. When Bindu also tried to run away, he was hit with a bullet in his right eye. He was shot from the distance of 15 meters. The bullet pierced from his right eye and exited from right cheek and eyebrow. The victim died on the spot 4-5 minutes after the police shot him.

Raj Kumar Barai, who was buying vegetables in the market at that time, sustained bullet injuries in his neck when the police fired shots indiscriminately. He died on the spot.

Sahwati Murau was killed in the same incident. Murau had gone to sell vegetable at the local market located near Tinau Bridge was hit by a bullet in her right eye. Some local residents rushed to the spot together with Sahwati's husband and son and took the victim to Universal College of Medical Science, Bhairahawa. After a week, she was referred to Teaching Hospital, Kathmandu where she died one week later while undergoing treatment.

Case 28: Sheikh Mahinuddin, 50, shot and beaten by police on October 14, 2015 in Gaur, Rautahat

Protests escalated on October 14, 2015 in Rautahat. The DAO, Rautahat had declared Kabir Chowk and BP Chowk as prohibited zones, hundreds of protesters gathered at

Gaur to protest against the discriminatory provisions of the constitution. When the protesters went towards Kabir Chowk, the leaders informed the NP personnel deployed there that they would not cross the boundary of the prohibited zone. Just after this however a group of agitators began to protest at Kabir Chowk and BP Chowk. The police started firing tear gas canisters at both places. Two protesters - Lalbabu Raut and Sheikh Mahinuddin sustained bullet injuries. Raut sustained bullet injuries in the right side of his stomach and Sheikh Mahinuddin, 50, a local resident of Akolwa-5 Rautahat, received bullet injuries in his right thigh.

When police fired live bullets, protesters ran towards the field. Five or six police personnel chased them to the field and started beating them up with sticks, boots and gun butt for ten minutes. The injured pretended they were dead and the police left the field after that. After half an hour, villagers transported the injured to Gaur Hospital from where they were airlifted to Kathmandu, as their injuries were serious. After getting treatment in Kathmandu, Mahunuddin was under follow-up treatment at Narayani Sub-Regional Hospital, Birgunj where he succumbed to his injuries on January 3, 2016. Lalbabu Raut was admitted to hospital in a critical condition and has survived.

Case 29: Ashish Ram, 17, killed in police firing in Birgunj, Parsa on November 2

The UDMF had been staging a sit-in on the Birgunj-Raxaul border entry point for days. A group led by Sadbhawana Party Chair Rajendra Mahato was staging a sit-in there on November 2, 2015. Almost every day, 3,000 to 4,000 people came to the border entry point to stage sit-ins for a day. Like the previous nights, on November 2, almost 100 protesters were sleeping on the Maitri Bridge. At around 4.30, some 400 members of the NP and APF swarmed to the bridge and began to baton charge the protesters. The police set the tents and mattresses on fire forcing the protesters to flee from the sit-in site. The police beat the protesters with bamboo sticks, fists and their gun butts. The police also kicked the protesters with their boots. Around 40 protesters including Chokat Sah, 25 of Kalaiya Municipality Ward 14, Bikram Sah, 52, of Ramnagari VDC Ward 2 and Bidyabati Sadhuwain, 65, of Rautahat were badly beaten by the police.

Chokat sustained injuries in his hand, face and backbone. Similarly, Bikram sustained injuries in his head, backbone, hands, face and legs. Bidyabati was hit in her legs, thigh, hip, back and sensitive parts of her body. Bijay Sah, 21, sustained injuries on his left hand. Around 300 trucks that were stationed in the Nepali territory entered Indian territory after the police personnel evicted the protesters from the border entry point. As soon as the trucks could enter India, large number of protesters gathered again on the Maitri Bridge at 8 am blocking the movements of the vehicles again. Large numbers of protesters also gathered in the city to protest against police crackdown on the Maitri Bridge. Protesters and police threw stones at each other. Police fired teargas canisters and shots in the air dispersing the protesters.

At around 12 pm, over 70 young protesters started to throw stones at police near Shankaracharya Gate. The police were also throwing stones at them in retaliation. At around 12.30 pm, when the distance between the protests and the police was merely 25-30 feet, the police fired a shot at Ashish Ram killing him on the spot. The shot that was probably fired from a shotgun blew off Ram's head.

Case 30: Birendra Ram, 22, killed in police firing in Saptari, November 21

On November 21, 2015, the situation became tense in Bhardaha when the police and protesters clashed with each other at 8pm. Protesters continued to obstruct the highway to prevent the movement of people and commodities to Kathmandu and other parts of the country. The police fired hundreds rounds of shots. Protester, Birendra Ram, 22, a local resident of Bhardaha, sustained bullet injuries on the left side of his chest. He died on the spot.

Case 31: Nageshwar Yadav, 23, killed in police firing in Saptari on November 22

On November 22, Nageshwar Yadav, 23, a local resident of Jamuni Madhepura, Saptari, participated in a protest called by UDMF at Rupani. At around 11.30 pm, the police forcefully tried to make the transportation easier on the highway by removing the protesters whereupon the protesters started to throw stones at the police.

The police fired teargas canisters and opened fire at the protesters. One of the bullets hit Nageshwar Yadav in the top of his leg. According to eyewitnesses, Yadav fell to the ground after being hit by the bullet. As he lay seriously injured asking for water he was kicked by the police with their boots despite the victim writhing in pain. He later succumbed to his injuries.

Case 32: Dilip Sah, 38, killed in police firing in Rajbiraj on November 22

From November 21, 2015, the nearby villages of Saptari district protested against the killing of Birendra Ram (Case 30) and Nageshwar Yadav (Case 31). Residents of Rajbiraj, the headquarters of Saptari district came to the street to protest against these killings. Cadres associated with the UDMF were in the forefront of the protest. The local administration had imposed a curfew in the town but the protesters continued their protest.

On November 22, the UDMF continued its protest in Rajbiraj and nearby villages of Saptari district. On the same day, at around 4pm, the situation became tense when large number of protesters gathered on the street.

According to eyewitnesses, the police were chasing the protesters near Hatiya Line, where Dilip's house is located. Dilip's wife Poonam Kumari Sah said, her 11-year-old daughter Muskan rushed to the verandah to see what was happening outside their house. Dilip sustained pellet injuries on his forehead when he went to the verandah to pull his daughter back. The victim's daughter sustained pellet injuries in both her palms. The police also lobbed a teargas canister on Dilip Sah's apartment. Protesters ran away from the area when the police shot Dilip Sah and his daughter. Poonam came down looking for an ambulance but the police threatened her not to go out or else she too would be shot. Undeterred by the police's threat, Poonam and her family members took Dilip to the local hospital. But her husband could not get treatment there as doctors were staging a strike against alleged police brutality committed a few days earlier against hospital staff. A doctor, however, managed to organize an ambulance for the victim and advised Poonam to take her husband to Dharan-based BP Koirala Institute of Health Sciences. According to Dilip Sah's family members BP Koirala Institute of Sciences Science, declared the victim dead.

Case 33: Shivshankar Das, 21, killed during the protest in Rajbiraj on November 22

Shivshankar Das had participated in the protest organized by UDMF at Rupani. On the next day on 22 November, he took part in the demonstration near the District Administration Office (DAO), Rajbiraj. After a while, the police chased the protesters away from the DAO. As Shivashankar Das tried to run away, the police beat him on his head with a baton, according to eyewitnesses. Das was taken to Gajendra Narayan Singh Sub-Regional Hospital. He was referred to Dharan based BPKIHS where he died while undergoing treatment. According to the postmortem, he died of a head injury.

Case 34: Mohammed Sams Tabrez, 16, killed in police firing at Gaur, Rautahat on December 20

The UDMF had announced a protest of students at 11 am on December 20, 2015 against the arrest of student leader Lalan Yadav on the previous day. Called by the students' association, over 3,000 students gathered in the city to express their solidarity with the student leader. They shouted slogans in support of the agitating UDMF. Mohammed Sams Tabrez went to take part in the protest at around 1.30 pm after returning from a private tuition. Although the protesters and police had been clashing with each other since 1 pm, the situation had calmed down a bit at around 3 pm.

Suddenly, one member of the police team deployed near Fresh Chicken House fired shot(s) at Tabrez. Tabrez, who was hit in the right side of his abdomen, fell to the ground. Four or five fellow students tried to carry the injured victim towards the hospital. When they crossed 15 meters south from the incident site, which links the house of Chandreshwar Raut, they were beaten and chased away by a group of nine police officers. The police took the victim under their control and kicked him and beat him with batons and the butts of their guns. He was hit in the chest, backbone and abdomen. Police later transported him to hospital in an ambulance. He succumbed to his injuries at the hospital 20 minutes after arrival.

Cases 35, 36 and 37: Dropadi Devi Chaudhary, 58, Mahadev Rishidev, 42, and Shivu Majhi, 25, killed in police firing at Rangeli Municipality, Morang on January 21

Dropadi Devi Chaudhary, 58, a resident of Rangeli Municipality, Mahadev Rishidev, 42, a resident of Bardanga-2 VDC, and Shivu Majhi, 25, a resident of Dainiya VDC-9, Morang, were killed in police firing on January 21, 2016 at Rangeli Municipality, Morang district.

On that day, the Youth Force, a sister organization of the CPN-UML, had organized a programme at 1 pm. The venue for the programme was organized almost 50 meters north of the police post. Some senior CPN-UML leaders participated in the programme. In the same area almost 1,000 members of the NP and APF were deployed in riot gear. On the other side of the location where the programme took place, almost 3,000 UDMF cadres and leaders had gathered shouting slogans such as—"Down with Oli," "Our Madhes Movement is continuing", we are demanding our rights and our movement is not against any community".

By 1.45 pm a group of UDMF cadres led by their leaders arrived at the Kali Temple, which was close to the programme venue of the Youth Force. Following the arrival of the UDMF cadres, the police started to fire indiscriminately at the crowd. Dropadi Devi Chaudhary, a frontline participant, was shot dead by the police. When she fell to the ground, the police dragged her to the bank of a nearby pond.

Mahadev Rishidev ran away after a bullet hit Dropadi, but a bullet hit him in his chest. Half an hour after he got shot, Mahadev was taken to Rangeli Hospital. He was referred to Koshi Hospital Biratnagar and succumbed to his injury on the way to Biratnagar. While being rushed to Koshi Zonal Hospital, Mahadev told people accompanying him that one bullet was still inside his stomach.

Later in the day, at around 3.30 pm, almost 2 kilometers away in the east from Rangeli in the vicinity of *Hulaki Rajmarg* (Postal Highway), around 200 hill originated youths gathered. They had come in five buses. According to local residents they were carrying rods, batons, swords and beer bottles.

In Dainiya VDC, around 150 youths of hill origin got off the buses and started to abuse the locals of Dainiya who belong to the Madhesi community. They called the Madhesi

Biharis (Indians) before assaulting them physically. Following these assaults, thousands of local Madhesi people went to the street carrying batons and chased the Pahadi youths. The Pahadi youths ran to Dainiya Chowk, where around 100 Nepal police were deployed. The police took the Pahadi youths towards Rangeli in the police van. The Madhesi interpreted this as police protection for the Pahadi youths and they set the two buses in which the Pahadis arrived on fire. "Madhesi youths were angry with the police for 'protecting the Pahadi youths who were abusing Madhesi men and women," local residents told. They added that the police did not say anything to the Pahadi youths when they abused and misbehaved against the Madhesi men and women.

A group of Madhesi people had thrown stones at the police van alleging them of playing double standards. In the meantime, one APF officer shot at the crowd, hitting 25-year-old Shivu Majhi in his right shoulder. His friends brought him to a nearby field where he died within ten minutes.



Constitution declaration day © AHRC & THRDA

CONCLUSIONS & RECOMMENDATIONS

Conclusions and recommendations

As demonstrated, during the Terai protests, NP and APF personnel have time and again used lethal force disproportionate to any alleged necessity, with indiscriminate impact on innocent bystanders, peaceful protesters and protesters who may have engaged in violence, but who did not constitute a threat to life.

Even if police were to have faced an imminent threat to life (which was not the case in any of the incidents presented in this report), they would have been under an obligation to use this force proportionately, partly to minimize the harm caused to others not involved in the situation. The evidence shows that the victims of indiscriminate lethal force could not have been posing any serious threat, nor can their deaths be justified by threats posed by others at the time that did not allow more proportionate use of force.

To the Government and Security Forces

1. Immediately establish a high-level independent commission to investigate into the killings of protesters, bystanders and police personnel,
2. Ensure that the findings of this commission will be made public, acted upon and that victims get justice,
3. Ensure that the government provides free treatment to the injured and compensation to the families of the victims,
4. Ensure that those accused of violence and other crimes during the protests are accorded full due process rights, including a fair trial, and freedom from torture,
5. Ensure that security forces abide by national and international laws and principles on the use of force,
6. Immediately end the indiscriminate and excessive use of force, and ensure that the security forces use lethal force during protest only when doing so is strictly necessary to protect life,
7. Immediately end the harassment and intimidation of members of the Madhesi and Tharu communities,

8. Ensure that all citizens have full protection of their political rights, including freedom of assembly, association, and speech,
9. Take immediate steps to address any systematic discrimination suffered by Madhesi, Tharu, Janajati and other minority communities,
10. Issue clear instructions telling public office holders that they will face serious consequences if they are found engaged in hateful speech or incitement of serious crimes.

To the protesters and agitating parties:

1. Publically call on all protesters and leaders to refrain from any violence during the protests and remain peaceful at all times,
2. Publically call on all protestors and leaders to refrain from hateful speeches and violence while engaging in protest,
3. Fully cooperate with the police and investigating agencies investigating into any criminal incidents and protest related incidents,
4. Ensure that children are not used in protests,
5. Ensure that no monetary or other incentives are offered for taking part in the protest.

To the International Community

1. Press the Government of Nepal not to use excessive force in policing demonstrations and to abide by international obligations including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,
2. Press the Government of Nepal to ensure timely and independent investigations into the alleged human rights abuses,

3. Strengthen the capacity of international human rights monitoring inside Nepal, including by pressing for access by the Office of the High Commissioner for Human Rights (OHCHR),

4. Those providing assistance to the NP and APF should make this conditional on their full cooperation with any independent investigations into all incidents of excessive use of force and strict adherence to international standards on policing of demonstrations in future.



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