FINALLY GOING
FORWARD ON

TRANSITIONAL JUSTICE ?

ADVOCACY FORUM-NEPAL

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INTRODUCTION

As of mid-2026, the so far failed transitional justice (TJ) process in Nepal may have reached a critical point, where it could finally embark on what was promised in the Comprehensive Peace Agreement (CPA) twenty years ago: to "make the whereabouts of the 'forcefully disappeared' public within 60 days", and to "investigate the truth about people seriously violating human rights and those involved in crimes against humanity."

At the time of writing, the following key factors are at play:

- The Rastriya Swatantra Party (RSP) government which took office in late March 2026 in its election manifesto committed to completing the TJ process.
- It removed the commissioners appointed to the two transitional justice bodies (the Truth and Reconciliation Commission – TRC – and the Commission for the Investigation of Enforced Disappearances – CIEDP) in late April, as part of a wider policy to replace the leadership of many public bodies whose appointments were seen as politically influenced during previous administrations.
- A visit by the United Nations (UN) Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence has been postponed, but the invitation remains outstanding. At the time of finalising this report, the plan is reportedly to hold the visit in November 2026.
- Victims' groups and civil society organisations have remained engaged and active, willing to engage and support the TJ process.

This briefing aims to summarise the many failures in the TJ process so far and to provide a clear roadmap including critical steps needed to ensure the new government can finally deliver what victims and many in civil society have been demanding for the last two decades.[1]

1 This briefing draws from two recent publications by Advocacy Forum (AF) and the International Commission of Jurists (ICJ) for additional details.AF, "Past Impunity is Present Impunity is Future Impunity in Nepal", November 2025, https://www.advocacyforum.org/wp-content/uploads/2025/11/impunity-report-nov-2025.pdf and ICJ, ""A Brief Review of Nepal's Transitional Justice (TJ) Law", November 2024, https://www.icj.org/wp-content/uploads/2025/03/A-Brief-Review-of-Nepals-Transi=onal-Jus=ce-TJ-Law.pdf.

BACKGROUND

This year marks the 20th anniversary of the signing of the Comprehensive Peace Agreement (CPA). On 21 November 2006, the CPA was signed by then Nepali Congress Prime Minister Girija Koirala and Maoist leader, Pushpa Kamal Dahal (Prachanda) marking the end of the 10-year-long armed conflict in the country.[2] Along with drafting a new constitution, and demobilizing and integrating Maoist former fighters, implementing a TJ process was recognized as a core pillar of the peace process.

However, while the integration of Maoist fighters was completed around 2013, and a new Constitution was promulgated in 2015, progress towards delivering truth, justice and reparations for the thousands of victims during the armed conflict has remained stalled. This is despite several directions of the Supreme Court (SC) and persistent campaigning by victims' groups and civil society.

Soon after the end of the conflict, in June 2007, the SC issued a ruling in response to habeas corpus petitions in dozens of enforced disappearance cases.[3] The court ordered the government to establish a commission of inquiry, enact a law to criminalize enforced disappearances in accordance with the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), prosecute those responsible for disappearances, and provide compensation to victims' families.

In February 2010 the government of the then Communist Party of Nepal (United Marxist Leninist) (CPN-UML) Prime Minister, Madhav Kumar Nepal, presented two bills to parliament, to establish a TRC and a CIEDP. These bills, which ruled out amnesty for murder, enforced disappearances, torture, and rape, were never enacted.

Three years later, in March 2013, the government (led by the CPN-Maoist Prime Minister Baburam Bhattarai) issued an Ordinance on Investigation of Disappeared Persons, Truth and Reconciliation Commission, based on the earlier bills, but removing the provisions that prevented the commissions from recommending amnesty for certain violations, and incorporating mediation between victims and perpetrators irrespective of the nature of violations.[4] The Ordinance was successfully challenged in the SC, which ruled in January 2014

[2] The Comprehensive Peace Agreement, 21 November 2006, unofficial translation, https://un.info.np/Net/NeoDocs/View/885?.
[3] Human Rights Watch, "Nepal: Supreme Court Orders Action on 'Disappearances",15 June 2007, https://www.hrw.org/news/2007/06/15/nepal-supreme-court-orders-ac=on-disappearances.
[4] Commission on Investigation of Disappeared Persons, Truth and Reconciliation Ordinance 2069 (2012), https://repara=ons.qub.ac.uk/assets/uploads/Nepal-TRC-Ordinance.pdf

that any mechanism for TJ must conform to international legal standards, lead to accountability for serious human rights violations, and guarantee victims their right to remedy and reparation.[5] The SC also said that the government should enact laws that criminalize gross human rights violations, and directed that such law should be enacted in consultations with all actors including the victims and experts on the subject.[6]

In the context of the long-awaited TJ in Nepal, it is important to consider the decisions of the UN Human Rights Committee, which has to date issued 29 decisions (also called "Views") in respect of 86 persons (49 men and 37 women) under the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). These include cases of enforced disappearances, torture, extrajudicial execution and sexual violence, among others. In each of these cases, the Committee held there had been clear violations and required the State of Nepal to initiate a criminal investigation, provide compensation to victims and take measures for the non-repetition of such violations. The Committee also made it clear that, under Nepal's international obligations under the ICCPR, it must provide effective remedies, which entails investigating gross violations of human rights and addressing impunity.[7] To date, the Nepal state has failed to implement most decisions, merely providing payment of compensation to just three of the 86 people.[8]

In the absence of any clear action by the Nepal state to address accountability domestically, individual Nepali perpetrators continue to be exposed to prosecution under international justice. This was brought home very clearly in 2013 when Kumar Lama, a serving Nepali Army Colonel, who was working as an expert on a UN mission in South Sudan was arrested during a visit to the United Kingdom. He was charged with two counts of torture during the armed conflict period.[9] Although there was an acquittal on one count and a hung jury on another with the prosecutor deciding not to retry him in 2016, the case had a major impact in Nepal, raising awareness about universal jurisdiction (UJ) among different actors, including victims and CSOs. The case also made political actors realise the importance of dealing with these issues nationally to prevent prosecution under international jurisdiction, resulting in the parties

[5] Madhav Kumar Basnet v. the Government of Nepal and Ram Kumar Bhandari and Others v. Government of Nepal, decision of 2 January 2014.
[6] ICJ, "Justice Denied: the 2014 Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act", May 2014, available at https://www.icj.org/wp-content/uploads/2014/05/Nepal-TRC-Act-Briefing-Paper.pdf.
[7] See Real Rights Now, https://realrightsnow.org/en/.
[8] For more details, see this Real Rights Now leaflet: https://realrightsnow.org/wp-content/uploads/2022/08/implementation-fact-sheet-english-version.pdf.
[9] International Commission of Jurists, "Authority Without Accountability. The Struggle for Justice in Nepal", May 2013, https://www.refworld.org/pdfid/530f04ce4.pdf.

coming together to pass the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act (TRC Act).

The 2014 TRC Act barred amnesty for rape and other offences of "grave nature", but left the term "grave nature" undefined. Therefore, it did not explicitly prohibit amnesty for other serious crimes under international law, including torture, extrajudicial killings, enforced disappearances, and war crimes in all circumstances. It further allowed for the commissions to facilitate reconciliation between victims and perpetrators, raising concerns that reconciliation might be used to avoid criminal accountability.

UN experts noted in July 2014:

> "Amnesties for these atrocities would convey to Nepalese society that some people are above the law."[10]

They also warned that:

> "Legislation which should enable the country to come to terms with its past, may [instead] further entrench impunity."[11]

The Act was struck down by the SC in 2015 on the basis that it failed to meet Nepali and international legal standards, especially by providing amnesties for serious crimes. The Court also emphasised the need for independent, competent and impartially appointed commissioners.[12]

The OHCHR in a "technical note" issued in June 2014 pointed to several provisions in the TRC Act, 2014 that did not fully conform with Nepal's obligations under international law. It highlighted concerns in respect of amnesties, definition of crimes, the link between the commissions and prosecutions, lack of guarantee of impartiality and independence of the commissions, their broad powers of reconciliation (even without the victim's consent) and the definition of reparations, including the fact it was not stated to be the victims' right.[13]

[10] OHCHR, "Nepal truth seeking legislation risks further entrenching impunity", July 2014, available at https://www.ohchr.org/en/press-releases/2014/07/nepal-truth-seeking-legislation-risks-further-entrenching-impunity-alert-un.
[11] *Ibidem*
[12] Suman Adhikari and Others v Office of Prime Minister and Council of Ministers, (069-WS0057, Supreme Court of Nepal, 2015)
[13] OHCHR, Technical note, June 2014, para 2, https://www.ohchr.org/sites/default/files/Documents/Countries/NP/OHCHRTechnical_Note_Nepal_CIDP_TRC_Act2014.pdf.

A further technical note by OHCHR issued in February 2016 unequivocally stated its position that it will not be able to support the two commissions unless the law is amended.[14]

Despite these substantial critiques by the SC and OHCHR, the government proceeded twice to appoint commissioners to the TRC and CIEDP – without making the necessary amendments. They remained largely dysfunctional for nearly a decade and failed to deliver any meaningful progress.[15]

In August 2024, after endless campaigning by victims' groups and civil society, both houses of Nepal's Parliament passed the Amendment Bill to the 2014 TRC Act as tabled by the government of CPN-UML Prime Minister, Khadka Prasad Oli. It marked a significant step, as the main political parties finally came together nearly 20 years after the end of the armed conflict to move the TJ process forward. While the amended TRC Act addresses several concerns expressed by the SC, OHCHR, victims and civil society, it still leaves certain critical issues unresolved.[16] The failure to address these outstanding concerns may fall foul of Nepal's international legal obligations.

Nevertheless, victims and their families were encouraged to finally see the TJ process moving forward, including when the government appointed a Recommendation Committee, which under the TRC Act has the task to select members for the two TJ bodies. To the frustration of conflict victims and members of civil society, the Committee produced a shortlist of candidates which appeared to include individuals with contentious reputations for key positions.[17]

On 16 December 2024, the two months allowed under the Act for the Recommendation Committee to select candidates expired without the process being successfully completed, and the committee recommended the government to form a new committee.[18]

The Recommendation Committee was reconstituted in March 2025. It was again criticized for lacking transparency and inclusiveness.[19] Despite objections, commissioners for both the TRC

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[14] OHCHR, Technical note, 16 February 2016, para 11, https://www.ohchr.org/sites/default/files/Documents/Countries/NP/Nepal_UN_osition_supportTRC_COIDP_Feb2016.pdf.
[15] AF, "The state of Transitional Justice in Nepal", February 2019, available at https://www.advocacyforum.org/downloads/pdf/publica=ons/tj/af-briefing-paper-february-2019-english.pdf.
[16] ICJ, "A Brief Review of Nepal's Transitional Justice (TJ) Law", November 2024, available at https://www.icj.org/wp-content/uploads/2025/03/A-Brief-Review-of-Nepals-Transi=onal-Jus=ce-TJ-Law.pdf.
[17] Kathmandu Post, "Calls grow for prompt transitional justice appointments", 20 December 2024, available at https://kathmandupost.com/na=onal/2024/12/20/calls-grow-for-prompt-transi=onal-jus=ce-appointments.
[18] Amnesty International, Human Rights Watch, and ICJ, "Letter to Prime Minister Oli regarding Appointments of Transitional Justice Commissioners", 17 December 2024, available at https://www.hrw.org/news/2024/12/17/leYer-prime-minister-oli-regarding-appointment-transi=onal-jus=cecommissioners.
[19] Ghimire B, "Victims Reject Transitional Justice Shortlist, Demand New Selection Panel", The Kathmandu Post, 2 May 2025, available at https://kathmandupost.com/na=onal/2025/05/02/vic=ms-reject-transi=onaljus=ce-shortlist-demand-new-selec=on-panel?s=09 and "Conflict Victims Urge Prime Minister for Transparency in Appointments to Transitional Justice Bodies", The Kathmandu Post, 4 May 2025, available at

and CIEDP were appointed in May 2025, once again without meaningful consultations with victims, and choosing commissioners based on their political affiliations, rather than their expertise on the subject matter.

More than 330 victims from all parts of the country in August 2025 filed a writ petition in the SC seeking the nullification of the appointments to the TJ bodies, claiming the composition and function of the selection committee as inconsistent with constitutional guarantees of independence and equality. They petitioned the court to suspend or nullify the appointments of the commission members made under a flawed process and to direct the Government to re-establish a transparent, impartial, and participatory selection process, including through public advertisement, open hearings, and objective criteria for appointment.[20]

As soon as the new commissioners took office, it was clear that they lacked the relevant expertise. The way victims of conflict-related sexual violence (CRSV) were treated by the newly appointed TRC and CIEDP showed how the commissioners lacked expertise and commitment to uphold prevailing international standards applicable to their role. The amended TRC Act had reopened the opportunity for filing of CRSV complaints, yet it imposed a restrictive, one-time three-month statute of limitations.[21] Victims of CRSV, along with others, sought a commitment from the TRC regarding safety, sensitivity and confidentiality before survivors of sexual violence would submit their complaints.[22] However, the TRC rejected their proposal. Consequently, the victims kept their full accounts to themselves and only registered a notification of information with the Commission. Victims state that they did not fully participate in the complaint process because they lacked trust in the Commission's ability to maintain confidentiality and handle their cases with sensitivity.[23]

https://kathmandupost.com/na=onal/2025/05/04/conflict-vic=ms-urge-prime-minister-for-transparency-inappointments-to-transi=onal-jus=ce-bodies.

[20] Writ petition no. 082-WC-0011. See AF, 47 victims' organisations and 26 CSOs, "Submission on transitional justice to the 51st session of the Working Group on the Universal Periodic Review January - February 2026", July 2025, available at https://advocacyforum.org/_downloads/upr-submission-on-tj-july-2025.pdf.

[21] TRC Act, Third Amendment (2024), Section 13(2)(6)(a)

[22] The Kathmandu Post, 'Insurgency-era victims turn down call to register new complaints", 22 May 2025, https://kathmandupost.com/national/2025/05/22/insurgency-era-victims-turn-down-call-to-register-new-complaints.

[23] *Ibidem*

CHAPTER 1: GOING FORWARD

In early July 2026, the RSP government published a list of steps taken since it came into office. In terms of TJ, it identified the following:

- Drafts of the **Rules of Procedure, 2082 (2025)** for the **CIEDP** and the **TRC** have been prepared and submitted to the **Government of Nepal (Council of Ministers)** for approval.
- An agreement titled **"Switzerland's Earmarked Financial Contribution to the Enforced Disappearances, Enquiry, Truth and Reconciliation Fund"** has been concluded between the **Government of Switzerland** (represented by the Swiss Federal Department of Foreign Affairs through the Embassy of Switzerland) and the **Government of Nepal**.
- The Commission has upgraded its **Complaint Management System** into a **Digital Dashboard** that displays the real-time status of complaints/applications. Through the same system, detailed profiles of all victims and complainants can now be generated.
- Information has been collected from the Government of Nepal and its agencies regarding **relief and compensation** distributed to conflict victims. A preliminary compilation has been completed (showing that approximately **NPR 16 billion** (about US$ 105 million) worth of relief and compensation has been distributed), and the data is currently being entered into the digital software system.
- The complaint management software has been redesigned so that complainants/applicants are **automatically categorized according to the district**. The **software system architecture** has also been redesigned to enable easy collection and retrieval of various data related to victims and complainants.
- To digitize the **investigation and inquiry process** and maintain an integrated database, a **local server** has been established as a **Central Hub**. An **End-to-End (E2E) software system** has been developed to allow every stage of the investigation process to be entered and managed digitally.
- The Government of Nepal is in the process of submitting a proposal to the **Council of Ministers** to form a **Recommendation Committee** for appointing the **Chairperson**

and Members of the **Commission of Investigation on Enforced Disappeared Persons** and the **Truth and Reconciliation Commission**.

It is to be welcomed that the Government has included TJ as part of its priorities, though it was not included in the 100 priorities that were published at the time it took office. However, there are some critical steps that the Government must undertake in taking the process forward. They are elaborated on in the following chapter.

CHAPTER 2: ROADMAP GOING FORWARD

Below we set out a roadmap towards the delivery of accountability for the many past human rights violations and to bring an end to impunity in respect of serious crimes committed during the conflict period.

At its heart is the objective of assisting the Government of Nepal to put in place two TJ bodies which are fit for purpose and provide truth, justice and reparations to the victims, address the root causes of the conflict and by doing so, once and for all, bring an end to impunity and uphold the rule of law in the country.

2.1. Critical legislative reform

There remain several key areas where the TRC Act as amended in 2024 falls short of international standards and best practices, and which require further amendments as a matter of urgency.

The Act classifies human rights violations that took place during the conflict into two categories: 'violations of human rights'[24] and 'serious violations of human rights'.[25] This classification is crucial as it determines the legal pathway for seeking redress and the types of remedies that are available. "Violations of human rights" are defined as "any act, except serious violations of human rights, committed in contravention of existing Nepali law, international human rights, or humanitarian law during the armed conflict by the parties involved, targeting unarmed individuals or communities, or committed in a planned manner.[26] "Serious violations of human rights" are defined as "rape or other forms of serious sexual violence, "intentional or

[24] Section 2(j) of the TRC (Third Amendment) Act, 2014
[25] Section 2(j1) of the TRC (Third Amendment) Act, 2014
[26] Section 2(j) of the TRC (Third Amendment) Act, 2014

arbitrary killing",," enforced disappearances (where the whereabouts of the person remain still unknown)" and "inhuman or cruel torture," targeting 'unarmed individuals or communities, or committed in a "planned manner".[27]

These distinctions raise several concerns. First, it undermines international law obligations with respect to accountability and prevents victims from exercising the right to access justice and an effective remedy.[28] The category of "serious violations of human rights" does not encompass all violations of human rights that States are duty-bound to investigate and prosecute under international law. The way torture, enforced disappearance and arbitrary killings are included in the Amended Act also creates a situation where some of these violations do not fit neatly into one category, leading to real risk of inconsistent and arbitrary treatment by the TRC.

As a State party to international humanitarian law and international human rights treaties, such as the Four Geneva Conventions, the ICCPR, and the Convention against Torture (CAT), Nepal is obligated to investigate, and when evidence so warrants, prosecute and punish those involved in gross violations of human rights and in crimes that are recognized as crimes under international law. These include extrajudicial executions, torture, enforced disappearance, rape, and other forms of sexual violence of comparable gravity. The UN OHCHR has also reiterated that such gross violations must be subject to investigation and prosecution.[29] However, under the Act, some of these violations have been characterized as "violations of human rights", where amnesty may be granted, contravening international law.

Furthermore, the Amended TRC Act also fails to explicitly include war crimes and crimes against humanity within the definition of "serious violations of human rights". Under the Four Geneva Conventions, which Nepal has ratified, the State is obligated to investigate war crimes. Violations, such as mutilation, looting, hostage-taking, use of child soldiers, may amount to war crimes and crimes against humanity. By excluding these crimes from the definition of "serious violations of human rights", the Act limits the scope of criminal conduct that under international law must be prosecuted and thus fails to comply with Nepal's international obligations and the decisions of the Supreme Court of Nepal. Thus, the law needs to amended to ensure that:

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[27] Section 2(j1) of the TRC (Third Amendment) Act, 2014

[28] Joint Press Statement, "Nepal: New Transitional Justice Law a Flawed Step Forward", 20 August 2024, https://www.icj.org/nepal-new-transitional-justice-law-a-flawed-step-forward/.

[29] OHCHR, "The Nepal Conflict Report", 1 October 2012, https://www.ohchr.org/en/documents/country-reports/nepal-conflict-report.

- **The definition of "serious violations of human rights" and "human rights violations" are fully in line with international standards.**
- **War crimes and crimes against humanity are included within the scope of prosecutable offences.**

The Amended TRC Act includes thresholds of "unarmed," "civilian" and "targeted" for several violations, with exceptions only for rape and "serious sexual violence". For example, the inclusion in the definitions of both "serious violations of human rights" and "human rights violations" of "targeting unarmed individuals or communities" could result in potential loopholes if perpetrators argue that their actions were directed at armed individuals or communities, even if civilians were affected. The inclusion of these thresholds may result in denial of access to justice for some victims and to effective remedies, including reparation and other civil remedies, for many who suffered violations during the conflict. The Act needs to be amended to:

- **Remove the thresholds of "unarmed", "civilian" and "targeted".**

The Amended Act introduces the term "inhuman or cruel torture" as a serious violation. This is problematic because torture, by its very nature, is inhuman and cruel. The prohibition of torture and the requirement that it be criminalized is absolute under international law.[30] No qualifier, such as "inhuman or cruel", should be used to diminish the gravity of torture or justify leniency in its classification. The Act needs to be amended to:

- **Bring the definition of torture in line with international standards.**

The Amended Act restricts the definition of enforced disappearances to cases where the whereabouts of the person remain unknown. This excludes individuals who were forcibly disappeared even for months or years and later resurfaced, leaving them outside the jurisdiction of the CIEDP. The ICPPED defines enforced disappearance more broadly, including cases where the person was deprived of their liberty by the State, even if they reappeared later.[31] The Act needs to be amended to:

[30] Article 2, Article 3 of Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) 1984; Article 7 of the International Covenant on Civil and Political Rights (ICCPR) 1966; Common Article 3 of Geneva Conventions.
[31] Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) 2006.

- **Bring the definition of enforced disappearance in line with the ICPPED, including by lifting the restriction on it solely referring to cases where the person's fate or whereabouts remain unknown now.**

Under the Amended TRC Act, if the TRC or CIEDP uncovers evidence of "serious violations of human rights", the case must be referred to the Attorney General for legal action, denoting prosecution. The Act did however introduce provisions for reduced sentences, capping it at 25% of the punishment prescribed by prevailing law, for "serious violations of human rights" (excluding cases of rape and serious sexual violence), and for "violations of human rights" that are neither recommended for amnesty nor mediation.[32]

This may provide a path for **amnesty** for purportedly "non-serious" violations, if certain conditions are met. The arbitrary classification of violations could lead to inconsistent or unjust applications of the amnesty provision, even in cases that should properly be characterized under the Act as "serious violations of human rights violations", such as instances where the relevant conduct amounted to crimes under international law. The Act allows for certain violations, which under international law would be characterized as serious, such as mutilation, prolonged arbitrary and incommunicado detention, to be categorized as "violations of human rights" and for them to be considered as less serious than "serious violations of human rights" and thus allows perpetrators to escape prosecution by providing them with the opportunity to apply for amnesties. This inconsistency would directly contravene Nepal's obligations under international law and decisions of the Supreme Court. The Act needs to be amended to:

- **Bring it fully into line with Nepal's Constitution, Supreme Court jurisprudence and international legal obligations, including by explicitly excluding amnesties for all crimes under international law and gross human rights violations.**

2.2. Key measures to implement the TRC Act

The work of the CIEDP will need support, including for the exhumation and identification of the remains of the disappeared, if or when places of illegal burials are identified during the Commission's investigations.

[32] Section 29(6) of the TRC (Third Amendment) Act, 2014

- **Establish an independent DNA lab, structurally and operationally independent from law-enforcement and political authorities, equipped to the highest international standards, together with a secure, credible consent-based national matching DNA database to collect and preserve family reference samples in accordance with privacy, data protection and do-no-harm principles for comparison and identification purposes.**

The Amended TRC Act also provides the establishment of a three-member Special Court to try and resolve cases involving "serious violations of human rights" referred to it by the Attorney General or public prosecutor authorized by the Attorney General.[33] To date, the court has not been established.

- **Promptly establish the Special Court and appoint judges with demonstrable expertise in international human rights law, international humanitarian law and criminal justice.**

Under the Amended TRC Act, appeals against the Special Court's decisions, such as convictions and acquittals, will be heard by a designated joint bench of transitional justice in the Supreme Court, whose justices will be selected by the Chief Justice.[34]

- **Ensure the designated Supreme Court bench on TJ is constituted promptly and there is necessary expertise among the judges and relevant staff.**

2.3. Appointment of commissioners

Considering the repeated flawed appointment processes of the past as described above, it is critical that the new appointments to the two TJ bodies are fully in line with international standards and best practices.

Contrary to each occasion in the past (and most recently) when commissioners were appointed through a politicized selection process without victims' participation, new commissioners should be appointed through a transparent, independent process that also ensures meaningful and substantive participation of victims.

[33] Section 29(3)(4) of the TRC (Third Amendment) Act, 2014
[34] Section 29e (2) of the TRC (Third Amendment) Act, 2014

- **Re-establish a transparent, impartial, and participatory selection process, including public advertisement, open hearings with informed consent, and objective criteria for appointment.**[35]
- **Ensure the composition and function of the selection committee is in line with constitutional guarantees of independence and equality.**
- **The commissioners should be selected solely on a merit-basis with respect to their expertise in the subject matter of TJ, their impartiality and independence.**

2.4. Priorities and Working Methods of the Commission

The TJ bodies have mandates to investigate, award compensation and recommend prosecutions, among others. So far, they have not concluded any investigations, awarded compensation or referred any cases to the Attorney General's Office. Other mandates (such as recommending legal and institutional reform) also have not been delivered on. It is important to enhance their capacity to make them capable of delivering these competing mandates.

One of the major failings of the TJ bodies to date is their lack of engagement with victims, their families and witnesses. It needs a major change in this respect.

- **Place victims at the centre of all aspects of their work through regular consultation, transparent communication and meaningful participation.**
- **Publish regular reports on progress, challenges and implementation to promote transparency and maintain the confidence of victims, CSOs and the wider public.**

The TJ bodies' mandate to act as investigators includes the collection of evidence to be passed to a Special Court for prosecution, i.e. the process bypasses the role of the police and the Attorney General's Office as state institutions traditionally entrusted with the investigation and prosecution of crimes. To facilitate this, the Amended Act provides for the creation of unique **specialised units** within the TJ bodies to deal with different categories of crimes. These include the Truth Finding and Investigation Unit, Reparation Unit, Unit for Investigating Serious

[35] Writ petition no. 082-WC-0011. See AF, 47 victims' organisations and 26 CSOs, "Submission on transitional justice to the 51st session of the Working Group on the Universal Periodic Review January - February 2026", July 2025, https://advocacyforum.org/_downloads/upr-submission-on-tj-july-2025.pdf.

Violations of Human Rights, Unit for Investigating Rape and Sexual Violence and Victim Coordination Unit.[36]

- **Ensure the specialised units are created and provided with specialised staff with strong powers to gather relevant evidence to build a strong case and pass the cases for trial at the Special Court set up under the Act (but as yet not constituted).**
- **The specialised units should also be provided with international experts who can provide technical assistance to the commissioners and national staff.**

This is especially necessary, given the key role the staff plays under the Act to collect evidence to be directly used for prosecutions before a Special Court.

- **Develop strong protocols for evidence collection, preservation and case management to facilitate successful prosecutions before the Special Court.**

The CIEDP especially will require the assistance of forensic scientists, if or when it learns of the location of illegal burial sites, where the bodies of the disappeared have been disposed of. Such events will require specialist assistance, also in terms of psychosocial support for families and other participants of the TJ process that may be exposed to secondary trauma.[37] Similarly, the TRC will require specialists to assist with the investigation of rape and other forms of sexual violence.

- **Ensure investigations are carried out by multidisciplinary teams with expertise in criminal investigation, forensic science, psychosocial support, gender justice and international law.**
- **Adopt survivor-centred procedures for victims of conflict-related sexual violence that guarantee confidentiality, informed consent, trauma-informed interviewing and protection from retaliation. Ensuring transparency, family participation, and proper identification and return of remains.**

[36] Section 31a(1) of the TRC (Third Amendment) Act, 2014
[37] Hollie Nyseth Brehm, Laura C Frizzell, Christopher Uggen and Evelyn Gertz, 'Consequences of judging in transitional justice courts' (2021) 61(5) The British Journal of Criminology 1169, 1177.

The commissions should not only investigate individual cases, but also examine wider patterns, to collect evidence in respect of a range of individual cases, so that those perpetrators responsible for widespread or systematic violations could be identified and referred to the Special Court, also to reveal the deeper patterns in individual perpetrators' roles and the overall command-and-control structures.

- **The TJ bodies should examine patterns in human rights violations to identify perpetrators responsible for widespread or systematic violations and refer cases against them to the Special Court.**
- **The TJ bodies should call the then commanding officers as well as relevant politicians to give evidence regarding the wider policies (such as rules of engagement) that were in place at the time widespread or systematic violations were taking place.**

Given their role in gathering evidence that will be used during the trials of the alleged perpetrators, it will be important for the TJ bodies to **provide security to victims and witnesses** while giving evidence before the commissions (at local, district, provincial or national level). Special attention should be given to ensure victims' trauma is not triggered, and alleged perpetrators are not able to put pressure on them to change their evidence.

Victims of CRSV face particular vulnerabilities and are thus owed specific protections within any legal case and throughout their engagement with the TJ mechanisms. Such protections have so far not been granted, leading to systematic discrimination against victims of CRSV and other gender-based crimes.[38] Among the other witnesses likely to be called to give evidence before the TJ bodies are some former and current army and police officers. The commissions will have to ensure that they also have adequate protection, minimizing the risk of threats against them compromising their evidence.

- **Ensure the security of victims and witnesses coming before the TJ bodies and due to give evidence before the Special Court, including by setting up a victims and witness protection mechanism, with special attention to victims of CRSV, other vulnerable witnesses and members of the security forces providing evidence.**

[38] ICJ, "Nepal failure to address the rights of conflict related sexual violence survivors in transi=onal jus=ce process", 31 July 2025, available at https://www.icj.org/nepal-failure-to-address-the-rights-of-conflict-relatedsexual-violence-survivors-in-transi=onal-jus=ce-process/.

Before and after the CPA, various **"interim relief" programs** and measures to collect data and provide assistance to conflict victims were introduced. Yet, a comprehensive identification of victims and a complete database remain lacking. Reparation efforts have mostly focused on short-term ("interim") relief[39] and assistance, and many victims of serious violations have yet to receive any support, in particular victims of torture, rape and other forms of sexual violence.

The amended TRC Act recognizes **reparation** as a victim's right,[40] and states that the right to reparation is not negated by certain circumstances, such as: a) whether or not the identity of the perpetrator is known;[41] b) whether or not mediation between the victim and the perpetrator takes place;[42] c) whether or not a recommendation has or has not been made to grant an amnesty or, instead, to initiate legal proceedings against the perpetrator.[43]

Those who have received relief (sometimes even more than once) have often been those with links to the mainstream political parties who have shared power in Nepal since the end of the conflict. It is welcome that a database is in the process of implementation as a record of amounts of "interim relief" and compensation already provided (see Government measures above). Any substantial compensation program for victims of the armed conflict must take into account these previous payments to ensure an overall fair allocation.

While the amended TRC Act now formally recognises and emphasizes prioritizing the right to reparations, including interim relief for victims of rape, sexual violence, and torture after a preliminary investigation into such offences,[44] no CRSV survivors have received redress to date.[45] It remains to be seen how this will happen in practice, given the distrust created by past poor practices.[46] Decades after the conflict, many victims continue to struggle to access basic medical and psychosocial services, as well as support for children born of rape, highlighting the persistent gap between legal recognition and meaningful implementation.

- **Ensure a fair allocation of "interim relief" or compensation, including by carefully checking the database of previous payments.**

[39] AF, "Discrimination and Irregularities. The Painful Tale of Interim Relief in Nepal", 2010, available at https://advocacyforum.org/downloads/pdf/publica=ons/Discrimina=ons_and_Irregulari=es_A_painful_tale_of_Interim_Relief_in_Nepal.pdf.
[40] Section 22a of the TRC (Third Amendment) Act, 2014
[41] Section 22a(2)(a) of the TRC (Third Amendment) Act, 2014
[42] Section 22a(2)(b) of the TRC (Third Amendment) Act, 2014
[43] Section 22a(2)(c) of the TRC (Third Amendment) Act, 2014
[44] Section 23 (1b), TRC Act (third amendment)
[45] After signing the CPA, the GoN introduced different schemes for interim relief for conflict victims. However, victims of torture, rape and sexual violence were large excluded. The International Center for Transitional Justice (ICTJ) , 'From Relief to Reparations: Listening to the Voices of Victims', 2011, available at From Relief to Reparations: Listening to the Voices of Victims | International Center for Transitional Justice
[46] Section 23(1)(1b) of the TRC (Third Amendment) Act, 2014

- **Properly identify or grant interim or other relief to victims of rape and sexual violence, as well as those subjected to torture and other groups that have historically been excluded from relief programmes as a matter of priority.**
- **Establish a comprehensive reparations programme that goes beyond interim relief and includes compensation, rehabilitation, psychosocial support, education, livelihood assistance, restitution, satisfaction and guarantees of non-recurrence**

The amended Act also introduces provisions allowing the Commission to operate or bring into operation programs related to **collective reparations** for victims, where the community as a whole has been affected, their families depended on them, and communities affected by the armed conflict.[47] Importantly, if a victim is dissatisfied with the reparation granted, they can appeal to the Special Court, stating the reasons and grounds for their dissatisfaction.[48]

- **Draw up rules of procedure for the granting of collective reparations, to ensure this is done in a fair and equitable way.**

Proper reparations, according to international standards, should involve compensation but also rehabilitation measures that would enable the victims to better cope with the physical and psychological sequelae of the abuses. Furthermore, to the largest extent possible, efforts should be made to restore victims to the same situation they were in prior to the abuse.

- **Consider appropriate wider reparation measures beyond compensation for individual and collective victims.**

The TRC Act not only focuses on the mandates of the Commissions to investigate individual cases, but also on **wider patterns**, which by implication protects bodies such as the Nepal Army, Armed Police Force and Nepal Police from scrutiny at the institutional level. The Act as amended has mandated the TJ bodies to **study and analyse root causes** of the conflict and recommend measures to address them, a provision through which it should be possible to make recommendations for substantial reforms of the security forces as well as other relevant institutions.

[47] Section 23(2)(2a) of the TRC (Third Amendment) Act, 2014
[48] Section 23(2) (2b) of the TRC (Third Amendment) Act, 2014

- **Produce comprehensive reports identifying patterns of violations, institutional failures and the root causes of the conflict.**
- **The TJ bodies should make recommendations for reform of the security forces, as part of their mandate to study and analyse root causes of the conflict, recommend measures to address them and to prevent recurrence.**

Vetting is generally accepted as an effective strategy to counter impunity.[49] Vetting of peacekeepers at the UN level is an important step that must be undertaken internationally and nationally. In Nepal, no corresponding measures have been adopted at the national level. Earlier drafts of the TRC bill included provisions for vetting, but these were removed in the amended Act.

- **The TJ bodies should recommend an independent, effective and well-resourced system of vetting for public officials and security personnel implicated in serious human rights violations, consistent with international standards, also to be used during the selection of officers for promotion and deployment to UN peacekeeping missions or other international missions.**

2.5. Engagement with Victims and Civil Society

So far, the TJ bodies have not engaged with victims, civil society or the wider public.

- **Discuss with civil society organizations (CSOs) and victims' groups how they can meaningfully engage with and support the commissions throughout the process.**

The TJ bodies should consider organizing sessions that are accessible to the public, including through live TV and radio coverage. Such an approach would engage the nation and increase the understanding among the public of the deeper roots and patterns of impunity at play. Broadcasting the sessions could act as a wider public education initiative on the importance of the rule of law. This has been proven in the past to be a major factor for a country's recovery after conflict. Examples include South Africa, Sierra Leone, Timor-Leste and Liberia. Other countries, such as Canada and Kenya, broadcasted major events as well as summaries.

- **Hold public hearings where appropriate, while ensuring adequate protection for victims and witnesses, and consider broadcasting**

[49] OHCHR, "Rule of Law Tools for Post-Conflict States. Vetting: An Operational Framework", 2006, available at hYps://www.ohchr.org/sites/default/files/Documents/Publica=ons/RuleoflawVetngen.pdf.

proceedings or public summaries to promote public understanding and acknowledgement of past abuses.

- **Develop a plan to ensure at least all key sessions of the TJ bodies are accessible to the public, including through live TV, radio and/or online coverage.**

2.6. Role of the National Human Rights Commission (NHRC)

As the country's prime independent body monitoring and investigating human rights issues since its establishment in 2000, and a constitutional body since 2007, the NHRC is eminently placed to play a monitoring role for the upcoming work by both TJ bodies and also to provide victim support.

- **The NHRC, in close consultation with victims and the TJ bodies, to monitor the work of the TJ bodies and provide regular public assessments.**

To date, there has been little debate about the NHRC's role as a source of information for two commissions. Given that the NHRC investigated hundreds of cases of grave human rights abuses during the conflict and has detailed dossiers on those cases (including potential critical contemporaneous evidence), the NHRC needs to make a policy decision on sharing these data with the TJ bodies, in cases where the victims and witnesses grant permission.

- **The NHRC to decide on a policy in respect of sharing case dossiers with the TJ bodies, and the procedures to follow to ensure confidentiality and victim and witness protection, where needed.**

2.7. Support from the International Community and the United Nations

International partners, including the UN, donor governments and development partners, should:

- **Continue to support Nepal's TJ process while making clear that international assistance should reinforce compliance with international human rights standards rather than legitimise politically compromised processes.**
- **Encourage the Government of Nepal to fully implement the recommendations of the Supreme Court, UN human rights mechanisms and treaty bodies.**

- **Provide sustained technical assistance to the TRC, CIEDP, Special Court and relevant government institutions in areas including criminal investigation, forensic science, witness protection, case management and reparations.**
- **Support capacity-building for commissioners and staff through specialised training on international criminal law, victim participation, gender-sensitive investigations and transitional justice best practice.**
- **Support victims' organisations, women's groups and civil society organisations to enable their effective participation in monitoring and shaping the TJ process.**
- **Encourage the Government to facilitate the visit of the UN Special Rapporteur on Truth, Justice, Reparation and Guarantees of Non-Recurrence and to implement recommendations arising from the visit.**
- **Monitor implementation of Nepal's TJ commitments and raise concerns where progress is inconsistent with international standards or risks perpetuating impunity.**
- **Support long-term institutional reforms aimed at strengthening the rule of law, judicial independence and civilian oversight of security institutions.**

CHAPTER 3: CONCLUSION

The RSP Government under the leadership of Prime Minister Balendra Shah should demonstrate a clear political commitment to delivering a victim-centred, credible and independent transitional justice process. Considering lessons learned from many other countries which have gone through periods of conflict and mass human rights violations – such as Argentina, Guatemala, Bosnia & Herzegovina, Peru, Timor Leste – it is clear that accountability remains possible even years and decades after the crimes were committed. The central lesson from these experiences is clear: denial does not stabilise societies emerging from long periods of violence; it corrodes institutions, perpetuates trauma, and deepens divisions. Nepal is standing at a crossroads, with accountability and victim-centred justice remaining the decisive tests of the country's (and government's) compliance with its international obligations, and its willingness to restore the rule of law in the country. Accountability and

justice, including full acknowledgment of the truth of the crimes committed against citizens, shape the path to lasting reconciliation. This is essential to fostering national confidence in the government and its administrative and legal mechanisms and in ensuring that unresolved violations do not create conditions for recurrence.