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JOINT SUBMISSION LED BY ADVOCACY FORUM NEPAL, JOINED BY FORTY-SEVEN NEPALI VICTIMS' ORGANISATIONS AND TWENTY-SIX NEPALI CIVIL SOCIETY ORGANISATIONS

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Contributing Civil Society Organisations: Accountability Watch Committee (AWC); Advocacy Forum Nepal (AF); Amnesty International Nepal(AI-Nepal); Civil Rights Association Nepal (CIRAN); Collective Campaign for Peace (COCAP); Digital Rights Nepal; Forum for Women, Law and Development (FWLD); Forum of Women Journalists and Communicators (Sancharika Samuha); Himalayan Human Rights Monitors (HimRights); Human Rights and Justice Center (HRJC); Human Rights for Justice; Human Rights Organization of Nepal (HURON); Justice and Rights Institute (JuRI-Nepal); Law and Policy Forum for Social Justice (LAPSOJ); Legal Aid and Consultancy Centre (LACC); Nagarik Aawaz (NA); National Alliance of Women Human Rights Defenders (WHRD); Nepal Forum for Restorative Justice (NFRJ); Nepal Peace Building Initiative (NPI); Public Defenders Society Nepal (PDS-Nepal); Tarangini Foundation; The Story Kitchen (TSK); Transcultural Psychosocial Organization (TPO Nepal); Voices of Women Media (VOW Media); Women in Human Rights (WHR); Women's Rehabilitation Centre Nepal (WOREC).

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EXECUTIVE SUMMARY

1. A coalition of forty-seven Nepali victims' organisations[1] and twenty-six Nepali civil society organisations[2] working on transitional justice (TJ) issues, coordinated by Advocacy Forum Nepal, prepared this submission for the upcoming Universal Periodic Review (UPR) of Nepal.[3] The coalition is gravely concerned about the TJ process' ongoing legitimacy crisis and urges the Government of Nepal to ensure that the process complies with Nepal's Supreme Court ruling, international standards and best practices that address the demands and aspirations of victims and CSOs in Nepal. In particular, it calls for urgent action to end the prevailing culture of impunity for serious violations and to prioritise a victim-centred approach. This requires respecting the dignity of victims and ensuring their rights, needs and voices are central to the TJ process. Since the last UPR review in January 2021, Nepal has made progress in amending relevant laws but has demonstrated a lack of political will in setting up mechanisms that are independent and capable of addressing conflict-era crimes and ongoing human rights violations.

BACKGROUND

2. This UPR review takes place at a critical juncture for TJ in Nepal. Following the long-awaited third amendment to the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act 2014 (TRC Act) in August 2024, many hoped that Nepal would finally undertake a meaningful TJ process, nearly two decades after the conflict ended. However, political interference has once again derailed progress. Key appointments to the two TJ commissions were divided among major political parties through traditional power-sharing arrangements, placing the commissions under their de facto control and severely compromising their credibility and independence. In response, victims' groups across the country publicly denounced the appointments and threatened to withdraw their cooperation.

3. Victims, human rights defenders and experts have called on the international community to raise urgent concerns during the upcoming UPR. Without decisive action, Nepal risks losing a critical opportunity to deliver truth, justice, sustainable peace and dignified healing.

4. In 2015, the Supreme Court ruled the original TRC Act unconstitutional and emphasised the need for independent, competent and impartially appointed commissioners.[4] Nevertheless, the government proceeded twice to appoint commissioners to the two TJ bodies – (1) the Truth and Reconciliation Commission (TRC) and (2) the Commission on the Investigation of Enforced Disappeared Persons (CIEDP) – without making the necessary amendments. These commissions remained largely dysfunctional for nearly a decade and failed to deliver any meaningful progress.[5] The TRC registered 63,718 complaints, including 314 concerning rape and sexual violence, and the CIEDP received 3,223 complaints.[6] Neither commission has resolved a single case to date.

5. Meanwhile, survivors and families of those subjected to violations have lived in hardship for years, often suffering lasting mental health issues and physical injuries, many of whom have

not received any interim relief, let alone reparations. These prolonged failures have not only deprived victims of recognition and dignity but also denied them the opportunity to heal.

I. MAIN TJ DEVELOPMENTS SINCE LAST UPR

6. Since Nepal's last UPR cycle in 2021, the TJ process has seen notable legislative and institutional changes. These include the Third Amendment to the TRC Act and the reconstitution of the two TJ commissions. While victims and civil society organizations (CSOs) initially welcomed the amendment of the law—despite some provisions that could undermine international standards and victims' rights to effective remedies—they hoped that appointing experienced and qualified individuals through a transparent process would help address some of the law's shortcomings. However, despite these expectations, the flawed appointment process for the reconstituted commissions has raised serious concerns. Victims and CSOs now fear that this may lead to yet another round of failed commissions, unable to address the deep-rooted structural deficiencies that have long hindered Nepal's TJ process. Instead of restoring trust, the process risks entrenching impunity and further eroding public confidence in the TJ mechanisms and the rule of law more generally.

7. In August 2024, in response to the Supreme Court's 2015 ruling and longstanding demands from victims and civil society organisations, Parliament passed the Third Amendment to the TRC Act. The Amendment introduced several positive provisions, and many acknowledged it as a partial victory. However, critical gaps in the legal framework remain and the Act continues to depart from key international standards and Supreme Court rulings. These concerns are explored in the following sections.

8. On the institutional front, the government established the long-overdue Recommendation Committee in October 2024 to appoint commissioners to the TRC and the CIEDP. The first iteration of the committee dissolved after failing to reach consensus, citing procedural irregularities. A reconstituted committee was formed in March 2025, but again failed to ensure transparency, inclusivity and merit-based selection. On 14 May 2025, it proceeded with appointments despite serious concerns about political interference amounting to outright objections to the entire process.

9. The appointments sparked a unified response from victims' organisations and civil society organisations, marking a rare moment of collective action across historically fragmented communities. On 1 May 2025, victims' groups shared a press release with eleven points of criticism against the ongoing process.[7] On 4 May, victims submitted a letter to the Prime Minister calling for a credible and transparent appointment process. [8] On 6 May 2025, ten leading TJ organisations also issued a joint public statement echoing those concerns.[9] Victims' groups have thus threatened to boycott the official TJ process if the government does not rectify its actions and reinitiates a credible process to appoint independent, impartial and competent commissioners for

both TJ bodies. Many survivors described feeling a profound sense of deception and betrayal, noting that despite limited progress since the last UPR, the current context reflects a political debacle rather than a step forward. This perceived manipulation of the process has further eroded trust.

II. REVIEW OF RECOMMENDATIONS FROM LAST UPR

10. During Nepal's last UPR cycle, several countries raised concerns and put forth recommendations specifically addressing the country's TJ process. None of these recommendations have been fully and adequately implemented, indicating an urgent need for the Nepal government to ensure responsive action to meet international standards, or risk delegitimising the entire TJ process in the eyes of victims and the international community. The following sections evaluate the implementation level of recommendations raised by Member States at the UPR in 2021.

A. Urging Amendments to the TRC Act

i. Past Recommendations

11. Belgium, Canada, Germany, Norway and the United Kingdom (the UK) urged Nepal to amend the TRC Act.[10] Belgium, Norway and the UK called for reforms consistent with international norms, Canada emphasised compliance with the Supreme Court's 2015 ruling that declared multiple provisions unconstitutional, while Germany recommended amending the Act in line with both domestic and international law.

ii. Implementation Level: Partially Implemented

1. Limited Legislative Reforms Introduced

12. The Government of Nepal introduced the Third Amendment to the TRC Act, which was passed by Parliament in August 2024, following years of pressure from victims, civil society organizations and international actors. The Amended Act mandates the TRC to uncover the truth, recommend reparation, study and analyse root causes of conflict and recommend measures to address them and to work as the sole investigatory arm for prosecution in cases of serious human rights violations.

13. The Amendment introduced some positive procedural reforms. Section 2 classifies human rights violations in two categories: "violations of human rights"[11] and "serious violations of human rights",[12] with the provision of amnesty for the first category, while preventing it for the second. Section 23a established a dedicated Truth and Reconciliation Fund to provide monetary reparations to victims and their families. The Amended Act also provides for the creation of unique specialised units within the TJ bodies to deal with different categories of crimes, including units for truth finding, rape and victim coordination.

2. Flawed Definitions and Loopholes Remain

14. Nevertheless, several remaining provisions of the Amended Act are not only problematic but also constitute violations of international legal standards and best practices for TJ. Therefore, these reforms fall far short of addressing the core legal and structural issues identified by UPR Member States and Nepali courts.

15. The definitions of both "violations" and "serious violations" remain overly narrow and ambiguous. The Act limits applicability to acts committed "in a targeted or planned manner against an unarmed individual or community",[13] which may enable perpetrators to argue a lack of intent or claim victims were combatants. Likewise, the Act does not clearly specify which provisions apply to civilians and which to combatants, creating a risk that civilians' rights will be overlooked in favour of the more unified and influential interests of combatants. Furthermore, by specifying "arbitrary killing", the act fails to encompass a broader definition of homicide, leaving a loophole for perpetrators to exploit. More broadly, the definition of human rights must be clarified to ensure an intelligible basis and solid legal foundation.

16. Only a limited set of grave crimes qualifies as "serious violations": intentional or arbitrary killings, rape or serious forms of sexual violence, cruel or inhuman torture and enforced disappearance (but the latter exclusively when the victim's whereabouts remain unknown).[14] If a disappeared person reappears, the offence is downgraded to a lesser "violation of human rights", ignoring the gravity of the original act and violating Nepal's obligations under the International Convention for the Protection of All Persons from Enforced Disappearance (ICPED).

17. The definition of "violations of human rights" is unclear as it references "existing Nepali law", without specifying whether this refers to the law at the time of the offence or current law. This legal ambiguity risks inconsistent application.[15]

3. Failure to Address International Crimes

18. The Amended Act does not explicitly define or criminalise war crimes or crimes against humanity, contrary to Nepal's obligations under the Geneva Conventions, International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture (CAT). Furthermore, torture is only classified as a "serious violation" if deemed "cruel or inhuman", a redundant and flawed distinction that contradicts the absolute prohibition and required criminalisation of torture in international law.

4. Amnesties and Disguised Impunity

19. While the Act prohibits amnesty for "serious violations", it permits amnesty for other violations based on vague criteria, such as an apology, an admission of guilt and a commitment not to repeat the act. It is unclear whether all criteria must be met or just one. This ambiguity, combined with problematic classification of violations, risks granting amnesty for grave offences, including international crimes, as many violations listed under "human rights violations" may

amount to war crimes and crimes against humanity if committed as part of a widespread and systematic pattern. As the Act does not recognise these offenses as serious violations, it allows their perpetrators to receive amnesty. If, for instance, a disappeared person's whereabouts are later identified, the enforced disappearance shall be classified as a mere violation of human rights, so the perpetrator may be eligible for an amnesty.[16]

20. In cases where amnesty is barred, the law still allows sentence reductions of up to 75% for serious crimes, including torture and enforced disappearance.[17] This amounts to a disguised amnesty, violating international standards on proportionality in sentencing and the Supreme Court's 2015 ruling, which found such provisions unconstitutional and ordered their removal.

5. Politicised Oversight and Lack of Institutional Independence

21. Finally, the institutional independence of the TJ process remains compromised. The Act creates a Truth and Reconciliation Fund, which is overseen by the Ministry of Law and requires approval from the Ministry of Finance for foreign contributions. This opens the door to political interference and restricts the operational autonomy of the TJ bodies.

B. Guaranteeing a Gender-Sensitive TJ Process

i. Past recommendations:

22. At the UPR in 2021, Ireland brought attention to the need to ensure the TJ process is gendersensitive.

ii. Implementation level: Partially Implemented

1. National Action Plan on Women, Peace and Security

23. In May 2023, the Government of Nepal launched its Second National Action Plan (NAP II) on Women, Peace and Security (WPS) with the objective of fully guaranteeing "proportional and meaningful participation and security of women in conflict and transformation peacebuilding". NAP II operationalises Nepal's commitments under UN Security Council Resolutions 1325 and 1820, which call for the protection and participation of women in conflict and post-conflict settings, particularly in relation to peacebuilding and the prevention and response to sexual violence.

24. However, CSOs have raised serious concerns regarding the implementation of NAP II.[18] There is limited awareness and coordination across all levels of government. Even senior officials tasked with implementation have admitted to being unaware of their responsibilities or have been unwilling to cooperate with CSOs. Insufficient funding has also prevented implementation, particularly at the provincial and local levels. Stakeholders noted that while United Nations Security Council Resolutions (UNSCR) 1325 and 1820 focused primarily on the experiences of women and children, they have failed to address the impact of conflict-related sexual violence

(CRSV) against men, an omission also reflected in the broader international community's policy focus.

2. Gender Sensitivity in the TRC Act Amendments

25. The Third Amendment to the TRC Act includes some references to gender sensitivity. Section 19 requires the commissions to operate in a "gender-friendly" manner, while Section 23 also mentions gender sensitivity. However, merely including language of gender sensitivity alone does not ensure a gender-sensitive TJ process, which requires a more gender-specialised and confidential procedure.

26. The Act also mandates that at least one woman be included in the Recommendation Committee and TJ bodies. In 2025, only six women were shortlisted among 34 final candidates. Ultimately, four women out of ten members were appointed to the commissions. However, considering the gender disparity amongst shortlisted candidates, these appointments were criticised as highly tokenistic and insufficient to ensure the delivery of gender-sensitive truth, justice and reparations.

3. Exclusion of CRSV Victims from Meaningful Participation

27. CRSV survivors have been disproportionately affected by the government's failure to implement a truly gender-sensitive TJ process. While the Amended TRC Act reopened the window to submit complaints of rape and sexual violence committed during the conflict, the process is deeply flawed.

28. Under Section 13(2)(6)(a), survivors who had not previously filed complaints were given only a one-time, three-month-long window to do so. This short timeframe is especially burdensome for CRSV survivors, many of whom have never shared their experiences due to fear, stigma and trauma. The TJ bodies issued this call for complaints immediately after taking office in May 2025, without consulting victims or their representatives. Complaints could only be submitted in person or by email, creating further barriers. In response, CRSV victims' groups have announced a boycott of the process.[19] Both the Gender and TJ Network and the National Association of Conflict Rape Victims condemned the rigid three-month deadline.[20]

29. Victims' groups highlighted concerns over the absence of gender-sensitive measures and the lack of protection mechanisms for CRSV victims in an October 2024 letter to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and diplomatic missions in Nepal.[21] The letter urged the international community to engage cautiously with unfolding TJ developments in Nepal, given lack of a gender-sensitive and victim-centric approach.

4. Unsafe and Stigmatising Complaint Procedures

30. The TRC's application form, which victims must complete to register a complaint, is seriously intrusive. It requires disclosure of highly sensitive information, including the name of

alleged perpetrators, family information, evidence and descriptions of the violations experienced, without ensuring safe and reliable confidentiality procedures.

31. This requirement is particularly harmful to CRSV survivors, who face serious risks of retaliation, community stigma and re-traumatisation. Many have never disclosed their experiences, even to close family members, and are unlikely to engage with the TJ process as the complaint procedures remain unsafe. This challenge is compounded for victims who are unable to speak for themselves and must rely on others to narrate their experiences. Such indirect disclosures expose them to heightened risks, particularly in small communities where confidentiality is difficult to maintain.

C. Ensuring a Victim-Centred TJ Process

i. Past Recommendations

32. During the 2021 UPR, Australia called on the Government of Nepal to advance a credible and victim-centric TJ Process.[22] Germany specifically recommended that survivors of sexual violence and their families be included in the TJ process and all related government schemes.[23]

ii. Implementation Level: Not Yet Implemented

1. De facto Exclusion and Procedural Obstacles to Participation

33. Despite formal commitments to victim inclusivity, Nepal's TJ process continues to systematically exclude victims. This exclusion has deeply undermined the legitimacy, accessibility and responsiveness of the TJ mechanisms.

34. Nepal's Penal Code also imposes arbitrary and unjustly short time limits, such as one-year statute of limitations for rape, which has prevented many conflict-era victims, especially survivors of sexual violence, from filing cases. Statutes of limitation for rape directly violate the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention Against Torture (CAT) jurisprudence and contravene Nepal's obligations under international law to ensure access to remedies for gross human rights violations.

35. Procedural barriers further limit victim participation. The short three-month window and unsafe complaint submission procedure, compounded by mandatory inclusion of sensitive personal details, seriously inhibit inclusion, especially for CRSV survivors.[24]

36. The rigid three-month limitation also fails to account for delayed impacts of war, particularly pertaining to victims with disabilities who may only begin experiencing the full extent of their injuries months or even years after the end of the conflict. Survivors who become disabled after the three-month deadline, such as those harmed by landmines or explosive remnants of war (ERW), are thus effectively barred from seeking redress through the official TJ mechanisms. ERW and unremoved mines remain in multiple districts and have continued to inflict injuries long after

the conflict ended. Nepal remains a country with ongoing ERW casualties, including child casualties, as recently as 2023.[25] This temporal limitation undermines the principle of inclusive and non-discriminatory justice.

37. Victims and potential witnesses continue to fear surveillance, social ostracism and intimidation, especially those in rural areas who try to file cases or speak publicly. Without robust witness protection or psychosocial support, many remain silent, further marginalizing their voices from the TJ process and eroding their sense of dignity and agency. Victims who speak to the media or share their stories publicly are particularly vulnerable to intimidation and retaliation, reinforcing the urgent need for robust witness protection mechanisms throughout the TJ process.

2. Victims' exclusion from TJ Mechanisms' Design and Oversight

38. The state has excluded victims from shaping the very institutions meant to deliver TJ, including through the appointment of commissioners and the design of core procedures. Victims' groups and CSOs proposed several qualified candidates for appointments to both TJ bodies. These nominees were entirely disregarded and politically affiliated individuals were selected instead. In fact, unlike truth commissions in South Africa, Tunisia and Canada,[26] where survivors were directly involved in shaping the process by serving as commissioners, the government has blatantly refused to allocate seats within the commissions to victims, citing objectivity concerns. However, two selected commissioners with close ties to major political parties have claimed to represent victims as they belong to victims' families. This reveals a clear double standard, as nominees put forward by victims' organisations themselves, without political backing, were rejected for alleged lack of impartiality based on their personal ties to affected communities.

39. This lack of transparency has only deepened distrust in the process. Many victims' groups have since publicly declared their refusal to cooperate with the commissions, citing persistent exclusion and lack of outreach. Victims even extended their denunciation to the international stage, issuing a letter to the OHCHR in May 2025, which condemned the recent appointments as flawed, opaque and politically compromised.[27] Endorsed by thirty-nine victims' organisations, the letter affirmed that ensuring a victim-centred process is non-negotiable and called on the international community to support a transparent, independent and victim-led alternative.

40. Furthermore, in response to continued exclusion, victims warned they would initiate parallel civil commissions in protest against the failures of the official process.[28] This initiative demonstrates victims' commitment to participatory justice and should be formally recognised and supported.

3. Identity-based and Structural Exclusion from the implementation of TJ 41. Nepal's TJ process continues to reflect the systematic inequalities embedded in broader society. Beyond overall victim exclusion from appointment procedure and oversight mechanisms, the state has also excluded marginalised and disproportionately affected groups from the content and

implementation of the TJ framework, including in reparation eligibility, participation modalities and access to justice more broadly.

42. Relief and reparation efforts have failed to treat all identities of victims equally. Victims of torture who do not fall under the categories of "displaced" or "disappeared" have so far been excluded from interim relief and reparation schemes, despite well-documented abuses. This has reinforced a hierarchy of suffering and undermined the principle of equal treatment.[29] Whereas the Amended Act now also provides for reparations to victims of torture and rape, it remains to be seen how this will work in practice, especially for CRSV victims who face broader barriers discussed above.

43. Victims with disabilities have been similarly excluded from the TJ process. The 2024 amendments to the TRC Act fail to clearly define or recognise victims disabled by the conflict. By erasing their specific identity and failing to guarantee measures necessary for their inclusion, disabled victims are effectively marginalised from the TJ. The government has failed to provide victims with disabilities with adequate disability-responsive channels to submit complaints and access information. It has also omitted tailored outreach strategies, support services and accommodations, such as sign language interpretation and physically accessible venues, that are all necessary to ensure disabled victims' full inclusion and participation in the transitional justice process.

44. This exclusion violates Nepal's obligations under both domestic and international law. Denying the full and unburdened inclusion of persons made disabled due to conflict in all aspects of the TJ process violates the Act Relating to the Rights of Persons with Disabilities, specifically sections regarding disabled persons rights to: equal entry access to public buildings,[30] participation in policy making,[31] easy access to public services and facilities[32] and accessible, disability-friendly access to information without additional charges or technological obstacles.[33] Likewise, the failure to accommodate disabled victims' needs within the TJ process contradicts the Convention on the Rights of Persons with Disabilities, which requires equal access to justice and participation in public life for persons with disabilities.[34]

45. No process exists to ensure the inclusion of Dalit, Madhesi, *Janajati*/Indigenous, LGBTQ+ or other historically oppressed communities who were severely impacted by the conflict in decisionmaking roles, reparation programmes and the implementation of TJ more widely.[35] This needs to be rectified to help ensure the equitable delivery of justice, irrespective of identity.

46. 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 not been granted, leading to systematic discrimination against victims of CRSV and other genderbased crimes. (We urge the UPR review members to refer to a separate submission led by

the Gender and TJ Network for a more comprehensive analysis of the violations faced by CRSV victims.)

4. Geographic and Regional Exclusion from the TJ Process

47. Victims from rural and remote regions and communities face compounded challenges. The TJ process is heavily centralised in Kathmandu and government materials are only published in Nepali. The government has made no structured effort to disseminate information, hold consultations or gather complaints in local languages or remote districts. As such, many victims in rural areas and remote regions lack access to basic information, legal support and transportation needed to engage with the ongoing TJ process.

48. This is particularly true for victims with disabilities, who face additional mobility and accessibility barriers in reaching or navigating government offices and filing complaints. Physical access to TRC and CIEDP offices is often impossible without accommodations, and none have been provided. There are no sign language interpreters, accessible venues or alternative methods for lodging complaints.

49. Even processes like the application for commissioners and members were inaccessible. The call was open for only ten days, further reduced by public holidays, which left only seven working days for candidates to prepare and submit applications for high-stakes roles.[36] This extremely limited window made it virtually impossible for non-urban candidates or other marginalised candidates to apply. Notably, too, the committee published its shortlist only six days after the final submission date, suggesting that the review of over one hundred applications was either rushed or that decisions had been made in advance. As such, the process presents as merely a formality designed to validate pre-arranged political appointments, while systematically excluding geographically remote and structurally disadvantaged individuals from meaningful participation.

D. Recommendations for Institutional Reforms and a Transparent TJ Process

i. Past Recommendations

50. Several countries raised concerns regarding transparency within the TJ commissions. Uruguay and the Republic of Korea urged Nepal to ensure the independence of the TJ commissions.[37] Switzerland recommended that Nepal adopt a TJ strategy based on transparent and inclusive consultations.[38] Ireland called upon Nepal to ensure the transparent conclusion of cases.[39]

ii. Implementation Level: Not Yet Implemented

1. Lack of Transparency

51. Transparency in the TJ process remains severely lacking, particularly in the selection of commissioners for the TRC and CIEDP. While transparency concerns were already raised during the last UPR cycle, the recent appointment process has deepened mistrust.[40] The Recommendation Committee failed to publish any selection criteria, evaluation procedures or guidelines. This is a

direct departure from international standards requiring clear, public and participatory appointment processes. Despite repeated judicial rulings calling for consultative and transparent decisionmaking,[41] the government proceeded with opaque selections, drawing widespread criticism both domestically and internationally.[42]

52. Victims' groups filed RTI requests, requesting information on selection criteria, candidates' backgrounds and expertise, but the Ministry of Law refused to provide such information to victims, stating it was confidential.[43] Calls for public interviews were likewise ignored. The shortlisting of 34 candidates out of 111 applications from prospective candidates within just seven days of the application deadline raised further doubts about the credibility of the vetting process and suggested the process was merely a formality.[44]

2. Political Interference Undermining Credibility

53. The appointment of commissioners in May 2025 followed intense political negotiations between the three major parties, resulting in a power-sharing arrangement rather than a meritbased process. Multiple victims' groups across Nepal condemned the appointments, warning they would withdraw cooperation with the TJ bodies due to the overt politicisation of a process that was supposed to serve them.[45]

54. The Recommendation Committee itself lacked independence from the outset. Initially established in October 2024 with a mandate of appointing commissioners to TRC commissions, the Recommendation Committee was unable to reach consensus on appointments by its deadline and became defunct by December 2024. A National Human Rights Commission (NHRC) representative within the Committee cited a lack of neutrality as the primary reason for its failure.[46] Despite widespread concerns of political influence, the government reconstituted the committee, reappointing most of the original members, including figures closely aligned with the ruling coalition government. Victims nominated twenty-nine highly qualified individuals, twenty-seven of whom were excluded without explanation, while over 80% of shortlisted candidates were repeat applicants, reinforcing the perception of a predetermined outcome. The two victim-nominated shortlisted candidates declined participation in interviews, refusing to support a fundamentally flawed process that would fail to deliver meaningful justice for victims.

55. Additionally, most of the shortlisted candidates lack formal training or demonstrated experience in TJ, human rights, peacebuilding and victim-sensitive approaches. The absence of psychologists, sociologists or other trauma-informed experts, which are essential for engaging with victims in a compassionate and context-sensitive manner, is particularly concerning.

3. Failure to Uphold International Standards

56. The UN Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (2005) requires transparency, impartiality and participation in the

selection of commissioners. The OHCHR Rule of Law Tools for Post-Conflict States emphasize that truth commissions must be composed of independent, impartial individuals, appointed via objective and participatory processes. Comparative best practices in countries like South Africa, Sierra Leone, Colombia and Tunisia include: public interviews, published selection criteria, civil society oversight and independent or mixed international committees—all of which are absent from Nepal's current process.

E. Addressing Delays in the Provision of Justice and Ensuring Due Process of Law

i. Past Recommendations

57. Belgium recommended that Nepal bring the TRC Act into compliance with international norms on delays in processing complaints.[47] Ireland urged the timely conclusion of cases before the commissions.[48] Botswana advised the speedy conclusion of investigations into allegations of gender-based violence that had remained pending since 1996-2006.[49] Italy and the State of Palestine recommended that Nepal effectively address cases of conflict-related human rights violations.[50] Similarly, the Republic of Korea urged Nepal to ensure that perpetrators are brought to justice.[51]

ii. Implementation Level: Not Yet Implemented

1. Systematic Non-Enforcement and a Culture of Impunity

58. Systematic non-enforcement refers to a consistent and repeated failure by the state to uphold its legal obligations, creating entrenched patterns of inaction that foster a culture of impunity. In Nepal, this is reflected in the government's ongoing disregard for court orders, its failure to address thousands of victims' complaints and its unwillingness to initiate credible investigations nearly 20 years since the conflict ended.

59. The government has failed to launch or pursue criminal investigations into many high-profile conflict-era cases, despite public documentation and legal obligations, arguing that such cases will be dealt with through the TJ process. This includes well-documented incidents involving security forces and senior political actors, where victims or their relatives filed First Information Reports
(formal complaints) with the local police, but no action has been taken upon them.[52]

2. Violations of Victims' Rights Under National and International Law/Covenants

60. Continued delays and failures to investigate cases effectively violate Article 20 of the Nepal Constitution, guaranteeing victims' right to justice, including timely investigation, fair procedures and reparations; Article 2(3) of the ICCPR, requiring states to provide an effective remedy and the duty to investigate and prosecute gross human rights violations under customary international law and treaties including the CAT and the CPED.

III. RECOMMENDATIONS

A. Ensure Victim-Centred Justice

61. Ensure the re-design of the appointment process, guaranteeing the meaningful inclusion and inherent dignity of victims at all stages of the TJ process, including in the appointment of commissioners, the design of mechanisms and their procedures and the implementation of reparations, by establishing permanent consultative forums by mid-2026.

B. Further Amend the TRC Act

62. Amend the TRC Act to explicitly criminalise gross violations of international law, including torture, enforced disappearance, sexual violence, war crimes and crimes against humanity in line with Nepal's obligations under the ICCPR, CAT, ICPED and the Geneva Conventions;

63. Remove all provisions allowing discretionary and de facto amnesties for serious human rights violations and ensure that the right to justice and remedy for victims is fully protected under domestic law;

64. Revise vague or inconsistent definitions of "serious human rights violations" to align with international standards and provide legal clarity necessary for fair investigation, prosecution and reparations.

C. Prioritise Credibility, Independence and Objectivity

65. Ensure a merit-based, inclusive and transparent process for appointing commissioners, free from political influence;

66. Publish and institutionalise clear eligibility criteria, selection procedures and evaluation guidelines aligned with international standards;

67. Include victim-nominated candidates in the final selection process and ensure their meaningful participation is not symbolic.

D. Guarantee Transparency

68. Guarantee public access to and scrutiny of all TJ-related procedures, including candidate shortlists, selection criteria and justifications for appointments;

69. Ensure that all consultations and outreach efforts are structured, inclusive and adequately documented, with advance notice and accessible language;

70. Establish a formal RTI response protocol to address queries from victims and CSOs.

E. Undertake a Gender-Sensitive TJ Process

71. Ensure gender parity and diverse representation across all TJ commissions and advisory structures and outreach to marginalised gender identities;

72. Develop a new NAP for the implementation of UN Security Council Resolutions 1325 and 1820 that promotes the full, equal and meaningful participation of women in all peace and justice processes. Ensure that NAP implementation includes clear timelines, budgeting and independent monitoring.

F. Ensure Timely and Procedural Justice

73. Avoid superficial "fast-track" procedures and instead adopt victim-informed strategies that prioritise fairness and procedural safeguards;

74. Focus investigative and prosecutorial resources on resolving urgent and serious cases, including those involving CRSV, enforced disappearance and torture, and publish status updates annually.

G. Address Systematic Non-Enforcement and Impunity

75. Initiate prompt, independent investigations into all conflict-era cases where First Information Reports (FIRs) were filed but no action taken.

76. Implement the recommendations of the NHRC, ensuring state accountability and the provision of remedies to victims and survivors, with annual progress reporting.

77. Acknowledge and address the structural discrimination and political impunity that have repeatedly stalled the TJ process by forming a high-level multi-party oversight committee tasked with depoliticising appointments and reforms.

H. End Discrimination and Ensure Equal Access to Justice

78. Ensure the equitable participation of women, disabled individuals, Dalit, Madhesi, *Janajati*, LGBTQ+ and other historically excluded communities in the design and implementation of all TJ processes.

ENDNOTES:

[1] Contributing victims' organisations are: Badarmudhe Incident Victims Concern Committee, Chitwan; Bhairab Memorial Foundation, Gorkha; Bhupendra Memorial Trust Nepal; Bhupendra Smriti Pratisthan Nepal, Banke; Centre for Human Rights and Victims of Violations, Nepal; Conflict Affected People's Concern Centre, Dang; Conflict Management and Displaced Concern Centre; Conflict Victim Rights Forum, Myagdi; Conflict Victim Women National Network (CVWN); Conflict Victim Women National Network, Myagdi; Conflict Victim Women National Network, Nawalpur; Conflict Victims and Farmer Rights Society, Kailali; Conflict Victims and Unity Development Centre; Conflict Victims Common Platform (CVCP); Conflict Victims National Alliance (CVNA); Conflict Victims Orphans Society (CVOS); Conflict Victims SelfEmployment and Skills Training Centre, Morang; Conflict Victims Society for Justice (CVSJ); Conflict Victims Teachers Society; Conflict Victims Women Network, Banke; Conflict Victims' Society, Koshi Province; Disabled Conflict Victims Association, Dolakha; Ganesh-Ujjan Memorial Foundation; Guru Luitel Study and Development Centre; Hari Bhakta Memorial Foundation, Rukum; Human Rights Network and Peace Working Group; Jhapa Memorial Pillar Park for the Disappeared; Kumbharadda Memorial Park for the Disappeared, Bardiya; Laxmi Acharya Memorial Trust, Jajarkot; Maina Bal Bikash Samiti; Manilal Memorial Trust, Myagdi; Martry Bashistha Koirala (Sureshchandra) Memorial Foundation, Sindhuli; Martyr Ajablaal Yadav Memorial Trust, Dhanusha; Martyr Jaya Bahadur Rawal Memorial Foundation, Jajarkot; Martyr Tikaraj Aran Memorial Foundation, Ramechhap; Martyrs and Disappeared Memorial Foundation; Nandalal Koirala Memorial Trust, Gorkha; National Memory Network; National Network of Disabled Conflict Victims (NNDCV); National Network of Families of the Disappeared (NEFAD); National Network of Victims of Serious Human Rights Violations; National Struggle Committee of Maoist Victims, Nepal; Nepal Maoist Victims Association; Ra.Si.Pa. Memorial Foundation, Arghakhanchi; Shiva Prasad Bhatta Memorialization, Gorkha; Social Justice Committee, Nepal; Society of Families of the Disappeared Nepal, Sunsari.

[2] Contributing civil society organisations are: Accountability Watch Committee (AWC); Advocacy Forum Nepal (AF); Amnesty International Nepal(AI-Nepal); Civil Rights Association Nepal (CIRAN); Collective Campaign for Peace (COCAP); Digital Rights Nepal; Forum for Women, Law and Development (FWLD); Forum of Women Journalists and Communicators (Sancharika Samuha); Himalayan Human Rights Monitors (HimRights); Human Rights and Justice Center (HRJC); Human Rights for Justice; Human Rights Organization of Nepal (HURON); Justice and Rights Institute (JuRI-Nepal); Law and Policy Forum for Social Justice (LAPSOJ); Legal Aid and Consultancy Centre (LACC); Nagarik Aawaz (NA); National Alliance of Women Human Rights Defenders (WHRD); Nepal Forum for Restorative Justice (NFRJ); Nepal Peace Building Initiative (NPI); Public Defenders Society Nepal (PDS-Nepal); Tarangini Foundation; The Story Kitchen (TSK); Transcultural Psychosocial Organization (TPO Nepal);

Voices of Women Media (VOW Media); Women in Human Rights (WHR); Women's Rehabilitation Centre Nepal (WOREC).

[3] Annex 1: Contact Information of Contributing Organisations.

[4] *Suman Adhikari and Others v Office of Prime Minister and Council of Ministers*, (069-WS0057, Supreme Court of Nepal, 2015) (Order).

[5] Advocacy Forum-Nepal, *The state of Transitional Justice in Nepal* (Briefing Paper, February 2019). <https://www.advocacyforum.org/downloads/pdf/publications/tj/af-briefing-paperfebruary-2019-english.pdf> accessed 14 July 2025, 12.

[6] Advocacy Forum-Nepal, *Establishing Victims' Rights on Enforced Disappearances* (August 2021). <https://www.advocacyforum.org/downloads/pdf/publications/impunity/establishingvictims-right-on-enforced-disappearances-30-august-2021.pdf> accessed 14 July 2025. [7] Ghimire B, 'Victims Reject Transitional Justice Shortlist, Demand New Selection Panel' (The Kathmandu Post, 2 May 2025). <https://kathmandupost.com/national/2025/05/02/victims-rejecttransitional-justice-shortlist-demand-new-selection-panel?s=09> accessed 14 July 2025. [8] 'Conflict Victims Urge Prime Minister for Transparency in Appointments to Transitional Justice Bodies' (*The Kathmandu Post*, 4 May 2025). <https://kathmandupost.com/national/2025/05/04/conflict-victims-urge-prime-minister-fortransparency-in-appointments-to-transitional-justice-bodies> accessed 14 July 2025; Conflict Victims Urge Prime Minister for Transparency in Appointments to Transitional Justice Bodies' (*ICTJ*, 4 May 2025). <https://www.ictj.org/latest-news/conflict-victims-urge-prime-ministertransparency-appointments-transitional-justice> accessed 14 July 2025.

[9] Advocacy Forum-Nepal, Amnesty International Nepal, Accountability Watch Committee, Informal Sector Service Centre, Judicial and Rights Institution Nepal, Human Rights Organization of Nepal, Legal Aid and Consultancy Centre Nepal, Human Rights and Justice Center, Voices of Women Media, Collective Campaign for Peace, 'Immediately Address Serious Concerns of Conflict Victims Regarding the Selection Process of Officials for the Transitional Justice Commissions' (Advocacy Forum, 6 May 2025). <https://www.facebook.com/advocacyforum.org/posts/immediately-address-serious-concerns-ofconflict-victims-regarding-the-selection/1077034314472687/> accessed 14 July 2025.

[10] UN Human Rights Council (UNHRC), *Report of the Universal Periodic Review Working Group: Nepal* (*UPR: Nepal*), 30 March 2021, UN Doc. A/HRC/47/10, Recommendations 159.62 [Belgium], 159.63 [Canada], 159.64 [Germany], 159.67 [Norway], 159.72 [United Kingdom of Great Britain and Northern Ireland].

[11] The Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act (TRC Act), 2071 (2014) Third Amendment (2024), Section 2(j).

[12] Ibid., Section 2(j1).

[13] Ibid., Sections 2(j) and (j1). [14] Ibid., Section 2(j1)

[15] Ibid., Section 2(j); International Commission of Jurists, *A Brief Review of Nepal's Transitional Justice (TJ) Law: Donors and Supporters Must Be Vigilant To Ensure Compliance With Nepal's International Legal Obligations, While Supporting Its Implementation* (November 2024). <https://www.icj.org/wp-content/uploads/2025/03/A-Brief-Review-of-Nepals-TransitionalJustice-TJ-Law.pdf> accessed 14 July 2025, 3.

[16] Amnesty International-Nepal, 'Nepal: New Transitional Justice Law a Flawed Step Forward' (*Amnesty International*, 20 August 2024). <http://amnesty.org/en/latest/news/2024/08/nepalnew-transitional-justice-law-a-flawed-step-forward/> accessed 14 July 2025.

[17] TRC Act, Third Amendment (2024) Section 29(6).

[18] Advocacy Forum-Nepal, Briefing on the Implementation of National Action Plan II for the Implementation of the UN Security Council Resolutions 1325 and 1820 on Women, Peace and Security (Advocacy Forum-Nepal, December 2023).

<https://www.advocacyforum.org/downloads/pdf/publications/tj/briefing-on-theimplementation-of-national-action-plan-II.pdf> accessed 14 July 2025.

[19] Binod Ghimire, 'Insurgency-Era Victims Turn down Call to Register New Complaints' (*The Kathmandu Post*, 22 May 2025). <https://kathmandupost.com/national/2025/05/22/insurgencyera-victims-turn-down-call-to-register-new-complaints> accessed 14 July 2025.

[20] Charan Prasai, 'Unfolding Crisis: Transitional Justice in Disarray' (*My Republica*, 27 May 2025). < https://myrepublica.nagariknetwork.com/news/unfolding-crisis-transitional-justice-indisarray-31-45.html> accessed 14 July 2025.

[21] Annex 2: Twenty-three Victims' Organisations Joint Letter to Office of the United Nations High Commissioner for Human Rights and Diplomatic Missions in Nepal, 'Urging to have a Cautious Approach Towards the Unfolding TJ Development in the Country to Ensure the Process is Fully Victim-Centric' (17 October 2024).

[22] UN Doc A/HRC/47/10, Rec 159.69 [Australia].

[23] Ibid., Rec. 159.64 [Germany].

[24] Bhasha Sharma, 'Sexual Violence Survivors Seek Redress with Confidentiality' (*My Republica*, 3 April 2025). <https://myrepublica.nagariknetwork.com/news/sexual-violencesurvivors-seek-redress-with-confidentiality-84-46.html> accessed 14 July 2025.

[25] International Campaign to Ban Landmines, *Landmine Monitor 2024* (ICBL-CMC, November 2024). <https://backend.icblcmc.org/assets/reports/Landmine-Monitors/LMM2024/Downloads/Landmine-Monitor-2024-Final-Web.pdf> accessed 14 July 2025, 43, 44.

[26] Several commissioners in South Africa's TRC were victims or had family members victimised under the apartheid regime. For example, Rev. Dr. Khoza Mgojo was harassed and detained for anti-apartheid activism before serving as a TRC commissioner. In Tunisia, former political prisoners and human rights defenders who had experienced state abuse were involved in the Truth and Dignity Commission (IVD). Sihem Bensedrine, for instance, a former political detainee who was beaten in detention, even became the IVD's President. Canada similarly included Indigenous people who survived residential schools, such as Chief Willie Littlechild, within its Truth and Reconciliation Commission on Residential Schools.

[27] Annex 3: Thirty-nine Victims' Organisations Joint Letter to Office of the United Nations High Commissioner for Human Rights, 'Reclaiming Justice: Why Conflict Victims Reject the Latest Transitional Justice Appointments in Nepal' (June 2025).

[28] Binod Ghimire, 'Insurgency-Era Victims Turn down Call to Register New Complaints' (*The Kathmandu Post*, 22 May 2025) <https://kathmandupost.com/national/2025/05/22/insurgencyera-victims-turn-down-call-to-register-new-complaints> accessed 14 July 2025.

[29] Advocacy Forum-Nepal, *Discrimination and Irregularities: The Painful Tale of Interim Relief in Nepal*, (Advocacy Forum, 2010).
<https://advocacyforum.org/downloads/pdf/publications/Discriminations_and_Irregularities_A_painful_tale_of_Interim_Relief_in_Nepal.pdf> accessed 14 July 2025.

[30] The Act Relating to Rights of Persons with Disabilities, 2074 (2017), Act No.25 of the year 2074 (2017), Section 8(4).

[31] Ibid., Section 12.

[32] Ibid., Section 15(1).

[33] Ibid., Sections 17(1) and (3).

[34] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3, art 14.

[35] Only one commissioner appointed to the CIEDP is *Janajati* and none of the other commissioners are members of these other historically marginalised communities. [36] 'Recommendation Committee Gives Aspirants 10 Days to Apply in Two Transitional Justice Commissions' (*The Kathmandu Post*, 10 April 2025) <https://kathmandupost.com/national/2025/04/10/recommendation-committee-gives-aspirants10-days-to-apply-in-two-transitional-justice-commissions> accessed 14 July 2025.

[37] UN Doc A/HRC/47/10, Recs 159.21 [Uruguay], 159.68 [Republic of Korea].

[38] Ibid., Rec 159.71 [Switzerland].

[39] Ibid., Rec 159.65 [Ireland].

[40] 'Conflict Victims Demand Transparency in Selection Process of TJ Officials' (*My Republica*, 1 May 2025) <https://myrepublica.nagariknetwork.com/news/conflict-victims-skeptical-call-fora-new-public-selection-process-30-39.html> accessed 15 July 2025.

[41] International Commission of Jurists, *Nepal's Transitional Justice Process: Challenges and Future Strategy—A Discussion Paper* (ICJ August 2017). <https://www.icj.org/wpcontent/uploads/2017/08/Nepal-TJus-Process-Advocacy-2017-ENG.pdf> accessed 14 July 2025,
11.

[42] 'Nepal: Human Rights Commission's Integrity in Jeopardy' (*Human Rights Watch*, 1 March 2021) <https://www.hrw.org/news/2021/03/01/nepal-human-rights-commissions-integrityjeopardy> accessed 15 July 2025.

[43] Annex 4: Ram Kumar Bhandari et al., Original Nepali Soft Copies of Victims' Joint Right to Information Request to Information Officer of Ministry of Law, Justice and Parliamentary Affairs, Registration No. 2747, 2082 Jestha 4 (18 May 2025); Information Officer of Ministry of Law, Justice and Parliamentary Affairs, Response Letter to Mr. Ram Kumar Bhandari Regarding Information, Dispatch No. 862, 2082 Jestha 13 (27 May 2025); Ram Kumar Bhandari et al., Letter Requesting Information Regarding the Selection and Recommendation Process for Officials Related to Transitional Justice to Secretary of Ministry of Law, Justice and Parliamentary Affairs, Registration No. 2959, 2082 Jestha 27 (10 June 2025); Secretary of Ministry of Law, Justice and Parliamentary Affairs, Response Letter to Mr. Dr. Ram Kumar Bhandari Regarding Information, Dispatch No. 939, 2082 Ashad 11 (25 June 2025).

[44] 'टीआरसीका दई आयोगमा सम्भावित पदाधिकारीको नामाि ली साि जव ननक (सचीू)' (*Online Khabar*,

14 April 2025) <https://www.onlinekhabar.com/2025/04/1670407/list-of-potential-officebearers-for-two-trc-commissions-made-public-list> accessed 15 July 2025.

[45] 'Nepal Conflict Victims Reject Transitional Justice Appointments as Arbitrary, Insulting' (The Kathmandu Post, 16 May 2025) <https://kathmandupost.com/national/2025/05/16/conflictvictims-reject-transitional-justice-appointments> accessed 15 July 2025; 'Conflict Victims' Groups Withdraw Recommendations, Condemn Politicized TJ Process' (My Republica, 7 May 2025) <https://myrepublica.nagariknetwork.com/news/conflict-victims-groups-withdrawrecommendations-condemn-politicized-tj-pro-68-26.html> accessed 15 July 2025; 'Big 3 Agree on Taking Victims along on Transitional Justice Process' (*The Kathmandu Post*, 21 June 2025) <https://kathmandupost.com/national/2025/06/21/big-3-agree-on-taking-victimsalong-on-transitional-justice-process> accessed 15 July 2025.

[46] 'Recommendation Committee Can't Award Merit in Picking Transitional Justice Office Bearers, NHRC Says' (*The Kathmandu Post*, 25 December 2024) <https://kathmandupost.com/national/2024/12/25/recommendation-committee-can-t-awardmerit-in-picking-transitional-justice-office-bearers-nhrc-says> accessed 15 July 2025.

[47] UN Doc A/HRC/47/10, Rec 159.62 [Belgium].

[48] Ibid., Rec 159.65 [Ireland].

[49] Ibid., Rec 159.162 [Botswana].

[50] Ibid., Recs 159.66 [Italy] and 159.70 [State of Palestine].

[51] Ibid., Rec 159.68 [Republic of Korea].

[52] Human Rights Watch and Advocacy Forum-Nepal, *No Law, No Justice, No State for Victims: The Culture of Impunity in Post-Conflict Nepal* (HRW and AF November 2020).