

# **A collective, public and urgent appeal of conflict victims to the Government of Nepal**

**Kathmandu, 30<sup>th</sup> August 2020**

1. In the past 20 years, Nepal has transformed from monarchy to republic, unitary to federal and autocracy to democracy. The Constitution, promulgated by the Constituent Assembly's elected representatives to institutionalize these political changes, is on the verge of completing its fifth anniversary. The Comprehensive Peace Accord (CPA) signed between both the parties of conflict is about to enter its 15th year in November. It was signed between the parties with a firm commitment to end impunity, maintain rule of law and establish sustainable and democratic peace by addressing the wounds of the past armed conflict in a just manner.
2. But, almost 5 years of implementation of the new Constitution and 15 years of signing the CPA have not been meaningful for conflict victims like us who have been waiting the truth, justice and reparations for long. Political and constitutional changes have no significance in the lives of conflict victims. The culture of impunity is flourishing now more than ever. We have not only been a witness to the double standards of the state, but we have also been its victims. From past to present governments and prime ministers, ministers and other officials who have taken an oath to abide by the Constitution of Nepal, the art of making one commitment and acting on the contrary has been a common destiny of Nepali politics. A series of judgments from the Supreme Court has kept our hopes alive. However, the apex court's orders are not being implemented, nor will they likely be any time soon. The National Human Rights Commission (NHRC), established as a constitutional body for the protection and promotion of human rights, has repeatedly made recommendations to the government regarding Transitional Justice. Internationally, our demands for truth, justice and reparations have been repeatedly raised before Treaty Bodies, UN Special Rapporteurs and during Universal Periodic Reviews (UPRs), with repeated recommendations to the Nepal Government. But we are still deprived of the right to find out what happened to us and our relatives during the conflict.
3. Sadly, the government, the ruling and opposition parties and their leaders continue to turn a blind eye towards these recommendations without any shame. Nothing has been done to investigate past incidents, bring the culprits to justice, ensure non-repetition of past activities and safeguard and protect the future generation from the horror of violent conflict and war. The recommendation to ratify the Rome Statute of the International Criminal Court was rejected by the reconstituted House of Representatives. Despite the Supreme Court's warning regarding the urgency of ratification of international conventions against enforced disappearances in post-conflict context, the government has not proceeded. All these years,

the victims of sexual crimes and torture, who have been discriminated by the government and not even been identified as victims, have not been brought into the realm of interim relief. Due to inadequate reparation programs, the economic, social and cultural rights ensured by the Constitution could not be realized. It is like pouring boiling water on a burn injury.

4. Despite the disproportionate impact of the COVID-19 pandemic upon us, there is a lack of sincere effort to include our community in the list of citizens who need special attention in relief and facilities. Forget about exercising the right to education, health, food and shelter enshrined by the Constitution, it is becoming increasingly difficult for the majority of us to make ends meet. 4. Most victims live among the fear of the COVID-19 pandemic and suffer more due to severe financial problems. The immovable properties of hundreds are still in captivity, despite repeated commitments to return them. There are legal hurdles for the families of enforced disappeared victims to even sell their property, as they are continuing to try to uncover the fate of their loved ones. The wives of the disappeared have been asking the government for years to at least answer whether they are widowed or not but the government has remained silent on it. Instead of implementing CPA provisions to make public the facts of the disappeared within 60 days, the government has violated and ridiculed it for 14 years. No attention has been paid to address the plight of those who lost their jobs without any reason during the conflict. The state is silent on the demands and concerns of those who have been exploited as child combatants and lost their young life.

5. We are surprised to see the government chanting "Prosperous Nepal, Happy Nepali" slogan while continually ignoring the victims' reasonable demands for truth, justice and reparation. There is hardly anything ironic than talking about "Happy Nepali" from the same government that has failed in its duty to heal the victims' wounds.

6. The government did not learn anything from its failures in setting up the Truth and Reconciliation Commission (TRC) and Commission of Investigation on Enforced Disappeared Persons (CIEDP) and has blatantly repeated the same mistakes. New commissioners have been appointed through political interference without any shame. They have used the COVID-19 pandemic as an excuse to hide from their responsibilities. As victims, we have not even been able to feel that there are so-called commissions formed for us. The Commissions have not spoken a single word about the role a state has to play towards victims during the pandemic. Earlier, we repeatedly asked the government to form a commission through a credible process by amending the TRC Act as per the Supreme Court's *mandamus* decision but the government said that the amendment of the law and the formation of the commissions shall go hand in hand. It has already been 8 months since the commission has been formed but the government and the commissions remain silent regarding the amendment of the law. The government has misused taxpayers' money by appointing commissioners who have zero credibility and legitimacy.

7. Under the current administrative system of the country, there are 761 active governments at 3 tiers. It is not that they cannot play a positive role from their positions in addressing the above mentioned problems but we cannot feel any of them prioritizing our concerns. We face a dilemma why our "citizenship" and "sovereign citizen status" are being ridiculed by the State in such an orchestrated manner. If this is not the case and the government acknowledges our equal rights as other citizens and has a sense of the state's accountability to create an enabling environment to exercise those rights, we make this collective, public and urgent appeal to the government to take these concrete steps as soon as possible to address our following demands and bring Transitional Justice back process on the right track.

7.1. Transparent, meaningful and comprehensive consultation and coordination with the victim community, civil society, national human rights organizations and other stakeholders on complex issues of transitional justice (e.g. amendment of laws, credibility of commissions, independence and competence, immediate reparation needs of victims).

7. 2. The law on transitional justice shall immediately be amended in accordance with the directives of the Supreme Court and international human rights standards to ensure that any person responsible for serious human rights violations does not receive any form of amnesty (factual and legal) and to ensure the independence and credibility of transitional justice commissions.

7. 3. Based on the above-mentioned amended act, new commissioners of both the commissions shall be appointed through a fair, transparent and inclusive process and the legitimacy and credibility of those commissions shall be reinstated.

7. 4. Once the commissions are reconstituted by ensuring legitimacy and credibility as mentioned above, adequate financial, physical infrastructure and human resources shall be provided to strengthen the commissions to effectively carry out their mandates (such as truth, justice, reparation, guarantees of non-repetition and institutional reforms). It shall also ensure a gender-sensitive and victim-friendly environment.

7.5. To ensure meaningful consultation and mainstreaming the participation of victims, not only in the regular work of the commissions but in the overall process of Transitional Justice, prepare and implement understandable guidelines with the consultation of the victims and other stakeholders.

7. 6. In the context of the COVID-19 pandemic and the economic and social problems that we have been facing, reparation shall be ensured as our right in the law to address the collective and specific reparation needs of all the victims. A comprehensive national reparation program shall

be formulated and implemented to include education, health and treatment, employment, self-employment, identity, remembering, respect, psychosocial counseling, social security, rehabilitation and other rights of the victims in collaboration, co-funding and coordination with province and local government as necessary.

7.7. The reparation needs of the victims of sexual and gender-based violence and torture victims deprived of interim relief distributed by the government after the peace accord shall be specifically addressed. Immediate relief shall be provided to them.

7. 8. The family members of the disappeared have been legally deprived of transferring and adequately using the immovable property for the welfare of their family. The property illegally seized during the time of conflict has not been returned and those displaced have not been able to return to their homes. The problems faced by teachers and employees who lost their jobs during the time of crisis have not been addressed, nor has the plight of the disqualified child combatants who have been victims of war crimes but have not received due respect and reparation from the state. All these issues shall be addressed immediately with full priority.

7. 9. Necessary laws shall be passed to address the void left in national laws for impartial investigation and to punish the perpetrators involved in serious human rights and humanitarian law violations, such as enforced disappearance, torture, rape, crime against humanity, war crimes, etc.

7.10. In accordance with Parliamentary Directives, Orders of the Supreme Court, recommendations of both UPR, Human Rights Committee and other treaty bodies, the ratification process for treaties such as the Rome Statute of the International Criminal Court, International Convention for the Protection of All Persons from Enforced Disappearance and Optional Protocol to the Convention against Torture shall be adopted and concrete steps taken to fulfill the obligation of non-repetition of abuses and violations of past activities in the future.

7. 11. UN Special Rapporteurs wishing to visit Nepal to study and monitor the situation of human rights shall be allowed to visit without any delay and their recommendations shall be implemented promptly and earnestly.

**Endorsed By:**

1. Conflict Victims Common Platform (CVCP)	2. Conflict Victims National Alliance (CVNA)
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3. Conflict Victim Women National Network (CVWN)	4. National Network of Disabled Conflict Victims (NNDCV)
5. Conflict Victims Orphans Society (CVOS)	6. Conflict Victims Society for Justice (CVSJ)
7. Conflict Victims Committee, Bardiya	8. National Network of Families of Disappeared (NEFAD)
9. Society of the Families of Disappeared Nepal Maoist Victims Association	10. Conflict Victims and Farmer Rights Society, Kailali
11. Disabled Conflict Victims Association, Dolakha	12. Conflict-Affected Peoples Concerns Society, Dang
13. Bandurmudhe Ghatana Sarokar Samiti	14. Conflict Victims Teachers Society
15. Conflict Victims Self-Employment Skill Training Centre Nepal	16. Conflict Victims' National Society
17. Conflict Management and Displaced Concern Centre	18. Discharged People's Liberation Army Nepal
19. Guru Luitel Study and Development Center	20. Muktinath Adhikari Memorial Foundation
21. Maina Bal Bikash Samiti	22. Rina Arpan Dalit Smriti Pratisthan
23. Ganesh Ujjan Foundation	24. Bhairab Memorial Foundation, Gorkha
25. Laxmi Acharya Memorial Trust, Jajarkot	26. Martyr Bashistha Koirala (Sureshchandra) Memorial Foundation, Sindhuli
27. Sindhuli Manilal Memorial Trust, Myagdi	28. Nandalal Koirala Memorial Trust, Gorkha
29. Ra.Si.Pa. Memorial Foundation, Arghakhachi	30. Peace Envisioners
31. Shiva Prasad Bhatta Memorialization, Gorkha	32. Martyr Jaya Bahadur Rawal Memorial Foundation, Jajarkot
33. Martyr Tikaraj Aran Memorial Foundation, Ramechhap	34. Hari Bhakta Memorial Foundation, Rukum

35. Martyrs and Disappeared Warrior Children Foundation	36. Martyr Dasarath Thakur Memorial Trust, Rajbiraj
37. Bhupendra Memorial Trust Nepal	38. Martyr Ajablaal Yadav Memorial Trust, Dhanusha
39. Bhupendra Smriti Pratisthan Nepal, Banke	40. Conflict Victims Women Network, Banke
41. Conflict Victims' Rights Forum, Myagdi	