



**Advocacy
Forum-Nepal**

**PAST IMPUNITY IS
PRESENT IMPUNITY
IS FUTURE
IMPUNITY IN NEPAL**

November

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PART 1: INTRODUCTION

Much has been written about the Gen Z uprising that shocked Nepal in early September 2025. Many observers have identified root causes for the outbreak of dissent and violence the country witnessed. Beyond the immediate trigger of the ban on key social media platforms, they include: anger at widespread corruption and nepotism, lack of accountability and the wider absence of the rule of law in the country. Few sources, if any, however, have linked the uprising to the lack of transitional justice (TJ) despite nearly 20 years since the Comprehensive Peace Agreement (CPA) of 21 November 2006 brought an end to the armed conflict between the Communist Party of Nepal (Maoist) and the security forces, which had started in February 1996.

There are at least three interwoven threads between the protests of Gen Z and those campaigning against past impunity: both are rejections of arbitrary power by elected representatives; both are a demand for measures that ensure transparency and accountability, and in both cases, there's a rejection of political patronage and capture of public institutions undermining the merit and expertise of individuals serving those public institutions.

This report will focus on the links between TJ and the rule of law in Nepal. The arguments set out make a strong case for the interim government of Prime Minister Sushila Karki and/or the new government once elected in 2026 to go back to the drawing board and redesign the TJ process to ensure it focuses more on the need for accountability at the individual and institutional level. The government should also force the current mandate holders of the two TJ bodies to resign, or indeed the mandate holders should resign off their own accord, so a credible process that has the trust of the conflict victims, their relatives and Nepali society in general can be initiated.

It is now widely recognized by human rights defenders that a lack of accountability for conflict-era violations is a critical factor that has led to the crisis of impunity in Nepal. But, even before the armed conflict and indeed after, impunity has and continues to prevail. The police and security forces are rarely, if ever, investigated for deaths in custody allegedly resulting from torture, or the killing of protesters. Nor are politicians and senior officials held accountable for their involvement in such human rights violations or widespread corruption (that undermines public services and impinges people's economic and social rights).

It is significant that many of the countries that have recently seen similar Gen Z protests are countries where there has been a lack of accountability for past human rights violations. These include Sri Lanka, Bangladesh, Indonesia, The Philippines, Paraguay, Kenya and Morocco.¹ In

¹ Peru has seen similar protests, though the country had a truth commission and some trials of perpetrators of human rights violations during the internal armed conflict between 1980 and 2000. There have also been repeated amnesties, including in recent months. The protests however are less clearly linked to the history of impunity.

the South Asian region, impunity is widely seen as a major problem, so much so that national human rights institutions (NHRIs) in the region adopted a detailed Declaration on how to address it (the “Kathmandu Declaration on Addressing Impunity and Realizing Human Rights in South Asia” of April 2018).² Regrettably, very little has been done to implement the Declaration, including by these NHRIs.

Gen Z is defined as those born roughly between 1997 and 2012, which encompasses the armed conflict period in Nepal (1996 to 2006). In other words, the youth involved grew up during a period of widespread and systematic human rights violations, including extrajudicial killings, disappearances, torture, rape and forced displacement. Many of them may have a parent, grandparent, or other close relatives or neighbours impacted by the conflict. It is unlikely that Nepal escaped the pattern repeated in post-conflict situations around the world and throughout history, which is that the trauma experienced during conflict periods leaves its mark on subsequent generations. In other words, Gen Z members may carry trauma - consciously or sub-consciously.

Kishori Karki, A Gen Z protester from Okhaldhunga District, who gained prominence for rescuing a protestor who was shot during the September uprising, and taking him to hospital on her motorbike, told Ratopati in an interview about her motivation to join the Gen Z protests:

“The greatest motivation and the greatest pain in my life is my family's story. I was only 22 months old when my father was made to disappear by the state. Sometime later my mother was jailed for 17 months on suspicion of being a Maoist. I was raised by my grandparents...

After my mother was released from prison, she brought me from the mountain home to Biratnagar and put me in a boarding school. She used to leave at night to go to school and early in the morning she would cook food and leave it in a hamper. I would live off that food. My mother took me by the hand to places like the Truth and Reconciliation Commission. Seeing her cry and shout there — ‘Either we need a breath or a corpse’ — is how I grew up. Now I'm 25 and I haven't received justice. That pain and sense of injustice inspired me to study law so I could become a voice for thousands of victims like me.”³

The numbers of people killed and injured in shooting by the Nepal Police and Armed Police Force during the September 2025 uprising (at least 75 killed and over 2,300 injured) is shocking, especially given the fact that the large majority of protesters were unarmed.⁴ The

² National Human Rights Commission of Nepal, “International Conference Report: Identifying Challenges, Assessing Progress, Moving Forward: Addressing Impunity and Realizing Human Rights in South Asia”, 2018, pages 64 - 79, available at

https://www.nhrcnepal.org/uploads/publication/Intl_Conference_Report_June_2018.pdf

³ Ratopati, “The Maoists, who didn't look for me for 25 years, are now searching for me. I don't want the party, I want justice”, 28 November 2025, available at <https://www.ratopati.com/story/520360/the-maoists-who-havent-been-looking-for-me-for-25-years-are-now-looking-for-me-i-dont-want-a-party-i-want-justice>

⁴ Kathmandu Post, “41 injured in Gen Z protests still being treated in 12 hospitals”, 30 September 2025, available at <https://kathmandupost.com/national/2025/09/30/41-injured-in-gen-z-protests-still-being-treated-in-12-hospitals. Among the 75 killed are three policemen.>

link to the lack of institutional reform to both the NP and APF who were accused of widespread human rights violations during the armed conflict, during Madhesh, Tharu movement and remain unreformed is one that needs careful examination.

Though the interim government has appointed a commission of inquiry into the events on 8 and 9 September 2025, so far it seems that no security forces personnel has been questioned regarding their role, let alone suspended from duty or indeed arrested. This is in contrast with the arrest of 384 demonstrators suspected of involvement in the violence.⁵ Once again, it seems there is one law for the citizens, and another for the security forces. Advocacy Forum-Nepal is monitoring the work of this commission very closely.

The record of commissions of inquiry in Nepal is poor.⁶ Repeatedly, their reports are not public⁷ and their recommendations remain unimplemented.⁸ To date there has not been a truth process, i.e. a process where the country has agreed a common narrative regarding the origins of the armed conflict, the role of key state institutions, the actors involved and their responsibilities. Effective truth-seeking measures can often be the first tool that enables a larger, far-reaching TJ process. It can play a decisive role in establishing the basis upon which prosecutions proceed, reparations are granted, history books are (re)written, and institutional reform is planned. Nepal needs such a fundamental interrogation of the constitutional and institutional mechanisms meant to ensure accountability, curb abuse of power and strengthen the rule of law.

PART 2: BACKGROUND

The 21 November 2006 CPA signed by then Nepali Congress Prime Minister Girija Koirala and Maoist leader, Pushpa Kamal Dahal (Prachanda) marked the end of the armed conflict. It includes a commitment “to investigate [the] truth about people seriously violating human rights and involved in crimes against humanity.”⁹ 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.

⁵ Kathmandu Post, “384 held so far in connection with Gen Z protest, vandalism. Most arrested from Kathmandu Valley”, 10 November 2025, available at <https://kathmandupost.com/national/2025/11/10/384-held-so-far-in-connection-with-gen-z-protest-vandalism-most-arrested-from-kathmandu-valley>

⁶ As far back as 2012, the International Commission of Jurists (ICJ) did a detailed analysis of the role of commissions of inquiry in its report, “Commissions of Inquiry in Nepal. Denying Remedy, Entrenching Impunity”, June 2012, available at <https://www.icj.org/wp-content/uploads/2012/06/Nepal-Commissions-of-Inquiry-thematic-report-2012.pdf>

⁷ The report of Justice Lal into human rights violations during the protests in the Terai in 2015, for instance, still has not been made public.

⁸ The recommendations of the Rayamajhi Commission set up to investigate human rights violations during the Jana Andolan II (People’s Movement in 2006 that led to the end of the armed conflict, were not implemented. Earlier, after the Jana Andolan I, similarly, the recommendations of the Mallik commission were left unimplemented.

⁹ The Comprehensive Peace Agreement, 21 November, 2006, https://peacemaker.un.org/sites/peacemaker.un.org/files/NP_061122_Comprehensive%20Peace%20Agreement%20between%20the%20Government%20and%20the%20CPN%20%28Maoist%29.pdf

However, while the integration of Maoist fighters was completed in around 2013, and a new constitution was promulgated in 2015, progress towards delivering justice has remained stalled, 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.¹⁰ 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, 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 truth and reconciliation commission (TRC) and a commission of inquiry into enforced disappearances (CIEDP). These bills, which ruled out amnesty for murder, enforced disappearances, torture, and rape, were not 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.¹¹ The Ordinance was successfully challenged in the SC, which ruled in January 2014 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.¹² The SC also said that the government should enact laws that criminalize gross human rights violations, including enforced disappearances, torture, crimes against humanity, and war crimes.¹³

In April 2014 Nepal's legislature finally adopted the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act (TRC Act). This was while Nepali Congress leader Sushil Koirala was Prime Minister with the support of the CPN-UML.

UN experts noted in July 2014:

¹⁰ Human Rights Watch, "Nepal: Supreme Court Orders Action on 'Disappearances'," June 15, 2007, <https://www.hrw.org/news/2007/06/15/nepal-supreme-court-orders-action-disappearances> .

¹¹ Commission on Investigation of Disappeared Persons, Truth and Reconciliation Ordinance 2069 (2012), <https://reparations.qub.ac.uk/assets/uploads/Nepal-TRC-Ordinance.pdf>

¹² Madhav Kumar Basnet v. the Government of Nepal and Ram Kumar Bhandari and Others v. Government of Nepal, decision of 2 January 2014.

¹³ 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>

“Amnesties for these atrocities would convey to Nepalese society that some people are above the law”.¹⁴

They also warned that:

“Legislation which should enable the country to come to terms with its past, may [instead] further entrench impunity.”¹⁵

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.¹⁶ Nevertheless, 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.¹⁷

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, Krishna 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, victims and civil society, it still leaves certain critical issues unresolved.¹⁸

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.¹⁹ This is in line with the wider trend in Nepal of politicized appointments, which is among the issues recently protested against by Gen Z.

¹⁴ 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>

¹⁵ *Ibidem*

¹⁶ Suman Adhikari and Others v Office of Prime Minister and Council of Ministers, (069-WS0057, Supreme Court of Nepal, 2015)

¹⁷ AF, “The state of Transitional Justice in Nepal”, February 2019, available at <https://www.advocacyforum.org/downloads/pdf/publications/tj/af-briefing-paper-february-2019-english.pdf>

¹⁸ 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-Transitional-Justice-TJ-Law.pdf>

¹⁹ Kathmandu Post, “Calls grow for prompt transitional justice appointments”, 20 December 2024, available at <https://kathmandupost.com/national/2024/12/20/calls-grow-for-prompt-transitional-justice-appointments>

On 16 December 2024, the two months allotted to the Recommendation Committee to select candidates expired without the process being successfully completed, and the committee recommended the government to form a new committee.²⁰

The Recommendation Committee was reconstituted in March 2025. It was again criticized for lacking transparency and inclusiveness.²¹ Despite objections, commissioners for both the TRC 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. This clearly reflects how public institutions are increasingly filled through manipulated processes, where appointments are perceived by the broader population to be based not on merit, but on loyalty to political parties. This has deeply frustrated younger generations, including Gen Z.

The flawed appointment process for the reconstituted commissions prompted widespread condemnation from victims' groups, who demanded a fresh, independent, and consultative appointment process.²² Victims and CSOs fear that the TJ bodies will be unable to address the deep-rooted structural deficiencies that have long hindered Nepal's TJ process. Similar to the Gen Z concerns regarding the entrenchment of corruption, victims and CSOs fear that the TJ process risks entrenching impunity and further eroding public confidence in the TJ mechanisms and the rule of law more generally. Past impunity is present impunity, indeed is future impunity.

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 public advertisement, open hearings, and objective criteria for appointment.²³ The case remains pending at the time of writing.²⁴ This is similar to the frustration among the younger generations (including GenZ) who grew up with the trauma of violence but having repeated state manipulation of the appointment process, eroding any confidence to these mechanisms.

²⁰ 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/letter-prime-minister-oli-regarding-appointment-transitional-justice-commissioners>

²¹ Ghimire B, "Victims Reject Transitional Justice Shortlist, Demand New Selection Panel", The Kathmandu Post, 2 May 2025, available at <https://kathmandupost.com/national/2025/05/02/victims-reject-transitional-justice-shortlist-demand-new-selection-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 <https://kathmandupost.com/national/2025/05/04/conflict-victims-urge-prime-minister-for-transparency-in-appointments-to-transitional-justice-bodies>

²² 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>

²³ Writ petition no. 082-WC-0011

²⁴ Kathmandu Post, "Conflict victims file petition against transitional justice appointments", 13 August 2025, available at <https://kathmandupost.com/national/2025/08/13/conflict-victims-file-petition-against-transitional-justice-appointments?>

Despite the pending court case, the interim government in early November approved new regulations under the amended TRC Act, and the creation of a fund to support the TJ bodies' work. The Swiss embassy in Kathmandu is reported to have committed to contributing to this fund.²⁵ Furthermore, the government has approved a budget for the TJ bodies, which provides for an increase in staffing.²⁶

PART 3: THE 2024 TRC ACT

The 2024 TRC Act has been analysed in detail in other reports.²⁷ Given the new situation in the country following the Gen Z protests, it is worthwhile doing a “macro-level”, more “political”, analysis posing the question why Nepal’s TJ legislation was designed the way it was.

The original 2014 Act had provided for possible amnesty for serious human rights violations, a sign of an engrained sense among the political and security forces’ leadership that they are above the law, and should not be held accountable for their actions - a sign of the level of impunity that is deep-rooted in the country.

Partly due to a lot of pressure from victims and CSOs, the 2024 amended TRC Act is less sweeping in terms of its amnesty provisions - only allowing it for “human rights violations” and not for “serious human rights violations”. It did however introduce provisions for reduced sentences. Although, if used properly, this measure may add value to the TJ process, many argue that in the case of Nepal the intention behind this is to provide an alternative to amnesty for serious human rights violations through the back door.

In terms of its truth mandate, the Act is focused on investigating individual cases, rather than 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.

There can be little doubt that these institutions in times of crisis (such as during the Gen Z protests, but also in many other instances, including during the protests in the Terai in 2007 and 2015) have played a central role in state repression. They need profound reforms to instil new habits and methodologies.

The amended Act 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.

²⁵ Kathmandu Post, “Long delayed fund being set up to meet victims needs”, 2 November 2025, available at <https://kathmandupost.com/national/2025/11/02/long-delayed-fund-being-set-up-to-meet-victims-needs>

²⁶ Kathmandu Post, “Government warms up to transitional justice officials after initial doubts”, 5 November 2025, available at <https://kathmandupost.com/national/2025/11/05/government-warms-up-to-transitional-justice-officials-after-initial-doubts>

²⁷ 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-Transitional-Justice-TJ-Law.pdf>

In terms of their justice mandate, the TJ bodies are meant to act as investigators, collecting evidence to be passed to a Special Court for prosecution, i.e. bypassing the role of the police and the Attorney General's Office as state institutions traditionally entrusted with the investigation and prosecution of crimes. Instead, the Amended Act 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. These TJ bodies' units would need to have very specialised staff with strong powers to gather relevant evidence in order 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). Otherwise, indirectly, this design is another way through which impunity will be promoted/further entrenched.

PART 4: PRINCIPLES AND VALUES

Accountability for past, present and future human rights violations is closely linked to the reasons why the rule of law is held up as such an important value and principle in constitutions around the world. It has deep roots in social norms around the agreement that arbitrary power is not a good thing. None of us wants to live in a system where power can be used at any time and to any extent in unpredictable and cruel ways. In addition, institutions such as the judiciary and police exist so that we can all expect that these kinds of norms will be respected and enforced. If we do not understand that past violations of these norms matter for current institutions, then we are doomed to repeat history.

This is further linked to the notion of international human rights law and particularly to the laws of war, which depend on the idea that even in war, even in the context of internal armed conflict, the rule of law prevails and confrontation, and even combat, is never a justification for violations of human dignity. Nepal has accepted this and has signed up to key international law instruments that requires it to uphold these norms and standards.²⁸

Truth, justice, and reparations are all connected, and it is up to each country in each context to come up with the specific ways in which these ideas remain connected. One of the important aspects of this relates to the failure of reparations in Nepal. Very soon after the end of the conflict, civil society identified and raised alarms about the potential confusion between

²⁸ OHCHR has produced a range of rule of law tools, which can be accessed here:

https://www.ohchr.org/sites/default/files/Documents/Publications/NationalConsultationsTJ_EN.pdf;
<https://www.refworld.org/policy/opguidance/ohchr/2006/en/47125>;
<https://www.ohchr.org/en/publications/policy-and-methodological-publications/rule-law-tools-post-conflict-states-truth>; <https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawMappingen.pdf>;
<https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawVettingen.pdf>;
<https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawProsecutionsen.pdf>;
https://www.theadvocatesforhumanrights.org/Res/tools_for_post-conflict_states_-_monitoring_legal_systems.pdf; <https://www.ohchr.org/en/publications/policy-and-methodological-publications/rule-law-tools-post-conflict-states-amnesties>; <https://gsdrc.org/document-library/rule-of-law-tools-for-post-conflict-states-reparations-programmes/>;
<https://peacemaker.un.org/sites/default/files/document/files/2022/11/hrpub144archivesen.pdf>

ad hoc monetary compensation (later termed as “interim relief”) and reparations.²⁹ The dignity of victims and survivors depends on not turning reparations into “blood money”. This applies to conflict victims as well as the victims of excessive use of force during the recent September uprising and other such occasions. Repeating the same mistakes as in the past, the government has announced *ad hoc* compensation to the victims of September uprising rather than designing wider reparations for the families of those who were killed and those who are injured. 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.

A meaningful TJ process takes into account all of the political realities of a transition and the mass scale of violations, but it does not give up on the idea of justice itself.

PART 5: WHAT NEEDS TO CHANGE?

In order for the TJ process to meet international standards, the expectations of the victims and their families as well as the wider public, certain critical measures are necessary to achieve this, i.e. for the cycle of impunity to finally come to an end.

5.1. Constitution of the TJ bodies

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. The commissioners should be selected solely on the basis of their expertise in the subject matter of TJ, their impartiality and independence.

The TJ bodies should be properly staffed, including 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. They should also be provided with the necessary resources, including forensic expertise.

For more information on standards for the selection process for TJ bodies, see the OHCHR toolkit.³⁰

5.2. Truth-telling

²⁹ AF, “Discrimination and Irregularities. The Painful Tale of Interim Relief in Nepal”, 2010, available at https://advocacyforum.org/downloads/pdf/publications/Discriminations_and_Irregularities_A_painful_tale_of_Interim_Relief_in_Nepal.pdf

³⁰ https://www.ohchr.org/sites/default/files/Documents/Publications/NationalConsultationsTJ_EN.pdf

The mandates for truth and justice are meant to incentivise each other as part of a holistic TJ system. In the ten years since they first were set up, the TRC and CIEDP has failed to reveal the truth, let alone deliver justice, in respect of even just one of the respectively more than 78,000 and 3,000 complaints brought before them.³¹ It is clear that a new approach is needed.

As done in other countries (notably, South Africa), the TJ bodies should organize sessions that are accessible to the public, including through live TV 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 rule of law.

For more information on standards for truth-telling, see the OHCHR toolkit.³²

5.3. Justice

The commissions must consider the dynamic between their truth and justice mandates. This should include looking at 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. This would involve calling the then commanding officers as well as relevant politicians to give evidence to the TRC and CIEDP regarding the wider policies (such as rules of engagement) that were in place.

Advocacy Forum-Nepal (AF) has long believed that there are many cases where there is ample evidence to prosecute those responsible for grave human rights abuses during the conflict. In addition to AF's own files from the conflict period containing a wealth of contemporaneous evidence (including medico-legal reports, post-mortem reports, witness statements, photographs, etc), there are a range of other important sources. These include the lists of 121 names of perpetrators published by the National Human Rights Commission (NHRC) in 2020,³³ of 104 cases filed under the Torture Compensation Act (where compensation was granted by the courts and disciplinary action against the perpetrators ordered) and of 138 First Information Reports (FIRs) filed with the Nepal Police by victims or their relatives, where either the Supreme Court or the Appeal Court issued mandamus order to police and prosecutor to investigate and prosecute these cases.

An analysis of the data held by AF makes it clear that there is strong evidence against dozens of individual perpetrators (from among the security forces as well as Maoists), not only in individual cases of human rights violations, but across time and place.

³¹ The TRC received 78,909 complaints, including 314 related to sexual violence and rape, while the CIEDP received 3,288 complaints of enforced disappearance.

³² <https://www.ohchr.org/en/publications/policy-and-methodological-publications/rule-law-tools-post-conflict-states-truth>

³³ NHRC-Nepal, "A Precise Report on the Recommendations and State of Implementation in the 20 years of NHRCN", September 2020, available at https://www.nhrcnepal.org/uploads/publication/NHRCNepal_20_Years_Report_English_2077.pdf

Given their mandate to gather evidence for prosecutions by the Special Court to be set up under the TRC Act as amended in 2024, if the commissions proceed in a way that adheres to international standards, there is a possibility that nearly 20 years after the end of the conflict, a measure of justice may finally be achieved.

5.3.1. The example of Chisapani army barracks

As an example, we set out below the evidence against Nepal Army Major Ajit Thapa (officer-in-charge) and Captain Ramesh Swar (second in command), of the Bhimkali Company, who between November 2001 and August 2002 (during state of emergency) were involved in widespread and systematic practices of human rights violations in Chisapani army barracks, Bardiya District.

According to one witness (a former prisoner and torture victim, name withheld for now), there were around 25 prisoners held in Room No. 1 at the time of his detention.³⁴ He remembers details of six, including Mahendra Bikram Oli, Karna Bahadur Chaudhary, Sagunlal Chaudhary, Ajit Shah and Bhangi Tharu. The witness states that around ten minutes after these six were taken out of the room, he heard gunshots. The same witness was held in a bunker for a month and in a toilet for another month. These additional places where prisoners were held are also documented through other sources. Another torture victim (name withheld for now), identified Captain Ramesh Swar as the person who arrested and tortured him, and also stole around Rs. 995,000 from him. He also corroborates the presence of four detainees who later disappeared as identified by other survivors. Another survivor confirmed that he saw Mahendra Bikram Oli, Bhangi Tharu, Sagunlal Chaudhary, Ajit Shah and Kashiram Tharu being taken out of Room and never seeing them again.

In the case of Jayakali Khatri and Hitkala Dangi, there are witnesses who saw these two women being arrested, raped, tortured and killed and their bodies being thrown in the Dumribas river. Furthermore, the NHRC investigated their cases and in a letter of 6 June 2006 recommended the government to identify the perpetrators and provide compensation of Rs. 250,000 to their families. There is also evidence in the form of an order of mandamus from the Appellate Court in Nepalgunj issued on 26 May 2010 to the District Police Office (DPO), Banke and the District Administrative Office (DAO) Banke to immediately register a FIR which the families had tried to file and proceed with the investigation. The FIR names Major Ajit Thapa and Captain Ramesh Swar as being responsible for their killing.

Another case concerns the disappearance of Likharam Tharu (21) of Mohammadpur VDC, Ward No. 8, Bardiya District. He disappeared after he was taken away by Captain Ramesh Swar while applying to join the army at Pritana Headquarters, Imamnagar, Ranjha, Banke on 12 July 2002 at 2pm. The arrest was witnessed by two other applicants from his village, one of whom is currently an officer in the Nepal Army. Before his arrest, Likharam Tharu worked as a domestic help in the home of Captain Ramesh Swar. His father reports that his son would regularly be beaten and otherwise tortured by Captain Swar. Unable to bear the excessive

³⁴ This room is also referenced in the OHCHR-Nepal report, "Conflict-related disappearances in Bardiya District", December 2008, page 35, available at https://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_12_19_Bardiya_Report_Final_E.pdf

torture inside the home of Swar, Likharam had quit his job, gone back home, then gone to India for work and had come back to apply for the job in the Army. Another witness (name withheld for now) recalled that when he saw Likharam at Chisapani barracks he was blindfolded and both his hands were tied behind his back with a chain. He also recalled that Captain Swar had once abused him saying, “You stopped working at my home and even asked the new girl who was working at my home not to work there. I have heard that you have been saying that you would kill me.” After this, Captain Swar started beating him indiscriminately with a very thick stick all over his body which caused his body to swell up. The NHRC had made a recommendation to the Government to give the family an interim relief of Rs. 100,000. It had also recommended action against Captain Ramesh Swar. The case of Likharam Tharu is among ten enforced disappearances cases listed by the NHRC where it identified Captain Ramesh Swar as the perpetrator.^{35 36}

Among those to be called by the TJ bodies to give evidence are more than a dozen family members, 5-6 villagers who were witnesses to the arrests and sometimes killings, doctors who treated the victims of torture and sexual violence, lawyers who filed *habeas corpus* and *mandamus* cases, AF staff who documented the cases at the time and others.

In addition, there are many contemporaneous records which can provide corroboration of any evidence presented by the witnesses. Among them is a UN OHCHR in Nepal report on the pattern of enforced disappearances in Bardiya district, including details of 60 persons who were reportedly arrested in the area of operation of Bhimkali Company.³⁷ Furthermore, there is an Amnesty International Urgent Action issued in April 2002 documents the disappearance of Shalikram Sapkota,³⁸ and a report by the Lawyers Rights Watch Canada confirms that Shalikram Sapkota’s relatives were allowed to visit him at the Chisapani army barracks in early June 2002. At that time, he was reported to be in good health and Major Ajit Thapa assured them that he would not be ill-treated.³⁹ The 2004 Human Rights Year Book of the Informal Sector Service Centre (INSEC) also references cases of human rights violations at the Chisapani

³⁵ NHRC-Nepal, “A Precise Report on the Recommendations and State of Implementation in the 20 years of NHRCN”, September 2020, page 46, available at

https://www.nhrcnepal.org/uploads/publication/NHRCNepal_20_Years_Report_English_2077.pdf

³⁶ In respect of Likharam Tharu, there are further sources:

- Annapurna Post, “The wound given by the conflict hurts till today”, available at <https://annapurnapost.com/story/194127/>
- Nepal Magazine, “Immunity for Uniformed Crime (implicating Ramesh Swar and Ajit Thapa)”, available at <https://nepalmag.com.np/contemporary/2019/12/11/20191211133957>
- Nepal Samacharpatra, 7 Baisakh, 2059 (29 April 2002) published an article about the arrest of Mahendra Bikram Oli.
- INSEC Victims’s profile: https://www.insec.org.np/victim/candidate_display_user.php?page=1293&event_type=&location_dist=&party=&sub_event=&location_main=&cand_name=&cand_gender=&cand_ethnicity=&cand_language=&pp=&spp=&cand_occupation=&cand_el=&cand_es=&cand_ms=&fromage=&toage=&fgdate=&tgdate=

³⁷ Ibidem, page 28.

³⁸ Amnesty International, Further information on UA 78/02 (ASA 31/020/2002, 13 March 2002) - “Torture/fear for safety, Saligram Sapkota”, 9 April 2002, available at <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa310292002en.pdf>

³⁹ <https://www.lrwc.org/mr-hari-prasad-phuyal-lawyer-from-biratnagar-morang-district/>

army barracks during this period.⁴⁰ More generally, Amnesty International reported that during the state of emergency, in force from 26 November 2001 to 28 August 2002, it had recorded 35 disappearances from Banke district “where many detainees were reportedly held at Chisapani army barracks, a place notorious for torture and ill-treatment.”⁴¹ The TJ bodies can request this information from INSEC and Amnesty International.

In addition, the NHRC included both Major Ajit Thapa and Captain Ramesh Swar in its list of perpetrators against whom it has recommended action by the government.⁴² The TJ bodies can request the NHRC to share the evidence on which it made those recommendations.

AF at this stage is not publishing the evidence it has in respect of many other cases, to protect its sources and avoid any risk of miscarriages of justice if/when the TJ process reaches the Special Court.

5.3.2. First Information Reports (FIRs)

Over the years since the end of the conflict, AF lawyers have assisted families of victims to file a total of 138 FIRs. Sixty-two of these cases have formed the basis for six reports published by AF (together with Human Rights Watch) since 2008.⁴³ So far, apart from Maina Sunuwar’s (see below) and Dekendra Thapas case,⁴⁴ attempts to get the police and public prosecutors to investigate and bring to justice those responsible in all cases have failed. This is despite repeated court orders to register the FIRs and proceed with investigations, including in the period immediately after the end of the conflict.

When AF lawyers reached out to the police seeking information on investigations of these complaints, they were repeatedly told that conflict-era cases were no longer being pursued because they will be processed by the TJ bodies. In response to the Government’s attempt to deny victims access to justice in the pretext of TJ mechanisms handling conflict era cases, the SC firmly articulated those remedies cannot be denied to victims on the pretext that they could be provided by the not yet created truth and justice mechanisms.⁴⁵

Among those named in the 138 FIRs are senior politicians. One of them is Agni Sapkota, a senior member of the Maoist party, suspected of involvement in the abduction and killing by Maoist party members of Arjun Lama, a 46-year-old school official in Kavre district. In 2008

⁴⁰ INSEC,

https://www.insec.org.np/victim/candidate_display_user.php?pageno=1293&event_type=&location_dist=&party=&sub_event=&location_main=&cand_name=&cand_gender=&cand_ethnicity=&cand_language=&pp=&spp=&cand_occupation=&cand_el=&cand_es=&cand_ms=&fromage=&toage=&fgdate=&tgdate=

⁴¹ Amnesty International, “Nepal: Escalating disappearances amid a culture of impunity”, August 2004, available at <https://reliefweb.int/report/nepal/nepal-escalating-disappearances-amid-culture-impunity>

⁴² NHRC-Nepal, “A Precise Report on the Recommendations and State of Implementation in the 20 years of NHRCN”, September 2020, page 45-46,

https://www.nhrcnepal.org/uploads/publication/NHRCNepal_20_Years_Report_English_2077.pdf

⁴³ See <https://advocacyforum.org/publications/impunity-reports.php>

⁴⁴ AF, “District Court Convicts in a Journo Dekendra Thapa's Murder Case”, 7 December 2014, available at <https://advocacyforum.org/news/2014/12/dekendra-thapa.php>

⁴⁵ *Devi Sunuwar v District Police Office, Kavrepalanchowk (2007) Writ No. 0641 of Year 2007*; Nepal Government on behalf of *Laxmi Thapa v Bam Bahadur Khadka et al*, Case Number 076-C1-00186

the SC ordered Kavre police to register a case against the accused. In 2009 Kavre police told AF that they were unable to locate and arrest Sapkota in the district. He was appointed as the Minister for Information and Communication by the Maoist Government in 2011. This was challenged in the SC by a number of human rights defenders. In the absence of any functional law or policy on vetting, the Court stated it was not able to decide on whether he should be removed from his post. However, the Court ordered the Attorney General to report on the progress made in the investigation in the Arjun Lama case, including any influence on or interference with the investigation and prosecution.⁴⁶ These updates were required every 15 days. Despite the Court's order, the prosecutor submitted only 15 updates between the order of 21 June 2011 and 8 July 2015.

After Agni Sapkota was elected Speaker of the House in January 2020, senior advocate Dinesh Tripathi filed a writ petition against this decision in the SC demanding his immediate arrest. In the petition, he argued that Agni Sapkota is not eligible to become a speaker of the House of Representatives as he is a suspect in a murder investigation. On 28 January 2020, a single bench of Justice Sapana Pradhan Malla issued a show-cause order to the defendants but refused to issue a stay order on his appointment. The court asked the government to provide the details of the investigation into the murder of Arjun Bahadur Lama within 30 days. On 4 June 2025, the Constitutional Bench of the SC issued a writ of certiorari directing the police to carry out an investigation against six people including Agni Sapkota and Surya Man Dong (another Maoist member of parliament), ruling that the government's decision to shelve the case was flawed. As of the time of writing, this court order remains unimplemented. The pattern of lack of implementation of SC decisions keeps repeating itself.

It is questionable whether the erosion of the rule of law in Nepal would have reached such levels if senior politicians (as well as senior members of the security forces) named in these FIRs had been prosecuted. For the politicians, it would have prevented them from being elected to parliament; and occupying key roles in government. The failures of the past are clearly impacting the present in this respect too.

5.3.3. The case of Maina Sunuwar

The case of 15-year-old Maina Sunuwar who was tortured to death in army custody in February 2004 is the only case where an FIR has led to the trial of the alleged perpetrators, albeit *in absentia*. In April 2017, the Kavre district court sentenced three officers to life imprisonment for her murder. A warrant for their arrest issued in 2008 was never enforced, with the police telling the court they were unable to trace them despite the fact that some of them were still serving in the army.⁴⁷

The Nepal Army, among others, has clearly been concerned by the precedent set in this case, which goes against their wider position that all the cases from the conflict period should be dealt with by the TJ bodies. On 1 September 2017, the Office of the Judge Advocate General of the Nepal Army filed a writ of *certiorari* in the SC seeking annulment of the convictions

⁴⁶ Sushil Pyakurel et al v Office of the Prime Minister and Council of Ministers, SC Writ No 067-WO-1094

⁴⁷ Amnesty International, Human Rights Watch, and International Commission of Jurists, "Nepal: Need Effective Steps to Enforce Court Verdicts," 20 April 2017, available at <https://www.amnesty.org/en/latest/news/2017/04/nepal-need-effective-steps-to-enforce-court-verdicts/>

ordered by the district court in the Maina Sunuwar case. The army claimed that the case cannot come under the jurisdiction of the regular court because it happened during a military operation, and therefore military rules should apply.⁴⁸ The Nepal Army also said that the officers concerned had already been tried by court martial, and were therefore placed in double jeopardy, and that the case should thus be handled by the TRC.⁴⁹ The SC case remains pending.

Devi Sunuwar, the mother of Maina, has repeatedly been put under pressure to stop her campaign to bring those responsible for her daughter's murder to justice. She has been offered compensation and a statue for Maina in her home district as incentives. So far, Devi has refused to accept these offers. She has also refused to accept her daughter's body, which has remained at the Tribhuvan hospital for 20 years, until those convicted for her murder are serving their sentences.

5.3.4. Further considerations

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 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 conflict-related sexual violence (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.⁵⁰

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.

A review of the contemporaneous evidence available highlights a practice prevalent at the time, especially by the Nepal Army (NA), to force villagers (including Village Development Committee chairpersons) to make statements to confirm extrajudicial killings as "encounter killings", i.e. killings in cross-fire as opposed to deliberate killings/murders. This often involved the NA taking photographs after planting weapons next to the bodies of those killed extrajudicially.

⁴⁸ International Commission of Jurists, "Legal Briefing on the Nepal Army's Petition to Overturn Convictions for Maina Sunuwar Killing", November 2018, available at <https://www.icj.org/nepal-army-efforts-to-frustrate-justice-in-case-of-maina-sunuwar-killing-lack-legal-foundation/>

⁴⁹ On 1 September 2017, the Office of Prad Vivak of Nepal Army filed a writ of certiorari along with prohibition in the Supreme Court. Rule 2(c) of Court Martial Rules, 2064 (2008) defines the Office of Prad Vivak as the "office of military headquarters where the Chief of the Prad Vivak has been based, and the term shall also indicate the battalion Prad Vivak branch and Brigade Prad Vivak branch."

⁵⁰ ICJ, "Nepal failure to address the rights of conflict related sexual violence survivors in transitional justice process", 31 July 2025, available at <https://www.icj.org/nepal-failure-to-address-the-rights-of-conflict-related-sexual-violence-survivors-in-transitional-justice-process/>

The TRC commissioners, who have a mandate to investigate extrajudicial executions, will need to be alert to this, as NA personnel when summoned are likely to present dossiers with these forced statements and photographs to the TRC (and/or the Special Court) as part of their defence. It will be important to provide ample protection to those who were forced to make these statements to ensure they feel confident to explain the context in which they were forced, and to make a new statement setting out the full truth about the specific incident.

In addition to the issue of coerced statements by witnesses such as VDC chairpersons, the TJ bodies should also be prepared for alleged perpetrators presenting court martial documents as part of their defence, arguing that they have already been tried for the alleged crimes. In that context, the TJ bodies need to consider that international law does not permit crimes against civilians to be tried before court martials, and develop a policy to ensure the rights of victims in these cases are fully respected.

For more information on standards in respect of justice processes, see the relevant OHCHR rule of law toolkit.⁵¹

5.4. Reparations

A proper programme of reparations for victims of human rights violations and abuses during the conflict has not materialized. It is another factor that has contributed to the prevailing sense of alienation among many people who feel the state is not responsive to their needs.

Before and after the CPA, various “interim relief” programs and measures to collect data and provide assistance to conflict victims were introduced. Yet, comprehensive identification of victims and a complete database remain lacking. Reparation efforts have mostly focused on short-term (“interim”) relief⁵² and assistance, and many victims of serious violations have yet to receive any support. Victims of rape and sexual violence, as well as those subjected to torture, have not been properly identified or granted any interim or other relief to date.

It is clear that those who have received relief (sometimes even more than once) are those with links to the mainstream political parties who have shared power in Nepal since the end of the conflict. Any substantial compensation program for victims of the armed conflict must take into account these previous payments to ensure an overall fair allocation.

Under federalism, provincial and local governments have been delegated powers to address certain needs of conflict victims within their jurisdictions. Some local and provincial bodies have initiated small-scale programs such as livelihood support, commemoration, and assistance, but these efforts are often ad hoc, lacking coordination, participation, and inclusiveness. Victims have reported that some programs were politically influenced or

⁵¹ <https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawProsecutionsen.pdf>

⁵² AF, “Discrimination and Irregularities. The Painful Tale of Interim Relief in Nepal”, 2010, available at https://advocacyforum.org/downloads/pdf/publications/Discriminations_and_Irregularities_A_painful_tale_of_Interim_Relief_in_Nepal.pdf

discriminatory. There is also insufficient awareness among victims about available mechanisms and programs.

Given the lack of coordination among federal, provincial, and local levels, and the absence of a unified national framework, the need to establish a comprehensive national policy on reparations has become urgent. Such a policy needs to provide clear guidance for identifying victims, addressing both immediate and long-term needs, ensuring coordination among all tiers of government, and fulfilling Nepal's constitutional and international obligations regarding victims' rights to justice and reparation.

For more information on standards in respect of reparations, see the OHCHR rule of law toolkit.⁵³

5.5. Vetting

Vetting is generally accepted as an effective strategy to counter impunity.⁵⁴ AF has worked with a number of organizations to ensure effective vetting during the recruitment, promotion and transfer of government officials, including those from the security services and those applying for UN peacekeeping roles. There were several high-profile cases where the then UN Department of Peacekeeping Operations (DPKO) ordered the return of Nepali peacekeepers after it became known that there was *prima facie* evidence of their involvement in serious human rights violations in Nepal. Two of the most emblematic cases were that of NA then Captain Nirajan Basnet, accused in September 2009 of the murder of Maina Sunuwar (see above), and then Deputy Superintendent of Police (DSP) Basanta Bahadur Kunwar.⁵⁵ Despite the fact that the case was pending before the Kavre District Court, Captain Basnet was sent on a peacekeeping mission to Chad in 2009. Similarly, DSP Kunwar had a case pending against him under the 1996 Compensation Relating to Torture Act (CRT) in the Kathmandu District Court when he was sent on a peacekeeping mission to Liberia in August 2011.⁵⁶ The UN repatriated both once this information came to light.⁵⁷

The need for vetting procedures remains as perpetrators of human rights violations continue to be promoted. The UN Formed Police Units (FPU) Selection policy was revised and

⁵³ <https://gsdrc.org/document-library/rule-of-law-tools-for-post-conflict-states-reparations-programmes/>

⁵⁴ OHCHR, "Rule of Law Tools for Post-Conflict States. Vetting: An Operational Framework", 2006, available at <https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawVettingen.pdf>

⁵⁵ Advocacy Forum, "Maina Sunuwar. Separating Fact from Fiction", 2010, available at <http://advocacyforum.org/downloads/pdf/publications/maina-english.pdf>

⁵⁶ Advocacy Forum, "Arjun Gurung", 2011, available at <http://www.advocacyforum.org/torture-compensation/2011/10/arjungurung.php>

⁵⁷ Investigations into serious violations of UN rules are conducted by members of the UN Office of Internal Oversight Services. The final decision to repatriate individuals is made by the New York Headquarters of the Department of Peacekeeping Operations. The cost of repatriations is born by the contributing nation. Nina Shen Rastogi, "Peacekeepers on Trial. How U.N. blue-helmets get disciplined", SLATE, 28 May 2008, available at <https://slate.com/news-and-politics/2008/05/who-disciplines-u-n-peacekeepers.html>. See also, Column Lynch, "Is Nepal sending accused criminals to serve in U.N. peacekeeping missions?", Foreign Policy, 11 November 2011, available at <https://foreignpolicy.com/2011/11/11/is-nepal-sending-accused-criminals-to-serve-in-u-n-peacekeepingmissions/>

introduced by the NP headquarters in August 2012.⁵⁸ In January 2013, the Government announced new Army Service Regulations (ASRs).⁵⁹ However, several alleged perpetrators of crimes committed during the armed conflict were nevertheless appointed into senior positions. Among them is Kuber Singh Rana who stands accused of involvement in the disappearance and extrajudicial killing of five students in the Dhanusha district. Kuber Singh Rana was promoted to the most senior post of Inspector General of Police. This was challenged in the SC. The Court ruled the vetting of alleged criminals prior to promotion must be completed and is vital to achieving truth and justice.⁶⁰ Unfortunately, in the absence of any functional vetting policies, this is another SC ruling that remains unimplemented.

Vetting 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. Instead, members of parliament have repeatedly attempted to weaken criminal law provisions that disqualify individuals convicted of some serious crimes from holding certain political positions. This has made it possible for those known for their involvement in crimes (such as Agni Sapkota) to be elected as member of parliament.

Historically, the failure to vet and hold accountable those responsible for the violations that took place during the *Panchayat* era and suppression of the 1990s movement enabled the same perpetrators to return to power in later years. This lack of accountability entrenched a culture of impunity in the post-1990s democratic regime. This, to some extent contributed to the Maoist movement. The non-implementation of the Rayamajhi Commission's recommendations in the aftermath of the 2006 political change, further deepened this impunity in the post-2006 political landscape, allowing the state to increasingly dominate and manipulate the TJ process.

Vetting plays an important role in institutional reform, which is important for guarantees of non-repetition and to break the cycle of impunity. The current frustration and disillusionment, particularly among GenZ, can be directly traced back to these systemic failures. Their uprising reflects a broader demand for justice, accountability, governance and meaningful change that has long been denied.

⁵⁸ Advocacy Forum, "Vetting in Nepal: Challenges and Issues", 2014, available at <http://advocacyforum.org/downloads/pdf/publications/impunity/vetting-report-july-2014.pdf?m=1514801632>

⁵⁹ Advocacy Forum, "Vetting in Nepal: Challenges and Issues", 2014, page 59, available at <http://advocacyforum.org/downloads/pdf/publications/impunity/vetting-report-july-2014.pdf?m=1514801632> and Army Service Regulation, 2013, available at <https://mod.gov.np/content/8443/8443-%E0%A4%B8%E0%A4%A8%E0%A4%95-%E0%A4%B8%E0%A4%B5-%E0%A4%A8%E0%A4%AF%E0%A4%AE%E0%A4%B5%E0%A4%B2-%E0%A5%A8%E0%A5%A6%E0%A5%AC%E0%A5%AF/>

⁶⁰ Advocacy Forum, "SC Issues Interim Order against AIG Rana", 5 July 2011, available at <http://advocacyforum.org/news/2011/07/sc-issues-interim-order-against-aig-rana.php>. For the court decision in Nepali see, Sunil Ranjan Singh v Nepal Government, Office of Prime Minister and Council of Ministers et al (2020) SC Writ No 067-WO-1043, available at https://supremecourt.gov.np/cp/assets/downloads/supreme_97154.pdf

For more information on international standards and best practices in respect of vetting processes, see the relevant OHCHR rule of law toolkit.⁶¹

PART 6: CONCLUSIONS AND RECOMMENDATIONS

A well-executed TJ process is essential to correcting the course of Nepal's democratic journey and preventing the recurrence of violence, as witnessed in the past including the recent past. A strong and credible TRC and CIEDP can provide a collective narrative of what happened, identify institutional responsibilities, and foster a shared understanding of the conflict's legacy. This also will help future government to take measures for reforms of institutions. Prosecutions are vital to strengthening the national justice system, reinforcing the principle that no one is above the law, and ensuring fair trials that restore public confidence in judicial institutions and the rule of law more generally. Demonstrating the capacity to hold even powerful actors accountable sends a clear message against impunity and serves as a strong deterrent to future violations.

Vetting is equally crucial, it enables the removal of individuals implicated in serious abuses from public institutions, paving the way for merit-based appointments and meaningful institutional reforms. This process can significantly enhance public trust in governance structures. Furthermore, reparations play a fundamental role in restoring the dignity of victims, acknowledging their suffering, and contributing to healing and reconciliation.

Together, these pillars of TJ form the foundation for a just and peaceful society. Their effective implementation is not only a moral imperative but also a strategic necessity for Nepal's long-term stability and democratic consolidation, which was strongly demonstrated during the Gen Z movement. However, it is important to do it correctly so it is not seen as a biased, sham process. For this to happen, the reconstitution of the TJ bodies through a proper consultative and transparent process that allows independent, merit-based candidates to be selected to work in the commissions and other mechanisms of the TJ is an absolute must.

Below we set out further recommendations to the government, TJ bodies and international community aimed at achieving this.

6.1. To the Interim and/or New Government of Nepal

- Pending the outcome of the SC writ petition challenging the constitutionality of their appointments, encourage the members of the TJ bodies to resign and ensure no public resources is spent on the work of the commissioners;
- Appoint a new nomination committee with meaningful involvement of victims and ensure that nomination committee selects impartial and competent members for the TJ bodies;
- Ensure gender parity and diverse representation across both TJ commissions and advisory structures and outreach to marginalised gender identities;

⁶¹ <https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawVettingen.pdf>

- Suspend from their job any alleged perpetrators still active, especially if they are in positions that may impact any investigations by the TJ bodies;
- Establish a comprehensive national policy on reparations;
- Commit to those named in complaints to the TJ bodies not being promoted, pending the conclusion of such cases;
- Commit to those named in complaints to the TJ bodies not being sent on peacekeeping duties;
- Initiate a public debate around reform of the Nepal Police, Armed Police Force, Nepal army and the judiciary.

6.2. To any new TJ bodies (establish after the consultative process)

- Develop rules and procedures to ensure due process;
- Ensure the proceedings of the TJ bodies are televised apart from in special cases that require the highest level of confidentiality to be maintained;
- Ensure protection for victims and witnesses coming forward to give evidence;
- Investigate cases in such a way that it permits the commissions to identify persistent perpetrators involved in widespread or systematic human rights violations; and pass evidence to the Attorney General for presentation to the Special Court;
- Recommend to the government for all named perpetrators to hand over their passports to ensure they are not able to leave the country;
- Recommend to the government to suspend from their job any alleged perpetrators still active;
- Call commanders who were in charge of the security forces at the time of the conflict and key political decision-makers to give evidence regarding the wider policies (such as rules of engagement) that were in place;
- Call for all court martial documentation (not solely the judgments) to be handed over to the TJ bodies;
- Consider recommending vetting and reforms of certain institutions as measures for non-recurrence.

6.3. To the international community

- Do not support or condone the faulty TJ process that undermines human rights principles and risks entrenching impunity further;
- Careful monitor the TJ bodies' work;
- Provide technical assistance to the newly-established TJ bodies to help with preparations for investigations and prosecutions;
- Support CSOs and victims' groups to engage in the process.

