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**Nepal:**

**Submission on: Thematic Report on Enforced Disappearances and Memorialization**

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**JOINT SUBMISSION BY NEPALI VICTIMS' ORGANISATIONS AND CIVIL  
SOCIETY ORGANISATIONS**

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Memorial Park



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## INTRODUCTION

1. This submission responds to the Working Group on Enforced or Involuntary Disappearances' Call for Submissions for a Thematic Report on Enforced Disappearances and Memorialization (WGEID). It has been prepared jointly by Human Rights and Justice Centre ('HRJC') and Advocacy Forum-Nepal ('AF'). It is endorsed by Voices of Women Media ('VOW Media'), and Kumbhar Adda Disappeared People's Memorial Park.
2. This submission addresses all three areas of the Call for Submissions. It focuses primarily on Areas 1 and 3, drawing on HRJC and AF's combined experience representing victims of enforced disappearance before domestic courts and international human rights mechanisms. With reference to Area 2, it draws on the experience of the Kumbhar Adda Disappeared People's Memorial Park and VOW Media in victim- and civil-society-led memorialization in Nepal, as well as consultations with victim groups and families of the disappeared.<sup>1</sup>
3. The Working Group has previously engaged directly with Nepal on enforced disappearances, including through a country visit in December 2004, which documented widespread disappearances by both security forces and Maoist insurgents and made recommendations on legal and institutional reform<sup>2</sup>. More than two decades later, many of the structural conditions identified during that visit, including the absence of a specific crime of enforced disappearance in civilian law, a culture of impunity, and the failure to inform families of the fate of the disappeared, remain unaddressed, and the rights of victims to truth, justice, reparation, and memorialization continue to go unfulfilled.

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<sup>1</sup> Online Consultation via Google Meet, 24 February 2026.

<sup>2</sup> 70 UNESC, Commission on Human Rights, Report of the Working Group on Enforced or Involuntary Disappearances-Addendum: Mission to Nepal, 6-14 December 2004, Civil and Political Rights, Including the Questions Of: Disappearances and Summary Executions. Question of enforced or involuntary disappearances (28 January 2005) UN Doc. E/CN.4/2005/65/Add, <https://docs.un.org/en/E/CN.4/2005/65/Add.1> accessed on 26 February 2026.

## 1. LEGAL OBLIGATIONS OF STATES IN THE AREA OF MEMORIALIZATION AND ENFORCED DISAPPEARANCES

*Are there relevant provisions or judicial decisions – both at the international and domestic levels – establishing legal obligations for the State in the area of memorialization in cases of enforced disappearance? If so, what is the content of such provisions and what are their temporal boundaries (for example: when do they arise and do they persist open-endedly)? With regard to judicial decisions, briefly summarize the contents and the relevance in the area of memorialization (both in the sense of promoting or hampering memorialization efforts in cases of enforced disappearance).*

4. International human rights law increasingly recognizes that states have responsibilities related to memorialization as part of the broader rights to truth, justice, and reparation. Former UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-repetition, Fabián Salvioli, described memorialization as the “fifth pillar” of transitional justice, alongside truth, justice, reparations, and guarantees of non-repetition.<sup>3</sup> While the International Convention for the Protection of All Persons from Enforced Disappearance<sup>4</sup> does not explicitly address memorialization, the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, recognize it under satisfaction, including measures such as public apologies acknowledging responsibility and commemorations or tributes to victims.<sup>5</sup> International jurisprudence has reinforced this approach. In cases such as *Velásquez Rodríguez v. Honduras*, the Inter-American Court of Human Rights recognized symbolic memorialization through public acts honoring the disappeared, including naming streets, parks, schools, or hospitals after victims.<sup>6</sup> Similarly, in *Gelman v. Uruguay*, the Court emphasized the importance of public acknowledgment aimed at preserving historical memory.<sup>7</sup> Memorialization has thus gradually gained

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<sup>3</sup> Fabián Salvioli, *Memorialization Processes in the Context of Serious Violations of Human Rights and International Humanitarian Law: The Fifth Pillar of Transitional Justice*, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, UN Human Rights Council, UN Doc A/HRC/45/45 (9 July 2020).

<sup>4</sup> UN General Assembly, *International Convention for the Protection of All Persons from Enforced Disappearance*, GA Res 61/177, UN Doc A/RES/61/177 (20 December 2006) <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced> accessed 1 March 2026.

<sup>5</sup> UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, GA Res 60/147, UN Doc A/RES/60/147 (16 December 2005), para 22 (f) (g) <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation> accessed 1 March 2026.

<sup>6</sup> *Velásquez-Rodríguez v Honduras* (Reparations and Costs) Inter-American Court of Human Rights, Judgment of 21 July 1989 (Ser. C No 7), Para 7 (6) [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_07\\_ing.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_07_ing.pdf) accessed 2 March 2026.

<sup>7</sup> *Gelman v Uruguay* (Merits and Reparations) Inter-American Court of Human Rights, Judgment of 24 February 2011 (Ser C No 221) Page 90, para 260, 261 [http://corteidh.or.cr/docs/casos/articulos/seriec\\_221\\_ing.pdf](http://corteidh.or.cr/docs/casos/articulos/seriec_221_ing.pdf) accessed 1 March 2026.

recognition within existing international frameworks and jurisprudence, particularly as a component of reparations.

5. In contrast, domestic legal obligations in Nepal concerning memorialization in cases of enforced disappearance remain largely absent. The principal transitional justice instruments, like the Comprehensive Peace Accord (CPA) 2006<sup>8</sup> and the Act on Commission on Investigation of Disappeared Persons, Truth and Reconciliation (TRC Act) 2014, including its third amendment of 2024<sup>9</sup>, do not explicitly impose obligations on the state to undertake memorialization measures for victims of enforced disappearance or any victims of the conflict. The third amendment of the TRC Act introduced reparation as “victims’ rights” and states that a victim’s right to reparation is not dependent on whether the perpetrator is identified or whether reconciliation has occurred.<sup>10</sup> The amended Act mandates the establishment of specialized units within the TJ bodies to design and recommend reparations for conflict victims. The third amendment to the TRC Act has introduced a broader definition of reparation, in line with international standards, which could also cover the right to memorialization. Similarly, the Penal Code provides reparation for victims of enforced disappearance, limited to compensation and undefined social rehabilitation<sup>11</sup>, but it does not explicitly recognize memorialization as a right. These frameworks neither explicitly recognize memorialization nor establish any legal mandates related to preserving historical memory or publicly commemorating victims of enforced disappearance and other serious human rights violations. As a result, memorialization remains largely outside the formal transitional justice architecture in Nepal.
6. The Supreme Court of Nepal has played a pivotal role in ensuring the right to reparation of conflict victims as their fundamental rights and the primary obligation of the Government of Nepal under various international laws. The court, in various cases, ruled that ensuring reparation to the victim’s family is a legal obligation of the state, which must be tied to truth and justice. Nepal’s jurisprudence concerning transitional justice and enforced disappearance is limited in scope but significant; however, it has rarely addressed memorialization as a legal or policy concern. In *Rajendra Prasad Dhakal and others v. Government of Nepal and others*<sup>12</sup>, one of the earliest landmark petitions addressing mass disappearances during the armed conflict, the applicants sought judicial intervention regarding investigation and accountability for enforced disappearances. Nevertheless, neither the petitioners nor the Court framed the issue from the perspective of

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<sup>8</sup> *Comprehensive Peace Accord between the Government of Nepal and the Communist Party of Nepal (Maoist)* (signed 21 November 2006, published 22 November 2006).

<sup>9</sup> *Act on Commission on Investigation of Disappeared Persons, Truth and Reconciliation (Third Amendment)* (13 Bhadra 2081 B.S.; 29 August 2024 A.D.).

<sup>10</sup> *Ibid*, third amendment, Section 22(a).

<sup>11</sup> National Penal Code 2017, section 32.

<sup>12</sup> *Rajendra Prasad Dhakal and others v Nepal Government, Home Ministry and others* (Supreme Court of Nepal, Division Bench, Issue No 2, D. N. 7817, N.K.P 2064 registered 21 January 1999 A.D.).

memorialization or collective remembrance of victims. Similarly, in *Madhav Kumar Basnet v. Office of the Prime Minister and Council of Ministers and Others*<sup>13</sup>, the Supreme Court emphasized the seriousness of crimes such as enforced disappearance and called for proper investigation, truth-seeking mechanisms, and legal reforms to end impunity. Yet the decision barely touched upon memorialization measures as part of reparative justice.

7. The same pattern is visible in later transitional justice cases. In *Suman Adhikari and Others v. Office of the Prime Minister and Council of Ministers and Others*<sup>14</sup>, the Court examined the compatibility of the Truth and Reconciliation Commission Act with constitutional and international human rights standards and criticized provisions allowing amnesty for serious violations. However, the litigation did not raise demands related to memorialization for victims of enforced disappearance or their families. A similar pattern appears in the recent mass writ petition *Geeta Rasaili and others v. Office of the Prime Minister et al.*<sup>15</sup>, where conflict victims challenged provisions of the transitional justice framework as inconsistent with the Constitution of Nepal and international law. Despite addressing accountability, victims' rights, and legal reform, the petition also failed to raise the absence of a legal framework for memorialization. Collectively, these jurisprudential developments reveal a consistent pattern in Nepal's transitional justice discourse: both litigants and courts have placed little priority on memorialization as a dimension of reparative justice, leaving it largely unexplored in domestic law.
8. This pattern cannot be attributed solely to the strategic choices of legal advocates, since conflict victims and their family members have themselves been the primary drivers of much of this litigation. The deeper explanation lies elsewhere: memorialization has never been framed as a rights-based obligation of the state within Nepal's transitional justice architecture. Unlike truth-seeking or accountability, both of which the state has been compelled to engage with these issues through Supreme Court orders, international pressure, and victim-led petitions. Memorialization has remained entirely outside the normative framework. Without a domestic legal hook from which a memorialization claim could be derived, it is structurally difficult to litigate regardless of who is petitioning. The absence of memorialization from the litigation record is therefore less a reflection of indifference and more a symptom of this foundational gap. There is no established legal basis for either victims or courts to engage with it.
9. Significantly, this legal vacuum has not prevented victims from pursuing memorialization in practice. Families of the disappeared and civil society organizations in Nepal have long engaged in commemoration outside formal legal channels through preserving testimonies,

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<sup>13</sup> *Madhav Kumar Basnet v Office of the Prime Minister and Council of Ministers and Others* (Supreme Court of Nepal, Issue No 9, D.N 9051, N.K.P 2070; 2 January 2014 A.D.).

<sup>14</sup> *Suman Adhikari and Others v. Office of the Prime Minister and Council of Ministers and Others*, (Supreme Court of Nepal, D.N. 9303, Writ No. 070-WS-0050, NKP 2071, 26 February 2015 A.D).

<sup>15</sup> *Geeta Rasaili and others v. Office of the Prime Minister et al.*, (Supreme Court of Nepal, filed on 13 August 2025).

organizing anniversary events, holding two minutes' silence, maintaining informal memorials, and demanding public acknowledgment of their losses. However, because the state has never accepted memorialization as a legal duty, these efforts remain entirely dependent on political will and discretionary state accommodation rather than enforceable rights. What the state offers as a gesture, it can also withdraw. Memorialization therefore, occupies no protected space in Nepal's transitional justice process, and until it is recognized as a right the state is obligated to fulfill, victim-led efforts will remain structurally precarious regardless of how consistently they are pursued.

10. The consistency of this gap across legislative, executive, and judicial domains warrants closer examination. Nepal's transitional justice process emerged from a political settlement in which institutions and individuals implicated in serious human rights violations have retained significant roles in public life. In such a context, the boundaries of what transitional justice mechanisms are designed to address are inevitably shaped by political considerations that extend beyond legal principle. Memorialization, unlike prosecutions or truth commission processes, creates a permanent public record by fixing historical narrative and giving victims a visibility that is not easily retracted. That it has remained discretionary rather than obligatory across successive legislative and judicial developments is a pattern that cannot be fully explained by legal oversight alone. The gaps documented above are better understood against this broader political context in which the process is embedded.
11. A further dimension largely absent from Nepal's transitional justice discourse is that of gendered memorialization. Women have disproportionately borne the burden of remembrance by sustaining commemoration practices, preserving testimonies, and maintaining demands for acknowledgment over decades. Yet this labor receives no recognition within any existing legal or institutional framework. At the same time, women who were themselves victims of enforced disappearance remain largely invisible in memorialization efforts, which have tended to center male victims. Conflict-related sexual violence, despite its scale and documented prevalence, is almost entirely excluded from official memory-making, carrying with it a particular stigma that formal acknowledgment could begin to address. Perhaps most distinctively, women whose husbands were disappeared occupy a condition of prolonged legal and social limbo, neither widows nor wives in any recognized sense<sup>16</sup>, for whom memorialization carries specific stakes around identity, legal status, and closure that the current framework is entirely unequipped to address.

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<sup>16</sup> Human Rights and Justice Centre, *The Impact of Enforced Disappearance on Women in Nepal* (HRJC, August 2023), 18-20. <https://hrjc.org.np/wp-content/uploads/2023/08/Impact-of-ED-on-women-victims-web.pdf> accessed on 26 February 2026.

*Do States bear a positive duty to enable, facilitate, or protect memorialization initiatives, particularly in contexts of ongoing impunity or contested narratives?*

12. Yes, States do bear a positive duty to enable, facilitate, and protect memorialization initiatives, particularly in contexts of ongoing impunity or contested narratives. The state's responsibility includes supporting initiatives that honor victims of enforced disappearance, even when these efforts are part of broader processes of truth, justice, reparation, and guarantees of non-repetition. International human rights frameworks recognize these obligations, emphasizing that memorialization helps illuminate past violations, create spaces for coexistence, and indirectly uphold citizens' rights to be free from serious abuses.<sup>17</sup> It also serves a preventive function, helping to deter future violations where impunity persists or historical narratives are contested.<sup>18</sup>
13. In Nepal, domestic laws and court decisions do not explicitly obligate the state to undertake memorialization. National mechanisms such as the Commission of Investigation on Enforced Disappeared Persons and the Truth and Reconciliation Commission have largely failed to deliver meaningful truth or justice. In response, victims' groups have mobilized at the community level and engaged local governments to create memorial initiatives.<sup>19</sup> Local government involvement has helped challenge state amnesia, honor victims, and provide spaces where survivors' voices are recognized and sustained.<sup>20</sup>
14. Even though local authorities cannot investigate or prosecute, their support gives formal recognition to victims' experiences and contributes to transitional justice. Examples include the Enforced Disappeared Memorial in Rukum<sup>21</sup>, the Manual Waterpump Memorial in *Khairichandanpur*,<sup>22</sup> and the *Kumbharadda* Disappeared Memorial in *Barbardiya*. These initiatives show how local governments can engage in memory work,

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<sup>17</sup> Savioli (n 3).

<sup>18</sup> The most concrete evidence of memory as a right of individuals and groups, while being a duty of the state can be found in the report prepared by Louis Joinet as United Nations Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in which he states the following: "People's knowledge of the history of their oppression is part of their heritage and, as such, shall be preserved by appropriate measures in fulfilment of the State's duty to remember. Such measures shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments" (Joinet, 1996, p. 265); Also see: M. Osuna Diaz 'Right to memory and implementation of transitional justice obligations in the inter-american human rights system', *Masaryk University*, 2025, p.17.

<sup>19</sup> Ram Kumar Bhandari and Simon Robins, 'Formal but Local Transitional Justice: Memorialization of the Missing by Local Government in Nepal' (2025) 17 *Journal of Human Rights Practice* 1, P.2.

<sup>20</sup> *Ibid*, P.3.

<sup>21</sup> *Monument in memory of enforced disappeared*, (Nepal Khabar, 1 November 2015) <https://nepalekhabar.com/2015/11/59991> accessed 1 March 2026.

<sup>22</sup> *Memorial for the victims of enforced disappearance at Khairichandanpur*, ( CIPDH-UNESCO, 2011) <https://www.cipdh.gov.ar/memorias-situadas/en/lugar-de-memoria/memorial-a-los-desaparecidos-de-khairichandanpur/> accessed 5 March 2026.

empower victims, and foster social and political inclusion, even where central state actors have avoided accountability.<sup>23</sup>

*Does international or domestic law define State obligations to support or protect civil society-led memorialization, and does it limit State interference in such initiatives?*

15. The International Covenant on Civil and Political Rights (ICCPR), as interpreted by the Human Rights Committee in cases such as *Puniram Tharu and Nira Kumari Tharuni v. Nepal* (Communication No. 3199/2018, 14 March 2022) and *K.R. and S.R. v. Nepal* (Communication No. 2906/2016, 15 July 2019), establishes that memorialization is a legally required form of satisfaction under Articles 2, 6, 7, and 17. These rulings make it clear that States have a positive duty to ensure that victims of enforced disappearance are honored through meaningful acts of remembrance. In practice, Nepal has failed to fulfill this obligation. For example, the Follow-Up Report of 21 April 2023 in the *Anil Chaudhary* case noted that Nepal had taken no meaningful action to implement the memorialization orders and rated implementation as “D.”
16. In the absence of proactive state-led action, civil society organizations have played a bridging role in advancing memorialization by convening state authorities, victim families, and local government stakeholders around obligations that the state has not yet independently fulfilled. HRJC has conducted a public community consultation on memorialization at Bardiya, engaged directly with victims' families on the form and location of memorials, and facilitated discussions on budget allocations at federal, provincial, and local levels, while affirming that memorialization remains the State's primary responsibility. Similarly, Advocacy Forum's follow-up on memorialization for the case of R.R. demonstrates that the government has not taken any steps to act on HRC recommendations. These efforts illustrate an important pattern: where the state has not acted on its own initiative, civil society has created the conditions and spaces in which state engagement becomes possible, but this bridging role cannot substitute for the institutional commitment and legal obligation that only the state can fulfill.
17. These examples show that while civil society can play a critical role in advancing memorialization, international law places the primary responsibility on the State. In the absence of proactive state action, initiatives remain dependent on local engagement and civil society, highlighting the importance of enforceable legal mechanisms to protect and sustain remembrance efforts.

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<sup>23</sup> Bhandari and Robbins, (n 19), P.7.

## 2. PRACTICAL AND INCLUSIVE APPROACHES TO MEMORIALIZATION BY STATES, VICTIMS, AND CIVIL SOCIETY

*What good practices of memorialization by State authorities/victims/civil society can be identified in cases of enforced disappearance?*

18. In Nepal, where a substantive state-led memorialization process has been largely absent, victims and civil society have mobilized to memorialize the disappeared and engage local governments. Victim groups have organized themselves into associations, and together with civil societies have worked to create spaces that honor their missing relatives and preserve their memories while also advocating for formal recognition through local memorialization initiatives. These efforts transform victims and families from passive sufferers into active agents who shape public narratives about past violations, demand acknowledgment, and promote collective remembrance. The *Kumbharadda* Disappeared People's Memorial Park, for example, demonstrates several best practices: it is managed by a Park Management Committee composed of family members, ensuring victim-centered ownership; it is initiated under the guardianship of a local government *Barbaridiya* municipality, it archives personal belongings like clothing and school certificates, humanizing the disappeared; it incorporates oral histories and trained memory guides to share stories with the wider community; and it integrates cultural symbols, such as the Banyan tree and the Way of Hope path, into the grieving process. The park also includes physical monuments listing the names of the disappeared and hosts ongoing exhibitions and commemorative events, keeping public memory active and preventing social forgetting.
19. Civil society-led efforts, such as those by VOW Media, Advocacy Forum Nepal, Human Rights and Justice Center, and various Victim Organizations, have played a vital role in keeping the memory of the disappeared alive. They document personal stories, collect archives, organize national memory conferences, and hold commemorations like Disappearance Week and dedicated remembrance days, while also making these resources publicly accessible through platforms like [memorytruthjustice.com](https://memorytruthjustice.com).<sup>24</sup> These initiatives go beyond formal record-keeping, combining cultural, artistic, educational, and archival practices, ranging from exhibitions to school programs, to create spaces where people can connect with the lives and stories of those who were lost. By centering victims and involving communities, these practices ensure that memorialization is personal, participatory, and culturally meaningful. They not only honor the disappeared but also help communities heal, raise public awareness, and foster accountability.

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<sup>24</sup> See the website: <https://memorytruthjustice.com/>.

*What good practices can be identified with regard to the individual and collective dimensions of memorialization?*

20. Good practices of memorialization in cases of enforced disappearance work on both individual and collective levels, honoring the lives of the disappeared while fostering healing and awareness in the community. On the individual side, personalized memory markers, such as plaques, biographies, personal belongings, and digital memorial pages, allow families to preserve the unique identity and story of each lost loved one. These practices give families a sense of agency over their grief and narrative, helping them reclaim some control after trauma. A powerful example is the *Maina Sunuwar* case: the family of the 15-year-old girl, who was disappeared, illegally detained, and killed, has refused to pay last homage until her perpetrators are prosecuted in a civilian court. This illustrates how individual memorialization can not only honor the victim but also sustain pressure on the state toward justice.<sup>25</sup>
21. At the collective level, memorial parks, monuments, and public ceremonies create spaces where communities can come together to remember and reflect. The Kumbhar Adda Disappeared People's Memorial Park in Bardiya is a striking example. Families of the disappeared gather for meet-and-greet events, sharing memories and supporting each other in healing. For instance, Goraitu Tharu, father of the disappeared Shibu Tharu, met his son's childhood friend for the first time, hearing stories about Shibu's life that brought comfort and connection. The park also gives families a role as custodians of memory, managing the space and telling stories, which transforms grief into action and fosters psychosocial healing. Through the display of personal belongings, planting of trees, and cultural symbols like the Banyan tree and the Way of Hope path, the park provides a physical space for presence in absence, validates families publicly, and helps reduce stigma, particularly for wives of disappeared in rural communities.

*Which mechanisms have been used to ensure inclusive participation in memorialization initiatives of families of disappeared persons, in particular regarding marginalized groups/Indigenous Peoples?*

22. Inclusive participation in memorialization in Nepal has been built through systemic approaches that bring together families of the disappeared, civil society, and local communities. Organizations like VOW Media have institutionalized participatory planning, creating committees that center family members, particularly women, youth, Indigenous Peoples, and marginalized groups, and ensure decisions reflect their lived priorities and cultural norms. Workshops and capacity-building programs equip families to

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<sup>25</sup> Advocacy Forum, *Maina Sunuwar: Separating Fact from Fiction* (First Edition 2010 (2066 B.S.)); published by Advocacy Forum, Kathmandu <https://www.advocacyforum.org/wp-content/uploads/2023/12/maina-english.pdf> accessed 1 March 2026.

record testimonies, navigate archives, and actively lead commemorative events, giving them agency over how memory is preserved and shared. Partnerships with local leaders and civil society actors further ensure access for people with disabilities, economically disadvantaged families, and geographically isolated communities, creating a fully inclusive process.

23. Civil society networks, including AF and HRJC, and local victim organizations, complement these efforts through collective initiatives such as commemorative days, storytelling sessions, exhibitions, and educational programs, marking specific days like the International Day and Week of the Disappeared. Legal participation in case filings also functions as a form of memorialization, preserving memory through legal recognition. These integrated practices are particularly important in areas where disappearances disproportionately affect marginalized communities, including the Tharus and Chaudharis of Sudurpashchim and Lumbini provinces. By combining individual testimony, community engagement, public programming, and legal recognition, these initiatives create a holistic memorialization ecosystem that honors the disappeared, empowers families, and fosters collective agency, accountability, and social healing.

*What are the examples of successful collaboration between States, victims and civil society in memorialization initiatives in cases of enforced disappearance and what has been instrumental in securing this success?*

24. In Nepal, successful memorialization of enforced disappearances has relied on close collaboration between victim families, civil society, and state authorities. The *Kumbharadda* Disappeared People's Memorial Park in Bardiya is a leading example, where families, local and provincial governments, and organizations like VOW Media worked hand in hand to plan, design, and manage the site. Families were given real decision-making power, ensuring that the memorial reflected local memory traditions, Tharu and Chaudhari cultural practices, and national recognition of crimes against disappearance. Education and public dialogue programs in Bardiya and Kathmandu transform the park into a living space through workshops, school visits, and public events. These collaborations ensure that memorialization reflects both official recognition and community priorities. The *Kumbharadda* Disappeared People's Memorial Park illustrates such success: state support provided the logistical framework for the site, while families and civil society managed day-to-day operations, designed programming, and curated exhibits. Unfortunately, examples like these are rare in Nepal.

### **3. CHALLENGES AND LEGAL PROTECTION FOR PERSONS, CIVIL SOCIETY, MEMORIALS, AND MEMORIALIZATION INITIATIVES: ADDRESSING THREATS AND SAFEGUARDING COMMEMORATIVE EFFORTS**

*Which forms of threat have been documented against families of disappeared persons, communities, and civil society who engage in memorialization? Which forms of threats and attacks against memorials have been documented?*

25. Families of disappeared persons, communities, and civil society actors engaged in memorialization in Nepal face a range of threats, including political pressures, social stigma, intimidation, vandalism, neglect, and environmental hazards affecting physical memorial sites.<sup>26</sup> In the absence of a comprehensive national policy on memorialization, protections are largely dependent on local government support, personal networks, or the political will of individual authorities. This leaves many initiatives, particularly ad hoc or community-led efforts, vulnerable to co-optation, neglect, or deliberate attacks.
26. Temporary measures such as tree planting, construction of *chautari*, or informal archives, without formal safeguards or digitization, are at risk of deterioration and the erosion of collective memory. Long-term protection requires a combination of legal recognition, state commitment, clear policy guidance, and participatory governance that actively involves families of the disappeared in decision-making. Without these safeguards, memorialization remains precarious, exposing families to threats that gradually erode collective memory.
27. Forms of backlash against memorialization in Nepal cannot always be separated from broader patterns of state denial. Where the state fails to implement memorialization orders, withholds official acknowledgment, or passively tolerates obstruction of civil society commemoration efforts, these are not merely administrative failures; they function as a continuation of the state's denial. The refusal to acknowledge or commemorate the disappeared preserves the same erasure that the disappearance itself was intended to produce. In this sense, protecting memorialization is not merely a reparative concern but a safeguard against the perpetuation of the original violation.

*How can the UN and regional human rights mechanisms contribute to the safeguard of commemorative practices in cases of enforced disappearance?*

28. UN and regional human rights mechanisms can contribute to the safeguard of commemorative practices in cases of enforced disappearance in three principal ways: first, by establishing binding obligations on States to provide memorialization as a form of reparation; second, by creating follow-up procedures that sustain accountability when

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<sup>26</sup> Reference Shared by Niranjana Chaudhary, Conflict Victim/ Chairman, Kumbar aada Disappeared Peoples memorial Park, BarBardiya, Lumbini Province, and Bikil Stapit, Advisory Board member, Kumbar aada Disappeared Peoples memorial Park, BarBardiya, Lumbini Province. Visit site: <https://disappearedmemorial.org/>.

States fail to comply; and third, by providing civil society with formal channels to escalate non-compliance beyond the domestic level.

29. The HRC's individual communications procedure under the Optional Protocol to the ICCPR is the most direct mechanism. In the eleven enforced disappearance cases<sup>27</sup> against Nepal documented in HRJC's Collective Follow-Up Report of 31 March 2024, the HRC adopted Views between 2014 and 2019 ordering Nepal to provide adequate compensation and appropriate measures of satisfaction in each case, a category of reparation that encompasses commemorative practices. The WGEID itself has a direct and established engagement with Nepal, having conducted a country mission in December 2004<sup>28</sup> that documented the widespread and systematic nature of enforced disappearances during the armed conflict. That mission's recommendations focused on the immediate priorities of the conflict period: criminalization, accountability, and institutional protection. Memorialization was absent from those recommendations. Two decades later, with the conflict formally concluded but transitional justice still deeply incomplete, the WGEID is now positioned to address what its earlier engagement could not: the post-conflict reparative obligations of the Nepali state toward victims and their families, including the duty to memorialize. The present thematic report represents an opportunity for the Working Group to build on its prior country engagement and to articulate, for the first time in its Nepal-specific work, that memorialization is a legally grounded component of the outstanding obligations that remain unfulfilled.
30. By treating satisfaction as a legally binding component of an effective remedy under Article 2(3) of the ICCPR, the HRC framework establishes that memorialization is not a discretionary political gesture but an enforceable obligation. However, as the Collective Follow-Up Report confirms, Nepal has not adopted any measures of satisfaction in any of the cases, and it remains entirely unclear which domestic authority is responsible for

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<sup>27</sup> Human Rights Committee (HRC), Case *Ram Kumar Bhandari v. Nepal* (Communication No. 2031/2011, 29 October 2014), *Sharmila and Chunauti Tripathi v. Nepal* (Communication No. 2111/2011, 29 October 2014), *Mr. Jit Man Basnet and Mr. Top Bahadur Basnet v. Nepal* (Communication No. 2051/2011, 29 October 2014), *Yuba Kumari Katwal v. Nepal* (Communication No. 2000/2010, 1 April 2015), *Sabita Basnet Nepali v. Nepal* (Communication No. 2164/2012, 12 July 2016), *Bimala Dhakal v. Nepal* (Communication No. 2185/2012, 10 March 2017), *Ram Maya Nakarmi v. Nepal* (Communication No. 2184/2012, 10 March 2017), *Shanta and Nisha Neupane v. Nepal* (Communication No. 2170/2012, 21 July 2017), *Sarita Devi Sharma, Bijaya Sharma Paudel and Basanta Sharma Paudel v. Nepal* (Communication No. 2364/2014, 6 April 2018), *Himal and Devi Sharma v. Nepal* (Communication No. 2265/2013, 6 April 2018) and *Tikanath and Ramhari Kandel v. Nepal* (Communication No. 2560/2015, 15 July 2019).

<sup>28</sup> Working Group Visit, (n 2).

implementing this obligation<sup>29</sup> or whether any strategy exists to design such measures with the victims' participation.

31. This is precisely where the follow-up procedure becomes critical. Under Rule 106 of the HRC's Rules of Procedure, HRJC has called on the Special Rapporteur for Follow-up on Views to engage Nepal's Permanent Mission in Geneva, transmit information to the Human Rights Council for the UPR process, alert the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on Torture, and refer the matter to the Committee Against Torture. This demonstrates how a non-compliant State can be held accountable across multiple UN mechanisms simultaneously, creating layered pressure that extends well beyond the original HRC Views. The Collective Follow-Up Report's recommendation to develop a cluster of conflict-related cases from Nepal, treating them as focused cases to be collectively prioritized in the follow-up process, further shows how these mechanisms can be used structurally and not just case by case to address systemic failure to implement satisfaction measures, including those of a commemorative nature.
32. Beyond the positive duty to support memorialization, international law also constrains state interference in civil society-led initiatives. The rights to freedom of expression, peaceful assembly, and association under Articles 19 and 21-22 of the ICCPR protect the ability of victims, families, and organizations to organize commemorations, preserve testimonies, and maintain memorials without state obstruction. The HRC has consistently held that restrictions on these rights must meet strict necessity and proportionality standards. In Nepal's context, where memorialization efforts have at times encountered administrative obstruction, political pressure, or sustained state indifference that effectively suppresses commemoration, these protections carry direct relevance. The state's obligation is therefore twofold: it must not only fulfill its positive duty to memorialize but must also refrain from actions, whether direct or indirect, that impede victims and civil society from doing so in its absence.
33. Additionally, the WGEID is not an unfamiliar voice in Nepal's transitional justice landscape. Its 2004 country visit, its prior recommendations, the cases transmitted to it directly by Nepali victims' families, and the joint allegation letters submitted by civil society organizations collectively establish a sustained and multilayered engagement with Nepal's disappearance context. This history gives the Working Group's engagement on memorialization particular authority by providing domestic advocates with a credible normative reference point, reinforcing the WGEID's own institutional continuity in Nepal, and foreclosing any claim by the state that its obligations in this area remain unsettled or

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<sup>29</sup> A joint-PIL has been filed before the Supreme Court in 2022, requesting the government to establish a national monitoring mechanism to follow up on Nepal's international human rights obligations. The case awaits its final hearing.

unknown. That Nepali victims and civil society have consistently engaged the WGEID alongside other international mechanisms reflects the agency and persistence of those directly affected by using every available avenue to hold their own state accountable to standards it has itself accepted by ratifying international instruments.

## **RECOMENDATIONS**

34. Drawing on the above, the authors of this submission respectfully call on the Working Group to consider the above matters in its thematic report, and particularly to:

34.1. To explicitly recognize memorialization as a legally required component of reparation in cases of enforced disappearance, clarifying the normative basis from which states cannot derogate by invoking domestic legal gaps;

34.2. To recommend that states establish domestic institutional mechanisms with clear mandates, assigned responsibility, and meaningful victim participation requirements for implementing satisfaction measures, including commemoration;

34.3. To engage Nepal directly through its country procedures on the systemic failure to implement HRC satisfaction orders across documented cases, and to treat the cases transmitted to the WGEID by Nepali victims' families as an additional basis for direct engagement with the state on outstanding reparative obligations, including memorialization;

34.4. To acknowledge the gendered dimensions of memorialization as a distinct area requiring targeted state action, including recognition of the specific situation of women whose family members were disappeared.