

# IDENTIFYING GAPS AND CONSOLIDATING TRANSITIONAL JUSTICE MECHANISMS

**Pooja Karki**

Daayitwa Fellow with Ministry of Peace and Reconstruction (MoPR),  
Government of Nepal



**DAAYITWA  
NEPAL PUBLIC SERVICE FELLOWSHIP  
SUMMER 2014**

# ABSTRACT

This report is based on the research study conducted as a result of identifying current needs of the Ministry of Peace and Reconstructions (MoPR) in terms of achieving transitional justice (TJ) goals in Nepal. The “Act Made for Making Provisions Relating to the Commission on Investigation of Disappeared Persons, Truth and Reconciliation 2071 (2014)” or the TRC Act has made it clear that Truth and Reconciliation Commission (TRC) as well as Commission on the Investigation of the Disappeared Persons (COIDP) will be established to redress the grave human rights abuses that took place over the ten years long armed conflict in Nepal from 1996 to 2006. Although at present, the TRC Act itself is mired in controversies and is challenged by the victim groups, civil society as well as the international community as being “flawed” due to few clauses that do not comply with the international human rights norms; the fact that these commissions will be formed is certain.

This report attempts to give an overview of the philosophy of TJ, discuss about Nepal’s TJ process in order to identify gaps and create an organogram or organizational structure for the Commissions that are to be formed in the near future. The proposed organogram will discuss various components of the Commissions and what their roles could be in order to achieve a holistic TJ process in Nepal. The data collection for this research was done mostly through academic research as well as via interactions and interviews with various civil society and victim groups. Similarly, staffs at the National Human Rights Commission (NHRC) were also consulted. During research, it was found that there is huge gap in victims’ understanding of what these Commissions are mandated to do as well as in the concept of TJ. Also, via discussion with the Joint Secretary at MoPR, it was found that the Ministry needed to do some homework in laying groundwork for the Commissions before they start operating. Therefore, creating a prospective organizational structure and identifying prospective roles of its various components could highly benefit the Ministry in the future.

There will always be a discrepancy between expectations and outcomes in many of the processes in post-conflict societies. Realizing this fact, it is pivotal for the MoPR to manage the expectations of the victims and Nepali people as to what can be ultimately and realistically achieved from a truth commission process in order to avoid further animosity towards the Ministry’s effort on achieving holistic TJ process in Nepal. One way to do so is to create a citizen’s handbook on the Commissions to make Nepali people; the international community and especially the victims understand the works, mandates and the limitations of the Commissions. This report will also include a prospective the Handbook that was prepared during the research. The Handbook could serve as a part of preliminary outreach efforts of the Commissions

Note: In this paper the term victim is used despite the ongoing debate over the use of victim vs. survivor. However, not all of them are the victims of crimes against humanity. Some are survivors as well.

# CONTENTS

1. BACKGROUND	4
2. RATIONALE: WHY IS IT IMPORTANT TO ABIDE BY MECHANISMS?	5
3. ELEMENTS OF TRANSITIONAL JUSTICE: IS NEPAL'S TJ PROCESS HOLISTIC?	6
4. NEPAL'S CURRENT TJ PROCESS	7
5. TRUTH COMMISSIONS	8
6. PROPOSED ORGANIATIONAL STRUCTURE FOR TRC/COIDP	9
7. ANALYSIS ON THE ORGANISATIONAL STRUCTURE	10
8. HAND BOOK ON THE TRC/COIDP	20
9. ACKNOWLEDGEMENTS	25

## LIST OF ABBREVIATIONS

COIDP	Commission on the Investigation of the Disappeared Persons
CPA	Comprehensive Peace Agreement
GoN	Government of Nepal
ICTJ	International Center for Transitional Justice
IDPTRC	Investigation of Disappeared Persons and Truth and Reconciliation Commission
MoPR	Ministry of Peace and Reconstruction
OCD	Outreach and Communication Director
RD	Research Director
TJ	Transitional Justice
TRC	Truth and Reconciliation Commission
TRC Act	Act Made on Provisions Relating to the Commission on Investigation of Disappeared Persons, Truth and Reconciliation 2071 (2014)
UN	United Nations

# 1. BACKGROUND

Transitional Justice (TJ) as a concept has gained a lot of momentum in the last two decades. Dozens of countries have established truth commissions and other such bodies to investigate mass atrocities or systematic human rights abuse, over the last few decades (Schmid, 2012, p. 1). The United Nations (UN) defines TJ as “an approach to systematic or massive violations of human rights that both provides redress to victims and creates or enhances opportunities for the transformation of the political systems, conflicts, and other conditions that may have been at the root of the abuses” (UN, 2008). The International Center for Transitional Justice (ICTJ) clarifies that “TJ is not a ‘special’ kind of justice, but an approach aimed at achieving justice in times of transition from conflict and/or state repression that provides recognition of the rights of victims, promotes civic trust and strengthens the democratic rule of law” (ICTJ, 2014).

It is self-evident that Nepal is in a state of transition at present. The decade long conflict started by the Communist Party of Nepal-Maoist (CPN-M) in 1996 came to a dramatic end in April 2006, with a second People’s Movement uniting the Maoists and the constitutional parties against the king who had seized absolute power in February 2005. As a result, it led to the reinstatement of the Parliament. Soon after, the coalition government and the Maoists signed a Comprehensive Peace Agreement (CPA) (ICTJ & AF, 2008). Two years later, Nepal abolished the monarchy and became a federal democratic republic (Government of Nepal, 2006). The Maoists emerged as the strongest party in the constituent assembly election held in 2008 with 240 out of 601 seats (UNMIN, 2011, p. 89). However, almost 8 years later, the new constitution of Nepal has not yet been formulated. In this phase, the question of how Nepal addresses the human rights violations of the war committed by not just the Maoists but also the state parties is a matter of interest for the national and international community alike.

## 2. RATIONALE: WHY IS IT IMPORTANT TO ABIDE BY MECHANISMS?

The UN identifies two main goals of TJ in terms of dealing with a legacy of systematic or massive abuse: to gain some level of justice for victims, and to reinforce the possibilities for peace, democracy, and reconciliation (UN, 2008). History has shown that there are great harms in leaving the abuses of the past unaddressed and unacknowledged.

Collier & Hoeffler (2004) in their study on the Challenge of Reducing the Global Incidence of Civil War, argue that without peace-building measures, states tend to relapse into conflict within five years of the signing of a peace agreement. They also suggest that because of the high risk of conflict repeat; around half of all civil wars are likely to breakdown of peace during the first post-conflict decade (p. 17). Although it has been almost eight years since the signing of a peace agreement, there is no guarantee that with the promulgation of a new constitution, the peace process will not backlash and cause factions to use violence yet again if the results are not in their favor.

Similarly, the ICTJ (2014) argues that a history of unaddressed massive abuses is not only likely to divide the society but also to breed mistrust between groups and in the institutions of the State. The risks of ignoring the massive abuses can furthermore obstruct or slow down the achievement of security and development goals; raise questions about the commitment to the rule of law and “ultimately lead to cyclical recurrence of violence in various forms” (ICJT, 2014). In this sense, TJ as a process is both prospective and retrospective because while it deals with the injustices of the past, it also does not indulge on it. Rather, it is a forward-looking mechanism that needs to be adopted at any cost (UN, 2008).

### 3. ELEMENTS OF TRANSITIONAL JUSTICE: IS NEPAL'S TJ PROCESS HOLISTIC?

ICTJ identifies criminal persecutions, reparations, institutional reforms and truth commissions as the key elements of a comprehensive transitional justice process (ICTJ, 2014). However, besides the aforementioned elements, the UN identifies security system reform in particular as well as memorialization efforts as key elements of a holistic TJ process (UN, 2008). The CPA signed in 2006, promised four transitional justice mechanisms: (i) the Truth and Reconciliation Commission to investigate serious violations of human rights and crimes against humanity; (ii) the National Peace and Reconciliation Commission to provide assistance to conflict victims; (iii) a High-Level Inquiry Commission on Disappeared Citizens; and (iv) a High-Level State Restructuring Recommendation Commission (Government of Nepal, 2006). Therefore, as soon as the armed conflict came to a halt, certain steps had been taken towards adopting transitional justice in Nepal. However, there are more issues that have been ignored by the TJ process. For example, the CPA promised that the fate and the whereabouts of all the disappeared persons would be made public within 60 days but that has not happened till date (Tripathi, 2014, p. 6).

## 4. NEPAL'S CURRENT TJ PROCESS

Nepal's TJ process at present has been mired in controversy and criticism from the victims group, civil society, and the international community including the UN. There has been complete disregard to the Supreme Court rulings that took place a couple of times that clearly labeled it "unconstitutional". Allegations like, "transitional injustice has taken place in Nepal" and that "justice delayed is equal to justice denied" have been made by leading lawyers and activists in the field (Tripathi, 2014, p. 6). The biggest criticism is around the amnesty clause in the TRC Act. The TRC Act provides the Commissions wide discretion with room for amnesty to be granted to perpetrators of gross human rights violations in an arbitrary way (Government of Nepal, 2014). Navi Pillay, ex-commissioner at the United Nations High Commissioner for Human Rights warned that she is "extremely concerned by its (Nepal's) new attempt to introduce amnesties for serious human rights violations. Such amnesties not only violate core principles under international law but would also weaken the foundation for a genuine and lasting peace in Nepal" (Kathmandu Post, 2014).

Analyzing South African truth commission's broad mandate, Stanley (2001) argues that in South Africa, by placing amnesty of violations as a carrot to perpetrators in exchange for a full story, with the stick of prosecutions for those who did not come forward, the unburdening of the past through the documentation of truths from all sides took precedence over calls for 'natural' justice (p. 526). Nepal's TRC Act also has a broad mandate with room for amnesty. Amnesty is a controversial issue because it not only it violates the rights of victims to redress, but is also inconsistent with a states' obligation under international law to punish perpetrators of serious human rights crimes. Furthermore, it gives chances for perpetrators to tell their stories without remorse and with impunity.

Mobekk (2005) claims that in those truth commission structures, which incorporates amnesties, the perpetrator immediately walks free after testifying, whereas the victims are left waiting for reparations that may never come. This can not only delay or hinder individual reconciliation, but also reinforce impunity by establishing the idea that actions will not have consequences (p. 268).

Advocacy Forum, TRIAL and REDRESS (2014) in their report outline various problematic areas of the TRC Act besides amnesty. For example, the Section 22 of the TRC Act that grants the power to the Commission to mediate between victims and perpetrators even in cases of crimes under international law and gross human rights violations, besides rape. For everything else, it can "reconcile" the victims and the perpetrators. Not only that, reconciling takes precedence over the "recommendation for legal action against those involved in serious crimes" as well. Section 25(2) of the TRC Act that also bars the commission from making any recommendation for prosecution in cases where reconciliation is undertaken (Government of Nepal, 2014). This act does not recognize the distinction between national reconciliation and individual reconciliation. While national reconciliation "is achieved when societal and political processes function and develop without regressing to previous patterns or the framework of the conflict", individual reconciliation is the "ability of each human being to conduct their lives in a similar manner as prior to the conflict without fear or hate". Also, there is a chance of achieving national reconciliation at the expense of reconciliation at the individual level (p. 263). Such flawed understanding of reconciliation on the part of the government puts the legitimacy of entire TJ process of Nepal in question.

The question, whether or not Nepal needs to adopt transitional justice mechanism, especially one that is "prescribed" by the international community is valid and pertinent. Similarly, questions like who is the TJ process for; whose justice is it seeking are equally pertinent in analyzing and understanding the scope and the goals of Nepal's TJ process.

## 5. TRUTH COMMISSIONS

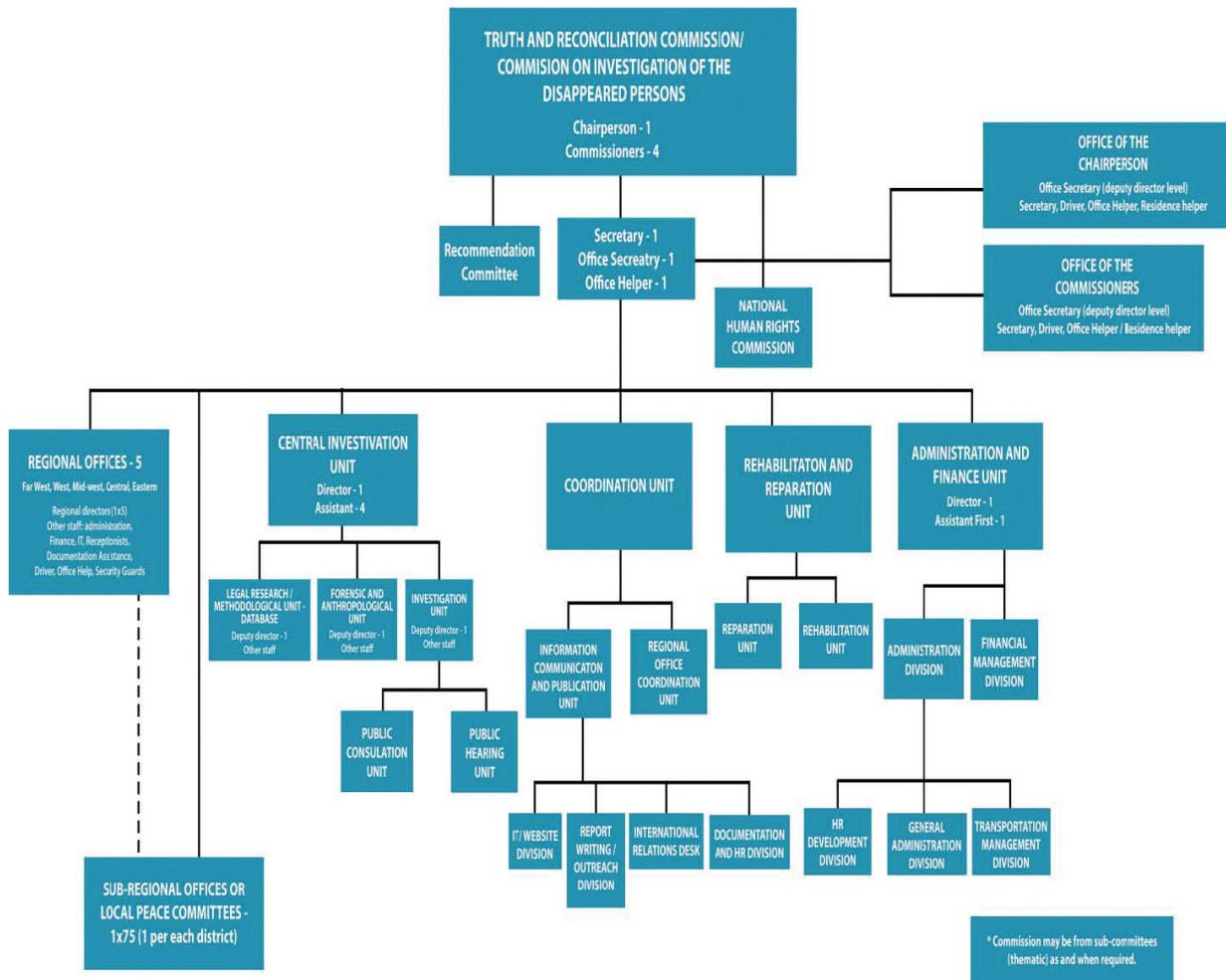
Priscilla B. Hayner (1994) claims that Truth Commissions have a “cathartic” effect on the society as it fulfills the important task of formally acknowledging the long silenced past. It is a vehicle for truth telling, and for establishing and voicing the victims’ stories, which may otherwise remain untold. The aims and objectives of truth commissions are broadly to determine and create a historical record of human rights abuses, whilst giving the victims an opportunity to be heard and instituting by its process an official acknowledgement that these acts took place and must not be forgotten, and ultimately leading to or assisting in reconciliation of the post-conflict society (Mobekk, p. 267).

Ultimately, the success of a truth commission lies greatly on the hands of political will surrounding it. Also, limitations caused by restricted access to information and basic lack of resources can result in “a narrow slice of truth” in the final report (Hayner, 2014, p. 602). Experts on TJ have time and again reiterated that there is no one-size-fits-all truth-seeking mechanism that works for any country facing a legacy of past abuses. However, all TJ there are some common ingredients for a successful truth commission or a commission of inquiry.

ICTJ (2014) identifies that an organizational chart clarifying lines of reporting between commissioners and staff, the division of labor, and any operational deployment throughout the country should be clear before the operations of any truth commissions begin. Identifying this need, this report has proposed a prospective organizational structure for the TRC as well as for COIDP. In the following paragraphs, there will also be detailed explanation on various units and divisions of the Commissions as well as their prospective roles. Here, Commission signifies either TRC or COIDP.

# 6. PROPOSED ORGANIATIONAL STRUCTURE FOR TRC/COIDP

Duration: 2 Years  
 Mandate: Limited  
 Passed by: Presidential Decree  
 Geographical Jurisdiction: Territorial  
 Power of Subpoena: No



## 7. ANALYSIS ON THE ORGANISATIONAL STRUCTURE

Although there could be some variations, the internal structures of truth commissions usually have the following characteristics:

- An internal organizational structure, which responds to the mandate in terms of the function and objectives of the truth commission.
- Specialized units responsible for research, outreach, and administration; and regional offices deployed across the territory under inquiry or the country (ICTJ, 2013, p. 43).

What ever the variations may be, the most crucial aspect of any truth commissions is the need to ensure the Commission's independence, credibility, and effectiveness. The following paragraphs include various organizational-structures that could be included in the Truth and Reconciliation Commission and the Commission on the Investigation of the Disappeared Persons (COIDP) along with their roles.

### 1. Central Investigation Unit

#### 1.1 Legal Research and Methodological Unit (Database)

This unit will include a research director (RD). The RD will be responsible for the investigation and analysis units of the Commission throughout all phases of its work, including planning, information and data gathering, and evaluation and analysis. The RD will also be involved in preparation of the final report. He or she should report directly to the Secretary. Some of the possible units likely to operate under the leadership of the RD are:

i. Methodology, statement-taking, and database: Under this unit, social science professionals are needed to design instruments for data gathering from interviewees, such as statement forms or questionnaires. This unit will grow over time to accommodate interviewers, data clerks, and analysts.

ii. Analysis of specific violations: According to the TRC mandate, the Commission can create unit to conduct research on violations specifically mentioned in the mandate. This unit can further establish separate specialized units to investigate cases of torture, extrajudicial executions, and enforced disappearances, etc.

iii. Analysis of specific social and historical processes: According to its mandate, the Commission may decide to establish units to investigate the broader context and causes of the conflict, the role of certain institutions, or the effects of a conflict on a certain region. For example, they may appoint units to analyze the role of the police, the judiciary, or a specific profession, etc.

iv. Situations affecting specific groups: The research unit, in particular, should ensure that it investigates the experiences of any groups that were specifically targeted or that were especially vulnerable, such as women, children, minorities, and indigenous groups. However, it is important that the Commission is sensitive to issues affecting specific groups in all aspects of its work. For example, all units should be gender-sensitive. The RD is responsible for ensuring that such special needs are carefully accounted for.

It is of utmost importance that the Commission outlines the investigative and research plans that propose basic methodological approaches and specify forms of interdisciplinary cooperation before they start their work. Most of the aforementioned tasks of the Legal Research and Methodological unit will be made easy via mapping and background research that should be conducted prior to the start of Commissions' official operations.

## Mapping and Background Research

The Commission needs to gauge the nature and extent of violations before they begin their operations. This can be done via conducting a preliminary mapping project that helps to identify potential challenges, assess needs and provide a macro view of the conflict. Also, it enhances the objectivity and effectiveness of the Commission by aiding in resource allocation, etc. Mapping and background research includes:

- Collection and analysis of information from different sources, including documents, witness interviews, and consulting with field experts
- It looks at the nature and extent of incidents that took place
- When and where incidents occurred (to develop a sense of the scale of violations)
- Who the victims are
- The likely identity of perpetrators
- A chronological overview of events, zone by zone or district by district
- Any existing justice, reconciliation, and victim support initiatives
- Potential leads or sources of evidence
- Any patterns of abuse
- Holding meetings with representatives of organizations to present the Commission's plans and objectives, and to seek partnerships in research and strategic decisions

### Actors Involved:

Mapping can be carried out by a civil society organization with the necessary expertise, often supported by the UN or another institution with necessary resources. Similarly, following actors can also be involved in mapping at various points:

- Government (justice, human rights, military, and police authorities)
- UN, major international human rights bodies, and diplomatic missions
- National and international media
- Nongovernmental organizations (human rights bodies, unions, religious groups, aid agencies, and victims' associations)

### 1.2 Forensic Anthropological Unit

These units will focus on obtaining factual or forensic truth. The truth is based on the legal and scientific notion of presenting corroborated evidence obtained through impartial and objective procedures.

Section 14 (6) of the TRC Act mentions that, "If the Commission is convinced of the fact that a disappeared person has already been killed and the dead body has been buried in a particular place, the Commission may ascertain the reality by carrying out the exhumation of such places" (Government of Nepal, 2014). Similarly, the Commission will as far as possible handover the dead body or human remains to the family member of the deceased person if they are available after carrying out DNA test if possible or examination of the dead body. For this, the government should ensure that advance forensic technologies and resources are provided to the Commission.

### 1.3 Investigation Unit

Sec 6(2) of the TRC Act mentions, "If a person, victim or her/his family member who comes to the Commission to record testimony, statement or provide information requests the Commission for her/his security or even without such a request, the Commission, if it deems it necessary, shall have to make appropriate provisions for the security of such a person or of the individual/s supporting the Commission or any personnel working with the Commission" (Government of Nepal, 2014). However, there should be witness protection division under the Commission. The work of the Commission will not be productive if it relies totally on Nepal Police Force for witness protection.

### 1.3.1 Public Consultation Unit

Stanley (2001) outlines the limitations of the South African Truth Commission where women were largely underrepresented in the collection process and argues that the TRC provided a “partial truth” (Stanley, 2001). Public participation in the national debate on truth seeking helps to build public interest in the Commission’s work and a better understanding of the Commission’s policies when they are implemented. Therefore, it is important to make the victims part of the Commission’s work from the planning phase to the very end.

Frank and open discussions are more likely to occur in small, private, focused meetings that allow commissioners to develop rapport and common understanding with these individuals and groups (ICTJ, 2014, p. 33). In addition, public consultation, involvement of experts from multiple disciplines involved in the recommendation and public consultation phase is highly crucial as well.

### 1.3.2 Public Hearing Unit

This unit along with the public consultation unit will focus more on personal or narrative truth. Narrative truth is premised on a culmination of individuals ‘subjective stories to provide a multilayered set of experiences (Stanley, 2001).

This unit should be responsible for organizing hearings, coordinating the various truth commission units to participate in hearings, and overseeing necessary logistics. Various aspects like cases involving children need to be sensitively handled by the public hearing as well as the investigation units. TRC and COIDP should ensure that commissioners and staff have expertise on children’s rights as well as the resources. For example, the Commission can ensure that at least one commissioner has a permanent responsibility to engage children.

Also, there should be strict guarantees of confidentiality and protection of the child’s identity while taking their statements. The children should be allowed their parents company during the interviews/hearings if they want. Truth Commissions should organize “in camera,” or private, hearings to receive the testimony of children. The Commissions should also guarantee mental health follow-up of those children that have been interviewed (ICTJ, 2013, p. 59).

#### **Recommendation:**

- There should be an arrangement to include the diaspora community (victims, witnesses and perpetrators) in the Commission’s work. For example: during statement taking, investigation, etc.

## 2. Coordination Unit

This department will oversee coordination with other departments and GoN ministries. It will also coordinate with other transitional justice activities carried out by the civil society in order to solidify the TJ process. Section 43 of the TRC Act mentions that, “the Commission shall liaise with the Government of Nepal through the Ministry” (Government of Nepal, 2014). However, doing so will question the transparency and independence of the Commission. It is likely that the MoPR could be labeled a “gate-keeper” since there is a space for it to manipulate.

Coordination Unit will include two sub-units, i.e. Information, Communication & Publication Unit and Regional Coordination Unit. The Information, Communication & Publication Unit will further consist of IT/Website Division, Report Writing/Outreach Division, International Relations Desk and Documentation & Human Resource Division.

## **2.1. Information, Communication & Publication Unit**

### **2.1.1 IT/Website Division**

This unit will be responsible for managing the IT logistics as well as creating and maintaining website for the Commissions. The website could include the online publications like periodicals, journals; updates on work of the Commissions, etc. Also, public hearings could be transcribed and posted on the Commission's webpage by this division. Similarly, it can run discussion forums on TJ issues via the website.

### **2.1.2 Report Writing/Outreach Division**

#### **Report Writing**

This unit will be responsible for publishing the final report prepared by the Commission. It will work on sharing the information of the works done by the Commission to the public. A lot of the findings in the report might only confirm what people already know. However, it is of utmost importance for the government to acknowledge the truth.

This report will determine whereabouts of the disappeared; determine identity and circumstances of the victims of the conflict; determine who was responsible for the abuses and violations; analyze the conditions and political, social and cultural context that contributed to the violence; develop proposals with regard to the provision of reparations to the victims; put forward measures and reforms to be taken with a view to ensuring that such events never happen again.

The report will include:

- Details relating to the complaints inquired and investigated and de-listed by the Commission;
- Details relating to actual truth and fact found as a result of inquiry and investigation; details relating to reconciliation made between victim and perpetrator;
- Matters relating to recommendations made to the GoN for necessary action;
- Inherent root causes of the internal armed conflict;
- Matters related to reforming policy, legal, organizational, administrative and behavioral issues for non-recurrence of such incidents in future;
- Matters relating to formulation of any law, if deemed necessary for the implementation of the report;
- Measures to be adopted forthwith and in future by the GoN in order to promote human rights, strengthen justice system and create an environment for reconciliation in the society.

Many truth commissions in the past have contributed to the future of a country via recommendations for reform mentioned in their final reports. Although, not all commission reports include recommendations, commission reports in the past have included recommendations like: military and police reform, strengthening of democratic institutions, reparation to the victims of violence, reform of judicial system, etc. (Hayner, 1994, p. 609).

Just publishing the final report does not suffice in fulfilling the goals of the TJ process. The reports need to be widely circulated and distributed as well. For example in countries like Uruguay and Zimbabwe, only a few people outside the government got access to the report in the former case, while non outside the government saw the report in the latter case (Hayner, 19914, p. 617). In Haiti, all the recommendations of the National Truth and Justice Commission were ignored. It was deemed sufficient that such a process had taken place. This led to profound disillusionment among the population who had expected far more from the commission and follow-up (Mobekk, p. 271).

Also it is important to ensure that the government is not forming the truth commissions, just to establish legitimacy. Therefore, it is important to pressurize the government to publish the report and circulate it widely.

## **Outreach**

Outreach and Communication Director (OCD) will head the Unit. OCD will be responsible for communicating the mandate and objectives of the Commission to the public and managing all public, media, and educational outreach. His or her role will also include the ability to analyze public opinion and manage public or victim's expectations. OCD can report directly to the secretary of the Commission.

The truth commission needs to have a constant and effective means to communicate information about its activities to the public. Journalists, publicists and communicators should be hired to prepare and distribute periodical information through printed magazines, websites, social networks, and others. Also, this unit must be the liaison for organizing the commissioners' availability to the press and offering trainings and support to journalists interested in covering Commission activities.

In addition to information, the truth commission can create and disseminate educational tools specifically designed for teachers and students. As preparation of the final report moves forward, this unit can contribute to wider public understanding and awareness by helping to prepare pedagogic materials in different formats (written, audio, video, web-based, etc.). The outreach section will work on sensitizing people and will educate the public on the mandates of the Commission and its works. Example: Peace radio stations/Peace art exhibitions, etc.

Similarly, it will also publish the list of nominees that might form the Commission. Furthermore, printed media can be distributed through outreach events, civil society networks, and local contacts. Also, the radio, TV, press, songs, drama, and posters all have a role to play.

Article 19 (3) of the ACT mentions that, "The Commission may, for the information of general public including the victims, publicize details relating to its activities from time to time". However, Commissions need to be wary of outreach backlash if not managed well. Following are some recommendations that the Commissions could use:

### **Recommendation:**

- Outreach and education plans need to be formulated for communicating the Commission's mandate and operations to the public prior to Commission's work. Town hall-style meetings can be used as forums for Commissioners and staff to explain their activities to local communities and answer questions. Consultative meetings and training programs can be held with victims, ex combatants, police, military, parliamentarians, religious leaders, teachers, women, children, youth, and others.
- In the TRC Act, there is a provision of implementing the recommendations of the Commissions by the government itself or communicating the recommendations to the Office of the Attorney General or Government of Nepal or Council of Ministers. Attorney General is also a legal advisor to the GoN. Therefore, he/she is not an independent person either. This could affect the implementation of the recommendations by the Commission, like by practicing leniency in prosecution process, especially while prosecuting the perpetrators holding senior positions in political entities or security agencies.
- Unlike like the reports of Mallik Commission and Rayamajhi Commission that were set in Nepal, final reports by the Commissions need to be published. There has to be a legal provision of easy public access of the report because public access of the report is an indicator of a truth commission's success. There must be a provision in the Act, which is binding for the government to implement the report.

### **2.1.3 International Relations Desk**

This division will coordinate with the International Community.

### **2.1.4 Documentation Division**

This department should ensure that the data is well documented in order to aid scholars for research. This unit will work on storing and coding data collected from public hearings, interviews, statements to facilitate its usability and reliability in writing the report.

### **2.2 Regional Coordination Unit**

This Unit will coordinate with regional offices, sub-regional offices or LPCs. They will also oversee mobile teams.

## **3. Administration & Finance Unit**

### **3.1. Administration Division**

This unit will ensure the efficiency and effectiveness in use of the Commission's resources. It will further include Human Resource Development Division, General Administration Division and Transport Management Division.

In addition to the hearings, the Commission needs to focus on training human resources to be able to conduct the work effectively and efficiently. It can train statement takers who can take statements from victims, perpetrators, witnesses and others as well.

### **3.2. Finance Division**

This unit will manage the Commission's budget; allocate resources from the national budget or donors and tracking expenditures, assets, and other resources.

As a public institution, a truth commission should respect best practices of governmental transparency. Allocating resources for salaries, operational activities, and capital investments must closely follow the objectives and functions of the commission, as established by the mandate and the commission's work plans (ICTJ, 2013, p.31).

### **Recommendations:**

- Article 12 (1) of the ACT says that, "The Ministry shall make arrangements for building, materials and other resources required for the functioning of the Commission (Government of Nepal, 2014). However, in doing so there is a risk of the Commission being regarded as just a "department" under the MoPR, which in return questions the independence of the Commission.
- Furthermore, the GoN controls funding resources for the operation of the Commission. These provisions do not align with international standards of impartiality and independence and accordingly contravene Supreme Court orders.
- Before formulating budget and allocating resources for the Commission's work, a comprehensive national policy on TJ should be developed.

## **4. Reparation & Rehabilitation Unit**

OHCHR argues that among other redress measures like prosecutions and to some extent vetting that are targeted against the perpetrators; and truth-seeking and institutional reform that caters to society as a whole, reparations are explicitly and primarily carried out on behalf of victims (OHCHR, 2008). Similarly, the effectiveness of a victim centered transitional justice process can be measured in terms of its ability to address victims' needs (Robins, 2011, p. 77). Therefore, it is highly important to focus on the reparation as well as rehabilitation that serve restorative purposes.

This unit will work on providing compensation, services and facilities to the victims.

### **Symbolic Reparations Programs**

It will include public gestures, individual letters of apology to victim and relatives, public ceremonies to affirm the truth, acts of acknowledgement like public apologies; changing names of public spaces, establishment of days of commemoration, publishing a press insert with the full list of those unjustly detained, publicly acknowledging civil authorities and social leaders who were victims of violence, setting up monuments or places to keep memory alive, etc.

### **Health Reparations Programs**

The victims will be provided with free health-care facilities. Health reparations programs seek to contribute to the restoration of mental and physical health of the victims. This should include efforts to rebuild social support networks for the victims as well as to strengthen their personal and social development capacities.

### **Educational Reparation Programs**

The victims will be provided with free educational facilities

### **Economic Reparation Programs**

The victims will be provided will skill-oriented training; loan facilities with or without concessional interests; arrangements of habitation and employment facilities, etc. Under these programs the victims will be provided with economic compensation for moral and material damages that they have endured. There could be preferential treatment for the victims to state funded facilities and services as well.

### **Citizens Rights Restoration Program**

It will be focused on enabling the affected populations to regain the full and effective enjoyment of their civil and political rights, and seeks their legal rehabilitation. It could include regularizing the legal status of missing persons and of those unjustly charged; annulling unjust criminal, legal, and police records, and regularizing the status of undocumented individuals.

### **Collective Reparation Program**

This program will focus on reconstruction and consolidation of communities and settlements that lost their social and physical infrastructure due to the conflict. Collective reparations are not only symbolic; some are material, as when a school or a hospital is built as reparations, and for the sake of a particular group. Therefore, it is clear that victims and non-victims alike will use them. Non-victims cannot be excluded. Thus, collective services should cover non-basic services like educational, cultural, artistic, vocational and specialized medical services targeting the special needs of the victim population (OHCHR, 2008, p. 26).

### **Psycho-social Counseling**

This program will focus on providing psychosocial counseling to the victims or survivors. The Commission can establish mental health departments as well.

### **Reconciliation Unit**

The Commission can push for restorative justice via encouraging reconciliation initiatives at the local level. Such initiatives can engage traditional religious leaders as well as other local leaders.

Conducting public hearings and other meetings provide a setting for “restorative justice” processes in which the victim, the offender, and the other individuals or community members can actively participate in the mediation and resolution of past grievances (Long, 2008, p. 11).

### **Recommendation**

- There should be a comprehensive plan for reparation and rehabilitation that should incorporate participatory processes in the design and implementation of reparations programs. Doing so makes the programs more complete (they reach the victims) and it may turn victims into stakeholders as well. This should also include civil societies as they might have closer insight and information on reparation/rehabilitation needs of the victims.
- Institutional reform should not be ignored because Guarantees of non-repetition is one of the pivotal goals of the TJ process. It should include institutional reforms not only in the military and security forces but should also work on strengthening judicial independence, the protection of human rights workers, human rights training, promotion of international human rights standards in public service, law enforcement, the media, industry, and psychological and social services, etc. (OHCHR, 2008, p. 7).
- Similarly, outreach on reparation and rehabilitation services should be even before the operations of the program for its “completeness”.
- The requirements for qualifying as a beneficiary should avoid double victimization by avoiding cumbersome, complicated, lengthy or expensive procedures and make it accessible for the victims as well.
- Similarly, the reparation and rehabilitation unit should embrace the concept of restitution as well. Restitution broadly refers to measures which “restore the victim to the original situation before the gross violations of international human rights law and serious violations of international humanitarian law occurred,” for example, restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property (OHCHR, 2008, p. 7).
- Gender-sensitive strategies must be set in place to gather gender-specific information that will be relevant for the reparation and rehabilitation.
- ICTJ in its report “To Walk Freely with a Wide Heart” A Study of the Needs and Aspirations for Reparative Justice of Victims of Conflict- Related Abuses in Nepal has identified the pressing need for issuing government directives for the victims to secure the legal interests of spouses or families of the disappeared to land or other property (ICTJ, 2014 b).

### **5. Regional Offices**

The effectiveness of the truth commissions and TJ process as a whole largely depends on how victim-centric they are. In order to cater to the needs of the victims, it is important for the commission to deploy staff and resources close to victimized populations. Each regional office can have an Office Director (OD). The ODs will be accountable to the secretary as well as the Commissioners. The regional OD will manage the local research, communications, and administrative functions, ensuring that statement-taking teams can obtain information from local victims and survivors.

Ideas for prospective regional Offices in the five development regions:

- Doti- Far-West
- Surkhet- Mid-West
- Pokhara-West
- Kathmandu-Central
- Birtnagar-Eastern

### **Sub-regional Offices or Local Peace Committees (LPCs)**

In many cases, patterns of violence have occurred in isolated areas, away from the big cities. For example, the areas most hit by the conflict in Nepal are in the mid-west and far west. Victims and survivors living in such areas may need support in order to participate in the Commission activities or give testimony. Also, the victims might not have the financial resources needed to travel to far away places to give testimonies, etc. Keeping

all these factors in mind, it is important to decentralize the work of the Commission and build regional as well as sub-regional offices in addition to headquarters so that it will not only allow in reaching the largest number of statement givers but also make it easier for the staff to conduct research directly among affected populations. These local offices will be responsible to look after local level research/communications and administration functions. Currently, the Local Peace Committees (LPCs) are working at local levels but are highly political. However, rather than shutting those offices, it will be cost effective and feasible to reform the LPCs in a manner that it comprises of neutral members and legitimize the work of the truth Commission.

#### **Mobile Teams (Specialized Teams):**

ODs in regional offices should manage not only the regional office's access to victims, but should also organize staff to visit communities. They can also oversee and deploy mobile teams for the aforementioned purposes. These mobile teams will work on collecting victims' first hand testimonies. They will focus on creating local dialogue groups; creating community platforms for story telling; and for micro-level initiatives. Mobile teams require significant resources, such as vehicles and communications equipment, as well as coordination with security forces in some situations.

Sub-regional offices could also include Community Service Centers that perform following functions:

- These centers can focus on traditional conflict resolution mechanisms.
- They can provide psychological trauma counseling facilities at a localized level.
- Similarly, religious institutions can also be used for healing/reconciliation.
- They could co-ordinate with the local victims group and establish relationships with them.

### **6. Recommendation Committee**

The recommendation committee will comprise of five members, including at least one female member. This committee will recommend 5 commissioners for the Commission. The GoN will nominate the chairpersons of the Commission among ex-chief justices. A member will also include chairperson of the NHRC/ or a member of the NHRC as selected by the same organization. Similarly, a member will be selected among personalities belonging fields like human rights activists, law expert, expert on peace and conflict, public policy expert, social scientist, woman's rights activists or workers, people with experiences or role/s in the peace process, psychology experts or counselors, etc. This group will include at least one female member (Government of Nepal, 2014).

In order to make the Commission independent, the recommendation committee will make the selection a public process via publication as to who will be in the Commission. The Commission will have the discretion to decide who among the members will become the head of the Commission. However, at present, since we do not have an elected government but one of political consensus, there are chances of biasness in selection of the recommendation committee itself. The government needs to ensure independence in nominating the recommendation committee. However, the TRC Act rooms room for political manipulation because although the Recommendation Committee nominates the chairperson and members for the Act, but the GoN chooses the Recommendation Committee itself.

### **7. Office of the Chairperson**

The Office of the Chairperson will include deputy director level office secretary along with drivers, office helper and residence helper. It is very important for the chairperson along with other commissioners to be independent.

## **8. Office of the Commissioners**

The Office of the Chairperson will also include deputy director level office secretary along with drivers, office helper and residence helper. There should be a clear division of labor and responsibility among commissioners and professional staff. The commissioners have a direct legal duty to comply with the mandate and hold direct authority and responsibility to make decisions, present findings, and make recommendations. The personal staffs are responsible to support the work of the commissioners and cannot influence the commissioners' decisions (ICTJ, 2013, p. 16).

Also, it is very important to ensure safety of the commissioners, especially after the publication of the final report. It is because, in countries like Uganda, the commissioners have faced harmful consequences after working in the commissions (Hayner, 1994, p. 612).

Hayner (1994) claims that the truth commissions have inherent vulnerability to political limitations as their existence, mandate and functions (effectiveness and efficiency) depends largely on the political will of the given government. Besides the commission's mandate, the commissioners may self-impose restrictions on what the commission will investigate and report. In cases of time constraints, lack of adequate resources and staffing, lack of access to sufficient and reliable information and presence of political pressure, the commissioners may avoid certain topics altogether to decide to exclude certain information from the final report (p. 637).

ICTJ recommends following measures that can be taken to maintain independence of the Commission:

- Commissioners and their staff should not be (or be perceived as being) biased to a political faction. This includes those seconded from government agencies.
- Commissioners should work for the commission on a full-time basis.
- Similarly, they should be provided with sufficient funds, properly trained staff and adequate facilities to enable it to perform its functions to the highest standards (ICTJ, 2013).

## **9. National Human Rights Commission (NHRC)**

Based on the TRC Act, the role of NHRC in regards to assisting the works of the Commission is highly ambiguous. Section 30 of the TRC Act states, "the National Human Rights Commission can make sure the Commission has taken actions based on the complaints filed. If the NHRC finds that the Commission has not taken necessary actions, it can bring that issue to MoPR's attention" (Government of Nepal, 2014). However, lack of clarity on roles of the two institutions, especially in regards to the investigations of conflict related cases that the NHRC has already been investigating is still in question. In the context of Nepal, the national organization like NHRC has effectively probed many incidents of armed conflict. Some of them are still under investigation and the institution has also documented important information of the conflict. In such situation, it is very important to have legal clarity with NHRC while forming TRC and COIDP.

## 8. HAND BOOK ON THE TRC/COIDP

NEPAL COMMISSION ON TRUTH AND RECONCILIATION/  
COMMISSION ON FORCED DISAPPEARANCE: A CITIZEN'S  
HANDBOOK

**Nepal Peace Trust Fund, Ministry of Peace and Reconstruction**

### **1) What is the purpose of the Truth and Reconciliation Commission and the Commission on the Investigation of the Disappeared Persons?**

The purpose of the Truth and Reconciliation Commission and the Commission on the Investigation of the Disappeared Persons is to establish an accurate and fair historical record and facts of the armed conflict and to create an environment of peace and reconciliation in the society.

It will do so by gathering information on the violations of human rights and international humanitarian law in the armed conflict of Nepal from 1996 to 2006. Many victims want the nation to hear what they had/have suffered. Keeping the victim's in mind, the commissions will provide a platform for the victims, perpetrators, and others affected by the atrocities the opportunity to tell what happened to them.

The commission will not only analyze the information it gathers from the victims, perpetrators, and others but will also conduct its own research. Based on that, it will write a report that explains the reality of what happened during the armed conflict. The Commission will work on promoting mutual feelings, respect and tolerance; recommend reparations to the victims and prosecution to those involved in serious violation of human rights crimes, among others. Furthermore, the report will identify the causes, nature, and extent of abuses of human rights and the circumstances in which they occurred. The report will also make recommendations about ways to ensure the terrible acts of the armed conflict from happening again.

### **2) What was the basis for the creation of the Truth and Reconciliation Commission and the Commission on the Investigation of the Disappeared Persons?**

Commission on Truth and Reconciliation and the Commission on Investigation of Disappeared Persons will be/are established based on the Act on Commission on Investigation of Disappeared Persons, Truth and Reconciliation 2071 (2014). The Legislature Parliament pursuant to Article 83 of the Interim Constitution of Nepal, 2007, promulgated this Act. The creation of the commission is also in line with the Interim Constitution of Nepal. For example, the Article 33 of the Interim Constitution of Nepal, 2007 mentions that relief will be provided to the families of the victims, on the basis of the report of the Investigation Commission constituted to investigate the cases of persons who were the subjected to enforced disappearance during the course of the conflict.

### **3) What is the difference between the Commission on Investigation of Disappeared Persons and the Truth and Reconciliation Commission?**

The Commission on Investigation of Disappeared Persons shall investigate into the incidents of disappearance, while the Truth and Reconciliation Commission shall investigate into other incidents of gross human rights violations. However, they will coordinate with each other.

#### **4) Are the Commissions government institutions?**

The Commissions are independent bodies. They will perform their activities in an independent, bias-free and impartial manner. They will abide by the universally accepted principles of law and justice. For example, the members of the Commissions shall not be involved in inquiry, investigation and other actions relating to such a person, who is either a relative of such members or is directly related to any transactions with such members. The Commissioners serve as individuals, not as representatives of political party, religious group, government, or other organizations.

#### **5) What are the mandates of the Commission?**

The Commission has a mandate to do the following tasks in order to fulfill its objectives:

- a. Carry out inquiries and investigations on incidents of gross violations of human rights and crimes against humanity that occurred during the armed conflict. The Commissions will do so if there is a complaint lodged to the Commissions by the victim or on behalf of the victim; if the Commissions receive any information on such matter through any source or if the Commissions find it appropriate to inquire and investigate on such matter.
- b. To encourage reconciliation between the victim and the perpetrator or to help in reconciling them.
- c. To recommend reparation for victims or their families.
- d. To recommend judicial action for those perpetrators who have not gone through the process of reconciliation or amnesty.
- e. To provide identification cards to the victims and to give them access to the information related to the investigations.
- f. To decide whether or not a crime occurred during the armed conflict.

#### **6) Whom do the Commissions consider “Victims”?**

“Victim” means a person who is either dead or has suffered harms physically, mentally, sexually or economically as a result of serious violation of human rights during the course of armed conflict or detainee and a member of his or her family and the term also includes the community as well which has suffered serious adverse effect in humanitarian, societal and communal aspects as a result of gross violation of human rights.

#### **7) Whom do the Commissions consider “Perpetrators”?**

“Perpetrator” means a person involved in a crime committing gross violation of human rights in the course of armed conflict and the term also includes a person giving order to commit such crime as well.

#### **8) What is the difference between international human rights and international humanitarian law?**

International human rights law states what protections every human being is entitled to at all time, such as the right not to be tortured, etc. International humanitarian law provides certain people with certain protections during armed conflict. For example, it states that civilians may not be killed or taken hostage.

#### **9) How will the Commissions work?**

The Commissions will hold sessions (or hearings) at national, regional, and district levels to hear from the victims and perpetrators of any atrocities or from other interested parties. Some of these hearings will be public.

The Commissions will take statements from a large number of people, including victims, perpetrators, and witnesses of events both inside and outside Sierra Leone. The Commission may collaborate with civil society groups to publicize its works and further help in its statement-taking and reconciliation processes. The Commissions may make use of audio-visual means to facilitate hearings if necessary. However, The Commissions shall carry out their activities in an open and transparent manner. If such activities are likely to have adverse impact on dignity or security of any person or to jeopardize law and order or to have adverse impact on the process of inquiry and investigation, the Commissions may carry out those investigations in a confidential manner.

**10) Will the Commissions make special arrangements for the children, senior citizens, differently abled people and victims of sexual violence?**

Yes, the Commissions will make conducive environment to children, senior citizens, differently abled people and victims of sexual violence to file the complaints in the Commission.

**11) What if I know who murdered my family and he/she is still in our midst?**

It is of utmost importance that you not take any actions yourself against him or her. If people start taking action on their own in these cases, then the peace will not last. If you want to do something about it, you can speak to the Commissions about the issue. You could also address the issue to your local peace committees.

**12) How will the Commissions decide to investigate into the matters relating to the cases of serious violation of human rights?**

- a. If a complaint is filed in the Commission by or on behalf of the victim,
- b. If the Commission takes cognizance through any source,
- c. If the Commission deems it appropriate to investigate.

**13) Do I have to abide by the directions of the Commission?**

It shall be the duty of the concerned person, institution or agency to provide the documents, papers, materials or evidences as ordered by the Commission to furnish information, testimony or statements by being present in person at the Commission. If a person, institution or agency fails to render support in the work of the Commission, the Commission may impose a fine up to fifteen thousand rupees on each instance to such person, or the chief of such institution or agency. Also, The Commission may take action for its contempt. For this it may impose a fine up to Rs. 15, 000 (Fifteen thousand rupees) or imprisonment up to three months or both, if it concludes that its contempt has been committed. However, if the accused person or body apologizes to the satisfaction of the Commission, the Commission may forgive him or may, if the punishment has already been given, waive or commute it or may issue orders not to execute the orders, if the conditions put forth by the Commission are met, by putting on hold the punishment.

**14) What the Commission cannot do:**

The TRC is not a court and therefore will not try anybody. The TRC's goal is not punishment (be it imprisonment or fine), but to gather facts about the war and facilitate soul-searching and acknowledgement of acts by individuals or groups. It will not give compensation to victims, although it could recommend that the government give compensation. It will make recommendations to the government and perhaps NGOs, the international community, and others for addressing the causes and consequences of the conflict and preventing its repetition.

The Commission will not have the power to inquire and investigate on any matter that

has already been decided in accordance with the existing laws; any matter incidences of gross violation of human rights or crime against humanity before or after the armed conflict.

**15) For how long the Commissions work?**

The term of office of the Commission shall be of two years effective from the date of its formation. However, if the Commission could not meet its deadline to complete its tasks and if seeks the tenure extension by citing such reason, the Government of Nepal may extend the term of office of the Commission for up to a period of one year.

**16) What will the TRC do with its findings?**

The TRC will produce an analyzed and synthesized report of its findings. This report will state what the TRC has learned about the civil war from the statements of victims, perpetrators, and witnesses and its investigations and hearings. The report will also recommend reforms to prevent the repetition of the civil war and atrocities that occurred during it, address impunity, respond to the needs of victims, and promote healing and reconciliation.

**17) Can the findings of the Commission be re-investigated?**

There shall be no re-investigation by forming Commission again, into the matters already investigated by the Commission pursuant to this Act.

**18) Has this happened anywhere else or is it unique to Nepal?**

Forming truth commissions or combinations of truth commissions and prosecutions to address the grave human rights and violations that took place during countries, such as Chile and Argentina, there was a truth commission followed by prosecutions. Where as in South Africa, amnesty was granted to those perpetrators who came before the commission and agreed to confess their crimes entirely. Also, they were not persecuted further.

**19) What is a Special Court?**

“Special Court” refers to a court formed by the Government of Nepal pursuant to the law that has the jurisdiction to hear and decide on the cases that took place during the armed conflict, brought by the Attorney General or a Public Prosecutor designated by him, on the basis of recommendation made by the Commission.

**20) Under what conditions will the Commissions grant Amnesty?**

The Commission may make recommendation to the Government of Nepal for granting Amnesty to the perpetrators by explaining sufficient grounds if deemed reasonable on the basis of the following conditions:

Prior to making recommendation by the Commissions, the perpetrator shall be required to have submitted an application within the time period as prescribed by the Commission. Also, prior to submitting an application for amnesty, he/she should express in his/her application to the Commission the details of the truth and facts to the full extent of his/her knowledge in relation to the activities conducted by him/her during the course of armed conflict and that these details were recorded in the Commission. Furthermore, he/she will have to fulfill other procedures as prescribed by the Commission.

Similarly, the perpetrator shall have to express acceptance in the application of having committed gross violation of human rights by him/her in the course of armed conflict, and regret in doing so. Also, he/she needs to show not only the willingness to make an

apology with victim's satisfaction before the Commissions, but also express commitment not to repeat such acts in future.

However, the Commissions shall make decision on recommendation for amnesty considering the consent, dissent of the victim as well as the gravity of the incident. The Commissions will publish names of those persons, who are granted amnesty in the Nepal Gazette, for transparency. The Commissions will recommend for amnesty only for the crime that can be amnestied. The Commissions, prior to making recommendation for amnesty may make the perpetrator provide reasonable compensation to the victim as per the damage suffered by the victims.

However, the Commission may not recommend amnesty to the perpetrators involved in cases of rape and other crimes of serious nature that the Commission does not find sufficient reasons and grounds for amnesty following its investigation.

## 9. ACKNOWLEDGEMENT

I would like to express my great appreciation to Nepal ko Yuwa for providing me an opportunity to work at the Ministry of Peace and Reconstruction and pursue research of my interest. I am very happy to get a chance to work with Nepal's public service system and understand it closely. I would like to offer my special thanks to my supervisor, Joint Secretary at the Ministry of Peace and Reconstruction, Mr. Sadharam Sapkota for his guidance and support during my research.

Similarly, assistance provided by various members of the civil society is greatly appreciated. I am particularly grateful for the assistance given by staff at Nagarik Awaz, Transitional Justice Research Center and the National Human Rights Commission. I wish to acknowledge insight provided by Mr. Ram Bhandari from National Victims Alliance. Also, I would like to thank Mr. Pukar Malla, executive director at Nepal ko Yuwa for providing us, the Dayitwa fellows, with leadership training that largely assisted me in dealing with the adaptive challenges I faced during my three months fellowship. Lastly, my special thanks goes to my family members, friends and the Dayitwa Public Service fellows for supporting me in various ways during my research.

## REFERENCES

- Advocacy Forum, TRIAL (Track Impunity Always), & REDRESS. (2014, June). Paying Lip Service to Justice: The Newly Adopted TRC Act Breaches International Law and Flouts the Decision of the Supreme Court. Retrieved from [http://www.redress.org/downloads/publications/1407TRC\\_Act\\_UN\\_Submission\\_AF\\_TRIAL\\_REDRESS\(June2014\).pdf](http://www.redress.org/downloads/publications/1407TRC_Act_UN_Submission_AF_TRIAL_REDRESS(June2014).pdf)
- Collier, P., & Hoeffler, A. (2004, March 26). The Challenge of Reducing the Global Incidence of Civil War, London: Copenhagen Consensus Challenge Paper. Retrieved from <http://www.copenhagenconsensus.com/sites/default/files/cp-conflictsfinished.pdf>
- Government of Nepal. (2006). Comprehensive Peace Agreement. Kathmandu: Government of Nepal. Retrieved from [http://id.cdint.org/content/documents/Comprehensive\\_Peace\\_Agreement\\_of\\_2006.pdf](http://id.cdint.org/content/documents/Comprehensive_Peace_Agreement_of_2006.pdf)
- Government of Nepal. (2014). Act Made on Provisions Relating to the Commission on Investigation of Disappeared Persons, Truth and Reconciliation 2071 (2014).
- Hayner, P. B. (1994). Fifteen Truth Commissions-1974 to 1994: A Comparative Study. *Human Rights Quarterly*, 16, 597-655. Retrieved from <http://people.umass.edu/leg480/Fifteen%20Truth%20Commissions..pdf>
- Human Rights Watch (2014). Nepal: Reject Draft Truth and Reconciliation Bill <http://www.hrw.org/news/2014/04/17/nepal-reject-draft-truth-and-reconciliation-bill> Last Accessed: 26th June 2014.
- International Center for Transitional Justice. (2013). Truth Seeking: Elements of Creating an Effective Truth Commission. Retrieved from
- International Center for Transitional Justice. (2014). What is Transitional Justice. Retrieved from <http://ictj.org/about/transitional-justice>
- ICTJ (International Centre for Transitional Justice) & AF (Advocacy Forum). (2008, March). Nepali Voices Perceptions of Truth, Justice, Reconciliation, Reparations and the Transition in Nepal. Retrieved from <http://ictj.org/publication/nepali-voices-perceptions-truth-justice-reconciliation-reparations-and-transition-nepal>
- International Center for Transitional Justice. (2014, September). "To Walk Freely with a Wide Heart" A Study of the Needs and Aspirations for Reparative Justice of Victims of Conflict- Related Abuses in Nepal. Retrieved from <http://www.ictj.org/publication/nepal-reparations-walk-freely-wide-heart>
- Long, W. J. (2008). Liberia's Truth and Reconciliation Commissions: An Interim Assessment. *International Journal of Peace Studies*, 13 (2), 1-14. Retrieved from [https://www.gmu.edu/programs/icar/ijps/vol13\\_2/IJPS13n2%20LONG.pdf](https://www.gmu.edu/programs/icar/ijps/vol13_2/IJPS13n2%20LONG.pdf)
- Mobekk, E. (2005). Transitional Justice in Post-Conflict Societies- Approaches to Reconciliation. In ed. A. H. Ebnöther et al. (Ed.), *Post Conflict Societies- From Intervention to Sustainable Local Ownership*. Geneva Centre for the Democratic Control of Armed Forces (DCAF): Geneva.
- Office of the United Nations High Commissioner for Human Rights. (2008). Rule-of-Law Tools for Post-Conflict Societies: Reparation Programs. Retrieved from <http://www.ohchr.org/Documents/Publications/ReparationsProgrammes.pdf>
- Robins, S. (2011). *Towards Victim-Centred Transitional Justice: Understanding the*

Needs of Families of the Disappeared in Post conflict Nepal. *The International Journal of Transitional Justice*, 5, 75–98. doi:10.1093/ijtj/ijq027

Schmid, E. (2012, January 12). *The Diversity of Truth Commissions and Commissions of Inquiry*. Retrieved from <http://www.usip.org/publications/the-diversity-of-truth-commissions-and-commissions-of-inquiry>

TRC bill: Pillay warns against attempts to grant amnesties (2014, April 15). *Kathmandu Post*. Retrieved from <http://www.kantipuronline.com/2014/04/15/top-story/trc-bill-pillay-warns-against-attempts-to-grant-amnesties/388315.html>.

Tripathi, D. (2014, July). *Justice Denied*. *Transitional Justice*, 2,5-8. Retrieved from <http://tjrcnepal.org/wp-content/uploads/July-2014-issue.pdf>

United Nations. (2008, February 20). *What is Transitional Justice?* Retrieved from [http://www.un.org/en/peacebuilding/pdf/doc\\_wgll/justice\\_times\\_transition/26\\_02\\_2008\\_background\\_note.pdf](http://www.un.org/en/peacebuilding/pdf/doc_wgll/justice_times_transition/26_02_2008_background_note.pdf)

United Nations. (2010). *Guidance Note of the Secretary-General United Nations Approach to Transitional Justice*. Retrieved from [http://www.unrol.org/files/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](http://www.unrol.org/files/TJ_Guidance_Note_March_2010FINAL.pdf)

