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Impunity in Nepal from a Social Protection Lens

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Abstract

This study aims to promote stakeholder solutions to the current state of affairs in Nepal, which has prevailed since the end of the armed conflict in 2006. The study argues that delayed justice in the cases of grave human rights violations that occurred during the armed conflict between the Maoist party and the Government of Nepal is closely associated with the accountability of the then-conflicting parties. The lack of the legislature's engagement and the Government's reluctance to address the recommendations of the Supreme Court on transitional justice-related instruments have prolonged the end of impunity and guaranteed social protection of the victims' families. Upon reviewing the literature on human rights violations, this study concluded that accountability had been impeded by the fragmented conflicting parties, who ignored the victims' and their families' concerns about justice and social protection. The Government, on the other hand, neglected truth seeking and therefore failed to ensure justice, including in the provision of reparations and standardised institutional reform. The current state of the country's transitional justice law and unaccountability of state agencies cannot be improved without a collaborative approach and a consultative process with state, non-state actors, victims and their families, as well as the international community.

Key words: *Impunity, Social Protection, Rule of Law*

Introduction

Impunity refers to the concept of the absence of the rule of law, as well as exemption or freedom from punishment, harm, or loss. Bhattarai, et al. (2010) further contextualise impunity as a situation where perpetrators of human rights violations are not held accountable through any form of investigation.

The fundamental elements to sustain impunity around the world depends on the severity of the incident and its impact to the victims. This can be identifiable to the extent of forgetfulness and forgiveness through prosecution against those involved in such acts (The Asia Foundation, 2014). The Nepali Society has experienced the bitter reality of such occurrences. The practice of impunity is embedded in Nepal as a culture, as evidenced by the local saying '*saat khun maaf*,' which literally translates to, 'there is forgiveness for seven murders.'

There is an inverse relation between the rule of law and impunity. The rule of law is possible in a country by ensuring human rights, whereas a lack of the rule of law results in impunity. This concept also depends on the mindset of law enforcement agencies when performing their duties. Because of various reasons, it advertently leads to unaccountability. The culture of impunity in Nepal has been protracted because of the changed status or identity of the political actors and institutions involved in the conflict. Those who were involved in the human rights violations during the ten-year-long armed conflict are leading the country in the post-war.

Nepal was ruled by a monarchy that preceded the Rana dynasty for several centuries. During the Rana regime, the monarchy ruled as the final court of appeal for justice and made decisions in civil and criminal cases. The monarch's sole power in conducting '*pajani*' (i.e. a system where the delivery was ruled by authority) continued during the Rana dynasty that ruled Nepal until February 1951. The Nepali society understands and accepts impunity as normal because historically, if justice was delivered, it was through an individual ruler rather than an institution (Shah, 1982).

Impunity is a tradition in Nepal, whereby criminals are not punished but are rewarded with respectable positions as opposed to any form of penalization. For instance, security forces involved in the suppression of the People's Movement in 1990 and 2006 were promoted against the will of the citizens involved in the movement.

After the success of the People's Movement in 1990, exercising the rule of law and justice improved due to a more democratic environment. Civil society organisations (CSOs) and human rights defenders significantly increased during this time. As a result, the discourse around impunity became an issue of public concern. The political parties and civil society informed citizens about their human rights and the unavoidability of social justice and protection. While the concerns regarding the rule of law and ending impunity increased, impunity became more rampant in cases of grave human rights violations after 1996 at the outset of the Nepali Civil War, also known as the armed conflict (1996). The Conflict upshot human rights violations by

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State and non-State conflicting parties. Even after signing the Comprehensive Peace Accord in 2006, the culture of impunity has remained deep-rooted, as the State continues to hinder the process of resolving cases against those accused of conflict-era violations (INSEC, 2020). As a consequence, State fails to guarantee the social protection of families of armed conflict victims.

Nepal ratified the Geneva Conventions in 1964, and the Maoists committed to abide by international humanitarian law in 2003. Therefore, the State and Maoists should be held accountable for acts of murder, enforced disappearances, beatings, damage to public properties, and torture of unarmed civilians under the Geneva Conventions, which were drafted with the aim of ameliorating the effects of war on soldiers and civilians.

Against this backdrop, this paper is based on a paper prepared for Forum Asia in 2021. The paper is dedicated to identifying the state of impunity in Nepal from a social protection Lens. The paper focuses on justice in the context of human rights violations that occurred during the armed conflict between the Maoist Party and the Government of Nepal.

Methodology

Rationale

This paper is possible out of a research on impunity carried out in South Asia level by the initiation of Forum Asia in 2021. The South Asian research on impunity was for advocacy purpose carried out in Afghanistan, Bangladesh, India, Maldives, Nepal, Pakistan and Sri Lanka. All the country-level researches focused on the issues delved into impunity. Some of them were related to the implementation of court verdicts, the role of civil society as well as National Human Rights Institutions (NHRIs) interventions established in the respective countries and status of government responses in them and observance of international communities in those responses (Forum Asia, 2021). The Nepal research mainly discussed the transitional justice in connection with a decade-long armed conflict in the country. The lead author of this paper got an opportunity to contribute as the main researcher in South Asia. This paper is a further analysis of Nepal's research carried out by the Co-author for Forum Asia. This paper mainly highlights the debate on armed conflict-related transitional justice, the theoretical aspects in them and the status of impunity in the case of Nepal.

Data for the Paper and Methods of Analysis

This paper is primarily based on a desk review of data in Nepal recorded since 1992. It covers cases and issues on impunity and related policies. The study builds up to reducing the culture of impunity in Nepal. The scope of this study is focused on issues, data and evidence in relation to impunity in the case of Nepal. It mainly covers the issues, concerns and cases from the Civil War that occurred between 1996 and 2006.

There are various observable practices within the culture of impunity in Nepal. This study solely deals with the status quo of the culture of impunity that has prevailed despite the existence of the Comprehensive Peace Accord 2006, which clearly mentioned and committed to end impunity and bring justice to the victims of war crimes and serious human rights violations (Peacemaker, 2010). The formation of the Truth and Reconciliation Commission and the Commission on Investigation of Enforced Disappeared Persons raised hopes for identifying the truth and a path towards justice and reconciliation (INSEC, 2020). However, the State apparatus and the Maoist party changed their position after the peace process.

Discussion

Forms of Impunity and Social Protection

Even though impunity is cited in relation to the conflict-era human rights violations, its effects are far more wide-spread in the aftermath. The culture of impunity benefits the actors curtailing freedom of speech and assembly, and the actors perpetuating torture and gendered violence against women and girls (Peace Brigades International Nepal, 2011). While there are institutions and systems of law enforcement that are functional in Nepal, the prevalent culture of impunity in the serious cases of human rights violations promotes and reproduces the chances of such crimes. The current reformed Labour Act (2017) and Social Security act (2018) have grabbed space in securing welfare and wellbeing of both workers and employers. However, these reforms have made little to no benefit for vulnerable and excluded people such as conflict victims' families.

Laws that Enable Impunity

The 'Constitution of the Kingdom of Nepal 2047 (1990) placed the monarchy as constitutional for the first time. However, it remained challenging to abide by the king under the Constitution (Nepal Government, 1990). Nevertheless, the general legal standards were set up with the rule of law embedded in them, which was challenged by the civil war initiated in 1996. The armed conflict resulted in the promulgation of laws to control the Maoist armed activity; in turn, these laws violated the principles of rule of law, which advertently promoted impunity in Nepal.

In June 2001, King Gyanendra, assumed the throne and passed the Terrorism and Disruptive Activities Act (TADO), however, in November of the same year the Government expanded blanket powers of arrest and detention, which were subsequently adopted by Parliament as the Terrorism and Disruptive Activities Act (TADA) (International Commission on Jurists, 2005).

Through TADO, King Gyanendra suspended many of the provisions of the Constitution that protected fundamental human rights and freedoms, including: the right to privacy and freedom of expression; the press; assembly; and association. These suspended rights are assumed as guarantees for all detainees, even during state of emergency.

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The establishment of the Military Court further perpetuated the culture of impunity. According to the International Commission of Jurists (2008), the Military Court's impunity stemmed from the supervisory jurisdiction of the Supreme Court, which encouraged the security forces to use excessive power during the armed conflict through arbitrary arrests; torture; illegal detention; enforced disappearance and unlawful killings. This is of particular concern given the powers designated to security forces. The lack of impartial and independent investigation against the serious human rights violations from the conflict, ensured that the culture of impunity was successfully maintained.

Causes of Impunity and Vulnerability

The causes of impunity in Nepal are mostly connected with power politics. The Police's habit of using excessive force, such as in the case of Rolpa District's Local Festival, as well as the impunity enjoyed by security personnel may lead unsatisfied youths to armed conflict. The aforementioned forecast is based on documentation of human rights violation cases around the country, which were hidden by the government. Additionally, the then Maoist Party declared 'underground armed struggle' and established the lack of political accountability in law enforcement, and thereby promoted impunity and fuelling the violence (INSEC, 1994).

The political parties did not take opportunities to address the violations of human rights during the conflict by ensuring truth, justice and reparations to victims, this was largely due to their shaky commitment towards the constitution; laws; policies ; and human rights principles. The political leaders have largely avoided their responsibility and ignored victims' desires for truth, justice, reparation, institutional improvement, and social protection reform in post-conflict Nepal. In this way, impunity is vividly highlighted. Even though the Nepalese constitutional and legal provisions guarantee the right to seek justice and social protection in various circumstances, their implementational measure looks poor under the power of political forces and influential people (INSEC, 2020). The vertical and horizontal parties' structures and the political economy of the State fails to break further vulnerability of the victims' families.

Existing Laws, Policies and Strategies to Combat Impunity

The constitution of Nepal has established a completely functional justice system with independence modality adhering to the principle of separation of power. It guarantees that justice in Nepal shall be exercised by courts and other judicial bodies in accordance with the Constitution, other laws and the recognized principles of justice. The Constitution has a given mandate to impeach the Chief Justice. Furthermore, Nepal is a country is based on the rule of law and legal human rights principles as per the aforementioned constitution. The constitution has clearly mentioned the role of social protection in democratization and limitations towards constructing a democratic welfare State. The essence of the rule of law is to eliminate impunity but the practice does not ensure the constitutional principle of access to justice for all and protection of vulnerable people, or equality of everyone

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before the law. The following structure illustrates the functions for justice in Nepal, as per the constitutional arrangement.

- a. **Supreme Court:** The Supreme Court is the supreme body of justice in Nepal. It has the ultimate authority to take legal decisions and interpret the Constitution and laws.
- b. **High Court:** The High Court has the jurisdiction for mainly the enforcement of fundamental rights as well as legal rights especially for not having legal remedy. This court conducts hearing of appeals on the decision by the district courts.
- c. **District Court:** The District Court exercises power for settling cases under its jurisdiction. It decides petitions including habeas corpus and prohibition and hears decisions made by quasi-judicial bodies, appeals from the Local level judicial bodies and institute contempt proceedings.

Besides this, special courts; judicial bodies; or tribunals can be formed for special issues and cases. There are local judicial committees in 753 local governments which have a quasi-judicial role.

The Government of Nepal (2020) has mentioned in its third cycle UPR report that the Federal parliament has enacted more than twenty legislations related to human rights and justice. The key legislation related to impunity mentioned in the report are: the Consumer Protection Act, 2017; the Victims Protection Act, 2018; the Children's Act, 2017; the Personal Privacy Act, 2018; the Caste based Discrimination and Untouchability (Offence and Punishment) (First Amendment) Act, 2018; the National Civil Code, 2017 (Civil Code); the Penal Code, 2017 (Penal Code), the Sentencing Act, 2017; and the National Criminal Procedure Act, 2017; these Acts are concerned with the protection and promotion of human rights. The report further explains that Nepal has ensured that the provisions in its domestic law support its efforts to adhere to the human rights conventions and treaties ratified by the state (OHCHER, 2021).

In addition to the aforementioned legislations, ninety new Acts and forty-five amendment Acts have been enacted. The forty-five amendment legislations have amended about four hundred different legislations in order to create symbiosis with the federal system. Moreover, the Government of Nepal (GON) has formulated the Fifteenth Five-Year Development Plan (2019/20-2024/25), as well as annual plans and programs for implementing the fundamental rights. Implementation of these legislations can reduce the growing impunity in the country.

Effectiveness of Existing Laws and Mechanisms

In theory, the existing laws and mechanisms are adequate to end impunity in Nepal, however, impartial function and decision making remain questionable. In essence, while the laws promulgated by Parliament are in line with human rights principles and the treaties and conventions ratified by the state, the lack of transparency in the

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appointment of the judges in judiciaries; political interest and interference in the justice process; a lack of accountability of law enforcement agencies as well as a hierarchical socioeconomic structure have presented as challenges. There is an established system and mechanism in the existing laws to deal the justice concern. As described in the aforementioned report, investigations of serious human rights abuses fall under the mandate of an array of different actors and institutions, including the Nepal Police; the Nepal Human Rights Commission and other NHRIs; Public Prosecutors; as well as the Attorney General and special commissions formed for certain case investigations (Advocacy Forum Nepal, 2011).

The constitutional arrangement and its functional institutions must ensure credible investigations in the allegations of human rights violations in order to fulfil Nepal's obligations under Article 2 of the ICCPR, and under other international treaties so as to provide remedy to victims in cases of human rights violations. The reliable institutions should perform their independent role with thorough investigations, with a view to bringing the perpetrators to account for their crimes. Despite the existence of multiple human rights bodies, including the Human Rights Committee, complaints of violations are met with specific instructions to investigate that are only related to suspected violations of the right to life, including extrajudicial killing, torture, and enforced disappearances in Nepal. Individuals and societies have a right to know the truth about violations, with the aim of preventing their reoccurrence. As it stands, there is a gap between acceptable international practices and standards and the reality in Nepal, especially as it pertains to delivering the truth transparently to the individual and to the society on human rights violation cases that happened during and after the conflict (Advocacy Forum Nepal, 2011). As a consequence those who are thinking and working politically in post-conflict context to make the government accountable faces tremendous challenges to protect the rights of vulnerable and excluded people (Advocacy Forum Nepal, 2014).

Effects of impunity and insecurity

Individuals and their families, as well as the state and society at large have to respond and acknowledge the consequences of impunity, especially since they are affected by it. Where individuals are concerned, impunity can lead to trauma; psycho-social problems; marginalization of opportunities and economic rights; threats of further violations, humiliation and more. Similarly, the society has to deal with the fear of the reoccurrence of conflict and the structural control of the perpetrators that violate their rights. Meanwhile, the state has to deal with severe conflict, whereby it must acknowledge that impunity is higher in times of conflict.

Most of the victims of armed conflict are civilians and people without a vested interest in the conflict. The killing of workers building an airport at Kotbada, Kalikot; the killing of Maoists at a meeting in Doramba during a ceasefire facilitated by the army; as well as the killing of Dekendra Thapa, a journalist, in Dailekh and the murder of Yadu Gautam, a UML leader in Rukum, Muktinath Adhikari, as well as Guru Prasad Luitel a teacher in Okhaldhunga are examples of acts committed by the conflicting parties against ordinary civilians (INSEC, 2020).

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Despite the losses to society and families, there are institutions and individuals who benefit from the impunity and conflict in the country. For example, weapon manufacturers and those who sell arms during conflict benefit from impunity that comes from lax law enforcement. It is worth noting that security agencies of the state and rebellion leaders also enjoy lax law enforcement; the former, as previously noted, usually enjoy impunity by getting promotions despite accusations of their involvement in grave human rights violations during the armed conflict and the people's movement of 2006. Similarly, rebellion leaders such as the current Speaker of the House of Representatives also benefit from impunity and have never been held accountable despite their involvement in human rights abuses. Here, the risk of going to trial remains low, enabling perpetrators to enjoy their crimes.

Initiatives to end impunity

State and non-state actors along with victims and their families are involving for advocating for an end to impunity in Nepal. The reluctance of political sectors and security forces has been exposed over time. Recently, the victims, their families and the civil society of Nepal has shared their dissatisfaction with the appointment of certain individuals to the transitional justice commissions. The Parliament has failed to initiate any discourse on the transitional justice's concerns since its inception in 2018. The judiciary has questioned and ordered the applying of adequate, systematic legal measures for ending impunity, but the failure to do so persists. Additionally, the international community has made efforts during and after the Comprehensive Peace Accord to ensure peace in Nepal, but their priority and engagement dwindled after the reintegration of the rebellion army into the National Army. The International community: political stakeholders and security agencies collaboratively settled the armed issues and made efforts toward peace. As it stands, justice remains unrealised.

The protracted transitional justice started right after the Comprehensive Peace Accord had not concluded despite the fact that the government has tabled the bill for the Truth and Reconciliation Commission on 4 December 2009. Very recently, it has been passed by the parliament after making several rounds of amendments and started from, such as, 17 February 2010. It took so many years to get conclusion due to rhetoric of national reconciliation and advocated for blanket amnesty, which was mainly rejected by the victims, civil society and the international community. As a result, they were repealed after a series of campaigns (Advocacy Forum Nepal, 2014).

During the time, the Council of Ministers finalised the Ordinance on the 'Investigation of Disappeared People, Truth and Reconciliation Commission, 2069' (2012) which was subsequently promulgated by the President office of Nepal on March 14, 2013. On 1 April 2013, the Supreme Court suspended the ordinance from taking effect (International Justice Resource Center, 2013). The OHCHR put its objections in the ordinance regarding the facilitating clauses to recommend amnesties for perpetrators of gross violations of human rights and called upon authorities to initiate reconciliation processes in the absence of a request by the

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victim or the offender and limited the focus on justice and restricted procedures for initiating prosecution (OHCHR, 2012). Nepali civil society, victims and their families and the international community raised concerns against the ordinance and the proposal of the Government for transitional justice.

In addition to this, the Nepal Government promulgated The Enforced Disappearances Enquiry, and Truth and Reconciliation Commission Act, 2071 (2014) and established a Commission on Investigation into Disappeared Persons and the Truth and Reconciliation Commission. The mechanisms were able to register 62,000 complaints in the Truth and Reconciliation Commission and more than 2,700 at the Commission of Investigation on Enforced Disappeared Person. Additionally, government promulgated a similar act in February 2019 to continue the commissions. In doing so, the Government appointed officials to the commissions for a second time.

Delays in transitional justice ultimately led to denial of justice as the commission was developed after the 1990's people's movement. A Commission of Inquiry to Locate the Persons that Disappeared during the Panchayat Period (1990 to 1991) was formed by the Prime Minister Krishna Prasad Bhattarai in 1990. The commission investigated such cases and recommended 35 incidents, but no alleged perpetrators were brought to justice.

The Role of the judiciary

Supreme Court of Nepal made a series of decisions regarding transitional justice cases in the country. INSEC (2020) presented the mandamus verdict made by the full bench of judges including Kalyan Shrestha, Baidhya Nath Upadhyay, and Cholendra Sumsher Rana on 26 February 2015. The verdict called for the promulgation of laws that ensure the legal process for the perpetrators in cases of human rights violations. The court further clarified that almost a dozen provisions in the existing act are inconsistent with transitional justice norms and practices. After the Supreme Court decision, the Truth and Reconciliation Commission wrote to the government to amend the Transitional Justice Act in line with the Supreme Court order, however, the government at the time filled a petition to review the mandamus order. Finally on 26 April 2020, the Supreme Court rejected the government's petition to review its ruling on banning the authorities from providing amnesty to perpetrators in cases of serious human rights violations, thereby giving a glimpse of hope. The possibility of prosecution of serious crimes; grave human rights violations and other crimes of serious nature lingers. The Government; political stakeholders; and newly appointed officials in the transitional justice mechanisms must follow the verdict to ensure and maintain the international standard during the processes that made by the Supreme Court in February 2015.

The role of National Human Rights Institutions

The National Human Rights Commission was established in 2000 and became the constitutional commission as a result of the Interim Constitution of Nepal. Over time, the National Human Rights Commission (NHRC) became a constitutional

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human rights institution, and even secured a grade of 'A' during the 'GANHRI' evaluation of NHRIs. The function, duties and role of NHRC are in line with the Paris Principles and the functional institutions in Nepal.

The NHRC registered complaints related to incidents of armed conflict and other types of human rights violations. Following this, the Commission urged the Government of Nepal to investigate and prosecute perpetrators for the sake of justice. In its report, the NHRC explains that out of the 1,195 recommendations made by the Commission, 940 are related to armed conflict and that none of these have been implemented, except the recommendations related to compensation. The NHRC further states that, 'negligence to implement the recommendations of NHRCN on one hand, and failure of the transitional mechanisms to address the cases has directly affected the victims' (National Human Rights Commission, 2020). As a result, the functioning of the NHRCN has been also affected. The report further states that of the total recommendations made by the Commission, 13.64 per cent are fully implemented, 37.23 per cent are partially implemented, while 50 per cent are put under consideration. The report shows that recommendations related to serious human rights violation were less implemented than those related to compensation. Serious violators of human rights and humanitarian law have not been brought to justice because of less effective investigation and prosecution processes.

The Role of Civil Society Organisations

Nepal's Civil Society Organisations (CSOs) have contributed to establishing the human rights institutions that created the mandated commission for monitoring the status of human rights protection and promotion. The National Human Rights Commission Act in Nepal was broached in Parliament after continuous pressure and the initiative of human rights organizations such as Informal Sector Service Center (INSEC). As it stands, the NHRC is the constitutional 'A' grade human rights institution in Nepal. This is a major contribution towards justice and the human rights protection movement in the country.

It is also important to note that civil society had an important role in ending the decade-long armed conflict and reaching a Comprehensive Peace Accord on 20 November, 2006. This subset engaged in the political process with the people, while mediating between the Maoists and the political parties and their respective agendas. It further explains that the civic movement contributed to developing the common ground between the two sides and established a push for change, which included restructuring the state and, to some extent, republicanism (Alexander & Thapa, 2017).

The engagement of CSOs in the peace process and negotiations resulted positively in the completion of the political transition from conflict to peace, and from the monarchy to republicanism, however, the concern of justice, reparations and institutional rearrangement still lingers. The Nepalese CSOs have collaborated with the victims and their families since the conflict period. The continuous engagement and advocacy of CSOs with victims contributed to ensuring the presence of the agenda of justice in Nepali transitional justice (TJ) process.

Government Response to Impunity

The Government of Nepal has responded to the serious concern of Transitional Justice (TJ) by enacting the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act in 2014. After the promulgation of the act, it formed the commissions to investigate the enforcedly disappeared persons and identify the truth for the purposes of justice or reparations. The essence of the TJ process is to ensure justice or reparation to the victims, and to provide an accountability system to prevent similar occurrences in the future.

The Nepal Government established both the TJ Commissions in February 2015; the commissions started their official tenure for a 2-year initial period, and run for two more years after 2017, with a mandate to receive complaints and investigate cases. However, the commissions failed in investigating the cases and recommending justice or reparations, in fact, they only registered the complaints during their four-year tenure. After the completion of the tenure of TJ Commissions, the Government of Nepal enacted a similar act in 2019 and formed both the commissions in 2020 to give continuity to the previous commissions. These are some of the concrete initiatives taken by the government of Nepal to end conflict era impunity.

The cases of serious human rights violations including unlawful killings; sexual violence; torture; and a range of other serious crimes that were committed during the conflict are neglected by the executive at three spheres of governance. Furthermore, the perpetrators of these crimes are receiving government compensation, which further undermines the victims and their families. Accountability is derailed in these criminal cases and there are clear and gross human rights violations. Evidentially, the government has not prioritised resolving the human rights violations of the conflict era.

International Response to CSO Action

The peace process started in 2006 and was systematically documented in the Comprehensive Peace Accord. The International community's involvement in Nepal's peace process was accepted and requested during the phase of Comprehensive Peace Accord, whereby the engagement of United Nations and its different missions were defined as part of the trust agencies for the peace process negotiation. The United Nations Mission in Nepal (UNMIN) was an official mission to support the state in concluding the issue of armed conflict monitoring and settlement. Furthermore, in addition to UNMIN, various missions and foreign organizations and institutions were working in the field when the post-conflict peace building process started in Nepal. These entities have since collaborated with the government and civil society in Nepal.

Since the early 2000s, the UN, foreign NGOs and bilateral aid agencies started communicating and coordinating with the political stakeholders in promoting peaceful strategies for conflict resolution. The OHCHR country mission to Nepal was accepted in 2005 based on the request of Nepali CSOs and democratic political parties. This mission helped establish the UNMIN in Nepal and also supported the

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implementation of the Comprehensive Peace Accord. In its Nepal Conflict Report, the United Nations Human Rights Office of the High Commissioner (2020) focused on the fundamental obligation to investigate and prosecute in cases of grave human rights violations, as well as the importance of establishing an independent institution with a legal mandate for investigation that is in alignment with international human rights principles. The Nepal Government noted severe pressure after this publication. The impact of the report and advocacy of CSO, victims and international community based on the report contributed to the promulgation of the TRC act and the formation of the TJ commissions.

CONCLUSION

Nepal's transitional justice started in 2006 has adopted the adequate principles of justice and human rights in its preliminary guiding document (i.e. the Comprehensive Peace Accord). The Government of Nepal and political stakeholders started negotiations for a political settlement and concluded major aspects of the peace process (such as disarmament and adjustment of combatants, weapon management and a new constitution) in 2015.

Despite legal provisions, the agenda of justice for the victims of the decade long conflict victims was placed on the backburner by mainstream political parties. The victims' concerns were only prioritised by the victims themselves, as well as their families and CSOs that have been collaborating with victims for their justice.

The international community continuously maintained their engagement in seeking justice from the beginning to the end of the first constituent assembly, however, they also neglected the concerns about justice and protection concerns after the political settlement progressed towards a more peaceful direction.

The conflicting parties (the state and then the Maoist rebellion) neglected the accountability to ensure justice. The conflicting parties agreed to provide justice to the victims through a transitional justice mechanism. However, the inadequate provisions that ignored the international standards fails seeking truth, justice, reparation, and social protection for the victims and their families.

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