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**Original Article**

# Defining Justice and Dignity Through Gendered Peace Building: A Case Study of Gender-Based Violence During Armed Conflict in Nepal



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## Abstract

The prolonged transition and the long awaited journey for justice for a decade has led to increased anger and frustration among women who survived gendered violence during the Nepali armed conflict (1996-2006). During April 2017-May 2018, a case study fieldwork was conducted with women who survived conflict-related sexual violence during the armed conflict in Nepal. Using a critical theory framework and case study methodology, this research sought to understand how the women who faced gender based violence during the conflict era of Nepal define dignity and justice from their own lived experience and consequently, their needs for reparations. Ultimately, with resulting interventions by presenting these women's voices and needs to the truth seeking commissions, other government bodies, and national and international organizations working with conflict affected women, women's quest for dignity, justice and needs could be addressed. The findings of this study have also expanded the body of knowledge and best practices for reconciliation in contexts where gender based violence has been used as a weapon of war.

**Keywords:** *Armed conflict; Women who faced sexual violence; Transitional justice; Gendered peace building; Nepal armed conflict*

## Introduction

During the insurgency in Nepal, 17625 people were killed, 78675 people were displaced, 1,302 people were disappeared and 4305 were disabled (Ministry of Peace and Reconstruction [MoPR], 2009). Moreover, many more were abducted and tortured. Among the tortured were women, many of who

faced intense gender based violence including rape and physical assault. Such torture and rape were used as weapons of war (BBC, 2017). Officially, there is no data available on gender based violence (GBV) during the conflict, between 1996-2006. Additionally, there is limited available research on how those affected by this typical violence, especially by rape and

physical assault, cope and heal after the conflict, not only in Nepal but also in other similar contexts. Women who are victimized by GBV as a weapon of war often are left out of transitional justice mechanisms and healing processes in post conflict settings, leaving them even more vulnerable and re-traumatized (The Story Kitchen, 2018).

In Nepal, the interim compensation policy does not recognize women who were raped and physically assaulted in the category of conflict victims meaning these individual do not receive any compensation for their victimization. Similarly, the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2071 (Government of Nepal [GoN], 2014) neither explicitly mentions how the two commissions, Truth and Reconciliation, and Enforced Disappearance, will deal with cases of gender based violence as human rights violations (GoN, 2014), nor does this Act define sexual violence conducted in time of conflict as a war crime as well as crime against humanity.

Currently, as a result of the prolonged transition and weak justice mechanisms of Nepal, many victims of the violence, especially GBV, are left out of interim compensation policies, leaving many

women to suffer in silence, and ostracising them from living a life of dignity and receiving the support they are entitled to and deserve. However, at the time of writing of this paper, the two transitional justice mechanisms had been able to collect almost 63000 applications of war time incidences within the four years of their tenure. Besides this, there is no concrete action observed from these mechanisms which has supported conflict affected community to feel the notion of justice. Further the current stagnation of the commission procedures after the resignation of the previous commissioners and members on April 2019, has contributed to rise in fear and suspicion for the logical end of the transitional justice process by the conflict affected communities and especially of the women who were sexually abused in the time of armed conflict.

Against this background, this paper intends to highlight the women's voice and needs to the truth seeking commissions, other government bodies, and national and international organizations working with conflict affected women. The findings of this research have also expanded the body of knowledge and best practices for reconciliation in the contexts where

gender based violence has been used as a weapon of war.

In the section that follows, I discuss the general scenario of gender, transitional justice and truth seeking commissions as well as define some relevant terms used in this study.

### **Gender, Transitional Justice and Truth Seeking Commissions**

Transitional justice as a distinct concept arose out of a nexus in the late 1980s and early 1990s among human rights activists, lawyers and legal scholars, policy-makers, journalists, donors, and comparative politics experts concerned with human rights and the dynamics of the purported "transitions to democracy" occurring in distinct parts of the world. The common concern was recognition of the need for nations coming out of violence to respond to the past in a way that would fortify new democracies and address justice questions (Arthur, 2009, as cited in Patterson-Markowitz et al., 2012).

Gender receives rare attention in post conflict settings and even less attention in transitional justice mechanisms/frameworks. In addition, cases of sexual and physical violence against women do

not get attention due to the lack of will around gender mainstreaming in the transitional justice mechanism and social stigma around these crimes (International Center for Transitional Justice, 2006). Besides these failings, viewing sexual violence as a consequence of war rather than viewing it as a strategic move of armed conflict fails to provide gender justice in many truth seeking processes.

In the early truth commissions, such as those found within in the context of Chile and Argentina, gender was seldom explicitly invoked as a lens into human rights abuse or an organizing principle for the commissions' work but rampant GBV was documented as a weapon of war in both the contexts (International Center for Transitional Justice, 2006). However there are few cases like in Guatemala, Yugoslavia and Rwanda which acknowledged sexual violence as a war crime and came into the human rights discourse during the truth seeking processes of these countries (International Center for Transitional Justice, 2006).

Furthermore, just like in other parts of the world that have gone through brutal armed conflict and entered into the post conflict scenario, authorities in Nepal,

including the government and the main political parties, are also trying to silence the cases of women who faced sexual violence at the time of conflict. There is a misperception that these kinds of cases are merely the by-products of war and are “normal” acts in the time of warfare. This perception is reflected in the action of the government, in the formulation of plans and policies for the benefit of the conflict-affected community. As a result, the peacebuilding discourse in this post-conflict scenario has excluded the cases of women who faced sexual violence at the time of conflict. Although the National Action Plan on Security Council Resolutions on Women, Peace and Security clearly states the special needs of women in war including victims of sexual violence, nothing has been done to support these women so far by creating the spaces where they can live dignified lives (MoPR, 2011).

## **Torture**

During the conflict, women were tortured in the form of rape, sexual assault, beating, electrocution, premature burial, urination in their mouth, sexual assaults, being locked in dark rooms for several days, and being forced to carry weapons and other tools for long hours.

Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (commonly known as the United Nations Convention against Torture [UNCAT], 1984) defines ‘torture’ as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. (United Nations, 1984)

Article 4 of UNCAT highlights that the act of torture must be punishable. According to Article 4,

Each state party shall ensure that all acts of torture are offences under its

criminal law. The same shall apply to an attempt to commit torture and to an act by any person, which constitutes complicity or participation in torture. And also shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 4 of Although Nepal is a signatory to this Act but the torture is not criminalized under Nepali law. Due to this once again, women who faced gender based violence are compelled to live with the notion of victimhood with a long awaited journey for aspiring justice.

Nepal is a signatory to both Acts and torture is criminalized under Nepali law and policies but implementation is very weak. This lack of implementation has in part been the answer to why many women who faced gender based violence during the war are not getting justice and are not included in the interim compensation policy of Nepal.

## Trauma

Women's experiences around the world, including in Nepal, show that women who experienced sexual violence during the armed conflict suffered differently due to their biological status and their multiple roles in the society. In many

cases women were compelled to marry with the man who raped her. Besides in many instances they also had to play the role of breadwinner as well due to the absence of male members in the family. However, women who were raped and physically assaulted in the time of conflict are still not able to deal with it and because of this, their psychological status is affected. They still blame themselves for the incidences, which they had to go through and are still not speaking about their suffering. Their silence contributes to rising impunity. A shift of their shame to the perpetrator is important and it is only possible if they break their silence and let go of their notion of self-blaming.

The American Psychiatric Association (2000) defines trauma as a direct personal experience of an event that involves actual or threatened death or serious injury, or threat to the physical integrity, or witnessing an event that involves death, injury, or a threat to the physical integrity of another person or learning about unexpected or violent death, serious harm, or threat of death or injury experienced by family members or other close associated (Criterion A 1). The person's response to the event must involve intense fear, helplessness or horror in children; the response must

involve disorganized or agitated behaviour (Criterion A2).

During Nepal's armed conflict, many women belonging to both the rebel groups, as well as the general public, directly experienced the kind of trauma mentioned above, and many women suffered in conditions defined in both Criterion 1 and Criterion 2. However, there has been no specific measure put in place by the state to deal with this type of trauma. Women who faced sexual violence during the armed conflict in Nepal are having many physical and mental problems as highlighted by Hamber (2009) such as lack of sleep, headaches, restlessness, anger, sense of hopelessness, sadness, laziness, lack of appetite, feeling of isolation, severe mental problem, and lack of confidence to face outsiders. Hamber (2009) also argued that trauma should not only be understood as damage to individuals but also as destruction of the social fabric, of community and relationships. In this context, they alone are not suffering but their families and friend are also affected.

In the next section, I outline the methodology of this study.

## Methodology

The primary methodology used in this study was a case study. Case studies are the preferred approach when “how” or “why” questions are being posed, when the investigator has little control over events, and when the focus is on contemporary phenomenon within some real life context (Yin, 2003). The study focuses on contemporary phenomenon with a real life context of the women who faced gender based violence thus making case study the most appropriate methodology. Similarly, case study methodology is a qualitative approach in which the investigator explores a bounded system (a case) or multiple bounded systems (cases) over time through detailed, in depth data collection involving multiple sources of information (e.g. observation, interviews, audio-visual materials and documents and reports) and reports of case description and case-based themes (Creswell, 2007). Multiple sources of information such as key informant interview, focus group discussion, case study, consultation meetings and personal observation from the participation of workshops and seminar were applied to gather data during the research journey.

Further, this study is rooted in critical theory. “Critical theories aim to dig beneath the surface of social life and uncover the assumptions that keep us from a full and true understanding of how the world works” (Crossman, 2019, para. 1). A theory can only be considered a true critical theory if it is explanatory, practical, and normative, meaning that the theory must adequately explain the social problems that exist, it must offer practical solutions for how to respond to them and make change, and it must clearly abide the norms of criticism established by the field (Horkheimer, 2002). Critical thinking is the function neither of the isolated individual nor of sum-total of individuals. Its subjects are rather definite individuals in their real relation to other individuals and groups, in their conflict with a particular class, and finally, in the resultant web of relationship with the social totality and with nature (Horkheimer, 2002). Therefore, “critical perspectives are concerned with empowering human beings to transcend the constraints placed on them by race, class and gender” (Fay, 1987, as cited in Creswell, 2007, p. 27).

In Nepal limited work has been done that has dug beneath the surface of the social

life of the women who faced GBV, especially the women who were raped and physically tortured during the conflict era. Mainly the issues of the women who faced GBV have been always ignored in post conflict era of Nepal. As Horkheimer (2002) stated as individuals, these women also have different relations with other individuals and groups as well. Furthermore, as a part of the system of this world, their suffering is interplaying negatively in different dimensions of conflict due to the unavailability of the spaces created by the state and non-state structure and not recognizing their suffering due to existing gender norms and gender hierarchy. It is equally imperative to address their current needs and to create a space whereby they live with dignity and justice. In addition to this, their struggles of change also need to be highlighted. In relation to this, I have applied the critical theory in my research to bring to light the issues of the women who faced GBV, especially women who were raped and physically assaulted, their suffering, and their struggles for change as a means of bringing societal change by reaching to different stakeholders.



*Table 1: Site, Participants and Data Sources*

<b>Location of the Field work</b>	<b>Research participants and Sampling</b>	<b>Data Sources</b>
Kailali and Udaypur for the focus group discussion as these districts were the worst impacted districts during armed conflict where many women were sexually abused during the armed conflict in Nepal.	Primary participant: Women who faced sexual violence in the conflict era in Nepal and currently at the age of 18- 60 years	2 Focus group discussions with women who faced sexual violence comprising 12 individuals: one in Kailali and one in Udaypur district
Kathmandu district for case study where women from Banke, Kailali, Udaypur and Dailekh district came to participate in one workshop organized by Nagarik Aawaz (Nagarik Aawaz, 2017).	Secondary Participants: Male stakeholders (teachers, leaders of the political parties, scholars, journalist, Human tight Activists and representatives of local government structures from Kailali and Udaypur), representatives of Truth and Reconciliation Commission (TRC), Government institution, organizations and from security forces	2 Focus group discussion with male stakeholders from Kailali and Udaypur comprising 12 individuals: one in Kalaili and one in Udaypur district

*Table 2: Number of Key Informant Interviews*

<b>Case Study</b>	<b>Key informant interviews</b>
5 women who faced sexual violence during conflict Data were gathered in Kathmandu but they were residents of Dailekh, Kalali, Banke and Udaypur districts	7 Total 1 with the representatives of TRC, 1 with the representatives of Government institution, 2 with the representatives of organizations and 3 from security forces ( 2 with male participants and one with female participant

Research participants were identified and selected with the help of women who were from conflict affected background. As for the ethical considerations, the research participants' anonymity and confidentiality have been maintained, informed consent has been acquired and data protection has been ensured.

## Findings and Discussion

The data interpretation based upon line by line coding and thematic analysis coupled with review of secondary sources such as literature review, government data, reports, participation of the investigator in different meetings and workshops on the subject matter led to some major findings as discussed in the subsequent sections.

### Strategies of War

In today's conflict, 85% of victims are civilians, of which majority are women. Women in conflict environment are at risk of multiple levels of violence (Coomaraswamy & Fonseka, 2004). In Nepal, women who participated in the armed conflict as well as civilian women, were targeted by security personnel and were sexually assaulted during the civil war. While women were in the custody, the security personnel used to express vulgar words to the

women to instil the notion of shame and guilt among the women for participating in the Maoist movement which was one of their strategy as well. Rape serves a strategic purpose that is used as a weapon of war to destroy communities both morally and physically, to spread fear and terror, and reconfirm military masculinities and troop loyalty (Boesten, 2014).

A female participant from Kailali district during focus group discussion shared:

*I was blindfolded and had my hands tied before the torture and rape. This was a strategic move by the security personnel to ensure that I would not recognize them afterwards. The security personnel came in search of male members in the house. When they didn't find the males, I was sexually and physically tortured as a 12-year-old girl. I was used as a weapon of war; security personnel wanted to spread fear in the community by spreading the message that the families of those involved in the Maoist movement would be punished in this inhumane way.*

Similarly a male participant from security force during the key informant interview said:

*During the time of conflict, security personnel were not allowed to go home and had to stay in barracks. The government initiated the Kilo Sierra 2 operations where the security personnel were in heavy search of the Maoist cadre. When they did not find them, they inflicted sexual violence in a group of women and girl children. It was their strategic move to spread the terror among the family and the community. The security personnel used women's sexuality as weapon of war to spread the message of fear in the communities.*

Both of these excerpts illustrate that in Nepal also it was a strategic move by the security personnel to spread messages of fear to the whole community by instilling the notion that those who participate in the Maoist movement will be punished in an inhumane way of rape and torture as argued by Boesten (2014). During the conflict, the security personnel were carrying a mind-set of militarization and with the power of weapon and ammunition, they conducted sexual violence to many women at their gun point and especially to the women who are from marginalized and from poor background such as from Chaudhary and Dalit communities. It

also shows the existing social norms and gender hierarchy within the social context of Nepal and how those people were violated within those structures during the conflict. There were also cases of sexual assault and forced marriages within the Maoist party at the time of the Maoist movement but it rarely came out on the surface due to strong schooling inbuilt in their cadres. Though neither of the warring parties ordered their cadres/combatant in written form for this systemic violence of sexual abuse to these women, the above excerpts as well as from the analysis of different data source I gathered, reinforce that women's bodies were used as weapons of war by both the parties.

### **Impact and Result of Torture and Rape**

The impact of torture and rape among women who faced sexual violence at the time of conflict in Nepal was huge and experienced in many different ways.

A female participant who faced sexual violence during the focused group discussion in Kalilai district shared:

*My whole body aches every day. I can't do any work. We came to Kailai from Achham so that we can*

*spend our life easily. I can't sleep at night. I feel my husband will not always tell me to sit and eat. Sometimes I have suicidal thoughts. I want to have free medical support. I have urethral discharge problem. When I do heavy work, my back starts to ache. My leg doesn't work properly. There is a small wound in my leg and there is puss inside.*

A male participant from Kailali district during focus group discussion enunciated:

*Women who were sexually tortured have been dealing with economic, social, psychological and physical problems. They have received no support from the state, their families or the society. These problems must therefore be addressed through the provision of holistic support where women can address their different needs, can receive justice and can feel dignified.*

A representative of an organization working with conflict affected women during key informant interview expressed:

*Many of the women have problems with swollen uterus, tumor in uterus, regular urethral discharge, but due*

*to weak financial condition they are not able to take medicines. The physical condition of these women is so weak.*

The above mentioned excerpts illustrate the multifaceted suffering, pain, grief, hardship and multi-layered problems women are going through till date with the absence of remedy they are seeking for. Further, due to the brutal assaults that women have experienced, they have many physical and mental problems such as restlessness, loss of memory, anger, sense of hopelessness, sadness, laziness, lack of appetite, feeling of isolation, and lack of confidence among others (Hamber, 2009). In this context, they alone are not suffering but their families and friend are also affected by the inner and outer wounds that the women have carried for the longest time. This is also contributing to societal damage through the infliction of trauma. Furthermore, with the absence of any support mechanisms, women are disempowering themselves in terms of psychosocial aspects as well as experiencing everyday gender hierarchy and inequalities in their daily lives.

## Diverse Version of Justice and Dignity

During the focus group, collecting case studies and individual interviews with women who suffered sexual violence at the time of conflict, the representatives of organizations working with these women, representatives of Truth and Reconciliation Commission, Home Ministry and with the representatives of security force about the notion of justice and dignity of the women, each expressed diverse versions of justice and dignity. Diverse views are shared below in excerpts and grouped into different thematic areas (such as recognition and acknowledgment, punishing perpetrators, addressing stigma, creating safe space, listening to the voices and public apology). The findings at this point reflect that the notion of justice and dignity should not be limited to the four components of transitional justice philosophy, but more broadly defined and consider the social, psychological, economic and political justice needed by women who were victimized.

## Recognition of Their Contribution

Since the 12 years of peace accord the women who were sexually assaulted at

the time of armed conflict are still not recognized by any justice system of the state. The patriarchal mindset and lack of gender mainstreaming was observed while the government formulated its Citizen's Relief, Compensation and Economic Assistance Procedure (MoPR, 2009).

A female participant who faced sexual violence during focus group discussion in Udaypur district reflected:

*School-going children like us participated in the Maoist movement and due to the contribution of us the system was changed. Our leaders taught us to carry the guns, and did not teach us other skills. After our leaders came into mainstream politics they forgot about our contribution and have not been able to address our issues. If our issues are not addressed, then there might be another kind of protest from our side in the future. We contributed a lot to bringing our party into this position but our party itself is not recognizing our contribution. They are forgetting their goal and objectives.*

Similarly a male participant from Kaliali district who was ex-combatant in the

time of conflict asserted during a focus group discussion:

*Women who were involved in the Maoist movement for system change, hoped for a better future for future generations, and were abused sexually at the time of conflict. Now these women are in a very difficult stage. All their dreams are shattered. There should be a recognition program to acknowledge the contribution of these women towards social establishment and dignity.*

These above excerpts from the study participants highlight that the women who were sexually assaulted and tortured were not categorized as conflict victims while the government formulated its Interim Compensation Policy, which excluded women from receiving any kind of compensation from the government. This move also humiliated these women and compelled them to stay in isolation and remain marginalized. This lack of recognition also shows how the government of Nepal and the political parties viewed sexual violence as just an expected consequence of war and failed to provide gender justice to these many women.

## **“Perpetrator Must Be Punished!”**

Most of the respondents expressed that the perpetrator need to be punished in order to truly realize the notion of justice for women who faced sexual violence at the time of conflict.

The two female participants from Kailali district who faced sexual violence during the conflict insinuated during a focus group discussion:

*I can recognize the perpetrator but the government is denying it.*

*Perpetrator must be punished!*

Similarly, during a focus group discussion, a male participant from Udaypur district argued:

*In the 25 negotiation points as well as in the Comprehensive Peace Accord, it has been mentioned that there will be no amnesty to the perpetrator who committed rape. However, no action has been taken against these perpetrators to date. This is contributing to an increased number of conflict-affected women who are suffering.*

At the time of writing of this article, there has been no any example set by the commission where it has recommended perpetrator for the prosecution. Denialism through ‘official memory ‘serves’ to further marginalized victim experiences, adding further layer of insult and injustice for the surviving victims of war time rapes (Henry, 2011). In this post conflict scenario of Nepal, there has been a sense of denialism being observed for the cases of sexual violence of conflict era which can be validated from the above excerpt of woman who faced sexual violence as well as from the government institution’s policy and plan which accept that women are facing everyday injustice in their lives due to their exclusion on those policies and plan.

### **Addressing Social Stigma, Social Humiliation and Creating Environment for Social Acceptance**

Physical and sexual violence, particularly towards women and children, occur with greater regularity during and after armed conflict. Impacts of armed conflict such as forced displacement and GBV are not understood as human rights violations, but rather as cultural or private issues

that are best left alone (Jack, 2003). Those women who experienced sexual assault during the armed conflict of Nepal are still not able to disclose or talk about their suffering, even to their family members.

A female participant from Kailali district expressed during a focus group discussion:

*I was thrown out of the house by my family after they heard about the incident, even though it was not my fault. After that, my community also treated me badly. I feel that we are deprived from familial level justice as well as from social justice. This is why I believe that these issues also need to be addressed if we are to talk about justice.*

At a key informant interview, a representative of the organization working with conflict affected women entreated:

*Women are living in a dual notion where on the one hand they feel that what happened to them might have been their mistake, and on the other hand they believe it was not their fault. Once they can internalize that this is not their mistake, and leave behind this feeling of humiliation,*



*then they will get self-justice and can start living with dignity.*

Both the excerpts mentioned above illustrate that during the conflict, the women were much more scared, and accepted this as their fate. Social norms dictate that such type of victimization is seen as a private matter not to be discussed openly which is also highlighted in the literature review. The scenario has not changed. Many factors such as our social structures and fear of stigmatization are hindering them to share their stories openly. Many women whose cases were known by their family members were, and continue to be stigmatized in many ways by their communities. They are rejected by their spouses, family members, and are considered as characterless and unfaithful to their husbands. These factors are victimizing women, and are leading them to stay in isolation for a long time. The stigmatization and rejection are also further marginalizing women, and keeping them away from healing their trauma. The phenomenon of stigma and rejection impacts a survivor's psychological health, as well as their physical, economic, and social wellbeing. Women throughout the world report that fear of stigmatization keeps them from seeking services after the

rape, even though timely intervention can be lifesaving (Harvard Humanitarian Initiative, 2011). Likewise, echoing the findings of the report of Harvard Humanitarian Initiative, women in Nepal who faced sexual assault are also impacted psychologically, physically, economically, culturally and socially. The communities of these women question their morals and blame them for the incidents they have suffered. Often times our social and cultural practices leave these women to live with the notion of self-blame, humiliation, injustice and the loss of dignity. One of the mandate of the Comprehensive Peace Accord and Truth and Reconciliation Commission is also creating social harmony among the communities; however, the outcomes are yet to be felt.

### **Public Apology**

Almost all the respondents stood for women's justice and dignity to be regained, and reaffirmed that the state must make a public apology for the incidents that occurred at the time of conflict.

During a focus group discussion, a female participant from Kailali district who faced sexual violence shared:



*If the government and both the warring parties made a public apology, then the women will feel some level of justice.*

A male participant from Kailali during focus group discussion asserted:

*For women's justice and dignity to be regained, the state must make a public apology for the incidents that occurred at the time of conflict. This would help women realize that they are not responsible for what occurred.*

The representative of the organization during key informant interview argued:

*The state could have made a public apology by telling the women that the incident that had happened to them was not their fault, that the state apologizes for the incident that had happened to the women, to bring justice and establish dignity of the women.*

A public apology would help women realize they are not responsible for what occurred. However, the public apology must include acknowledgement of injustice committed, an expression of remorse, a guarantee of non-repetition and refrain appealing for forgiveness.

Finally, to complement such an apology, further reparative action (measures of sincerity, corrective action and materialistic compensation) would improve the chances for such apology to be considered valid and accepted (Sanz, 2012).

### ***Safe Spaces and Listening to the Voices***

Women who faced sexual violence at the time of conflict do not have access to safe spaces where they can express their suffering and struggles without fear. Some programmes run by women-led organizations have provided them with a space where they can meet with women who went through a similar kind of suffering. These kinds of spaces give them some level of healing and allow them to come together to learn about the suffering of others. In these spaces, the women are able to reflect and realize that they are not only the ones who faced such an inhumane act of rape.

A female participant from Banke district who faced sexual violence demanded:

*There must be safe places where people can listen to our voices and can understand our problems and struggles. These spaces also give us some level of healing and allow us to*

*come together and learn about the suffering of others.*

The representative of the organization working with conflict affected woman during the key informant interview shared:

*Sometimes the women cry when we ask them how they are. When we ask them why they are crying, they say that their family members have never asked them how they are and neither has the state. When we ask them that question they feel like there is someone who can listen to them and in my opinion, this is also some level of justice.*

Many of the women expressed during the time of data collection that they also participated in the programmes and in the meetings of organizations targeted at conflict victims. At these events, they do not expose themselves as sexually tortured victims but only introduce themselves as conflict victims. They said they do not have the courage to share their story and many have never shared their story with their family members and friends either. The women reported that they are unable to share their identity as sexual torture victims to the government stakeholders due to the

absence of safe spaces and their feeling of insecurity. They also demanded a space where people can listen to their voices and can understand their problems and struggles. The atrocity of rape was considered as private and women are compelled to remain silent. Besides, the apparent traumatization, making it extremely painful to women's trauma into narratives, when they decide to share their traumatic stories there is an obvious reluctance to talk about the sexual nature of their victimization, they more easily discuss the physical abuse and psychological violence, while their narration are brief, succinct, and lacking in details (Stefatos, 2016). As argued by Stefatos, in this transitional justice process of Nepal also due to lack of conducive environment women still are not able to vent out their trauma and real incidences.

### ***Needs, Hopes and Aspirations***

Even with multifaceted difficulties, many women are struggling for survival on their own without any support from the state like; by doing small businesses, fish farming, agriculture, mobile tea shop, vegetable selling, etc. However, they hope to get justice and to live a dignified life, with their multiple needs

addressed by the state and relevant stakeholders.

A female participant from Kailali who faced sexual violence asserted during a focus group discussion:

*The aspiration which was made to us, the dream what we are asked to see, the struggle what we did for, seems like will not be addressed. Though our leaders are in Government now but are not concentrating on to the grievances what they cash with us. It seems like the conflict was ended in the negotiation. If the state and government can act accordingly which was ensured in 25 negotiation points, according to the commitment of Comprehensive Peace Accord and of Constitution, then we can feel will feel the notion of justice and will be dignified as well. Besides this, the state should also reach to our community, to our family members, should assess the physical and mental conditions of ours as well as our family members very minutely and also need to address our conditions as well then maybe we can feel the notion of justice at some extent.*

The representative from the organizations working with conflict affected women during key informant interview expressed;

*Women talk about Taan, Maan, Dhaan (Health, counselling/mental stability and income opportunities). Most importantly, emphasis was made by the women on mental stability. Women have expressed that they can take a loan for physical treatment but for mental stability they need different support. It is necessary to cut down the multilayer trauma slowly in order to make the women psychologically strong.*

A representative from the security force, during key informant interview, revealed:

*The government can support these women in psychological aspects. It can also address their material needs. As many women were thrown out from their houses they need financial support as well. The government must make some initiatives that can support these women financially. Besides this, due to our social structures women might not have the ability to open up their issues and are living with social*

*stigma. This is why social awareness of women's issues is also important.*

In this transitional phase, the Truth and Reconciliation Commissions, the state, organizations and communities have a great role in addressing the multiple needs of these women without any conditions, as well as providing proper legal, economic, social and mental support, which is of utmost necessity to heal their inner and outer wounds. This can play a vital role for justice and dignity for these women. The excerpts of woman also exemplify ultimately the Maoist movement turned out to be a greed-led movement which was also highlighted in the literature review.

### **Gravity of Sexual Violence of Women Felt by Commissions and Government Institutions**

Nepal has achieved many things in the peace process. However, the peace process has mostly concentrated on the liberal peace but failed to address the structural issues of the conflict. A female participant from Kailali who faced sexual violence expressed at a focus group discussion;

*We are struggling with familial, social, political and psychological*

*justice. If the TRC can address these issues then we will feel some level of justice. The TRC should consider our oral testimony as evidence rather than only materialistic documents. Among those who submitted the application in the TRC, many women did not expose themselves as sexual torture victims as they don't feel that they have any protection from TRC. This is why we do not feel TRC is a valuable entity; we feel unable to rely on the TRC to fulfill our quest for justice.*

A male participant from Udaypur district during key informant interview informed:

*Establishing truth is very necessary if the commission wants to empower women. Even in the cases which have already come out, the government and commission have not yet done anything. If these known cases had been effectively dealt with, it would have inspired other women to come forward in the hopes of getting justice.*

The representative from a Government institution during key informant interview spoke:

*There is no collaboration between Law Ministry, Home Ministry, and the commissions.*

The representative of the organization working with conflict affected women during key informant interview shared:

*'This commission could have done a lot has not done anything, it was not able to do anything and it did not get an environment to do something. Even with limited resources, the commission could have done something for setting examples but failed to do this. It could have registered the case of sexual violence in a confidential manner by creating a safe space and by getting the support of the organization who are working on this area but it didn't do that.*

A representative of the security force during key informant interview revealed:

*The two truth-seeking commissions: Truth and Reconciliation Commission and Investigation on Enforced Disappearance Commission are not starting the investigation for even 10 of the cases of wartime incidents, even when the members of the commission have expressed that almost 63000 cases*

*have been collected. They could have at least started investigating 10 cases of serious human rights violation. It could have given the message of trust and justice to the conflict affected women to some extent.*

None of the issues of women have been addressed in the Comprehensive Peace Accord (CPA) in 2006 (Government of Nepal & Communist Party of Nepal, 2006). In section 3 of CPA, it is mentioned that the government will make effort in political, economic and social transformation. In section 7.1.3 it has guaranteed an impartial investigation and lawful actions against individuals responsible for obstructions in the exercise of the rights, and has guaranteed not to encourage impunity. Apart from this, it has also guaranteed the right to relief of the families of victims of conflict, torture and disappearance. However, the state and the political parties have mostly focused on institutionalizing policies, plan and physical peace infrastructures and have not concentrated on understanding the structural issues and issues of the women of the conflict era. Since sexual violence was not considered a priority. As a result, many perpetrators who assaulted women in the time of conflict are not being punished, which is also promoting

impunity in the country. The country has not been able to see and respond from the gender lens to the consequences of the armed conflict, which has been validated in its exclusion of the women as conflict victims in its interim compensation policy, and by listening to the participants.

## Conclusions

In Nepal, the state and political parties' failure to provide peace dividend to the people who suffered during the armed conflict, especially women who faced sexual violence, has played a vital role in increasing the frustration among these women as well as lowering their self-esteem. In this scenario, these women continue to wait for a conducive environment where their basic rights/needs (physical, economic and psychological) will be fulfilled, which again has contributed to developing trans-generational hatred among these communities. Transitional Justice refers not only to process of political change and reestablishment of the rule of law, but also to inventions that help societies to reconcile themselves with the violent past to establish 'truth' about human right violation that allows for peaceful future (Boesten, 2014).

Though the aim of the current transitional justice in Nepal is similar to the argument of Boesten, it has not been able to achieve this aim so far. Due to the lack of conducive environment and existing gender norms, women who faced sexual violence are still compelled to experience gender inequality and gender hierarchy in their daily lives in this so called peace time. It is very necessary to analyze how the political violence affects women differently from men in order to include women's experiences in the construction of national narrative of conflict and reconciliation (Boesten, 2014). However due to the gap in analyzing the effects on women, specially of women who faced sexual violence, and responding to their immediate and long term need by the current transitional justice mechanisms as well as other government institutions, women still are facing huge stigmatization, dealing with multiple problems in terms of physical and psycho-social, transferring the notion of victimhood to their children and not been able to reconcile themselves due to lack of space to tell their experiences of injustice they faced and not been able to get social, psychological and legal remedy so far. Without addressing the real grievances of the women which has been cashed in the time of war, efforts of

reconciliations at the individual and community level will not succeed. While going through the research journey, based on the expressions from the male representatives of the ministry, as well as from other male stakeholders, it is revealed that women's problem and issues are still considered as women's only and have to be addressed by women themselves, which shows a gap in understanding of gender justice by the male members of the society. Moreover, the perception of the commission towards justice is very limited to monetary and legal justice only. It has to go beyond these limited concept, as there is a need to put an effort to repair the pain of the harm and injuries that women have experienced, not only physically but also socially as well as psychologically. While literature on transitional justice process of other international scenario also shows that similar kind of notion of silencing of the cases of sexual violence and the perception of denialism was observed in the country like Peru (rape conducted during 1980-2000), Germany during second world war where limited cases of sexual violence were found in Nuremberg trial, and in Greece (sexual violence conducted during 1967-1974 by the Greek Military dictatorship) which led women to live with shame and self-blame. Sexual violence can constitute a

war crime, a crime against humanity, a form of torture, or an element of genocide.

Crimes against humanity occur where certain acts, including murder, torture and rape, are undertaken "as part of a widespread or systematic attack against any civilian population, with knowledge of the attack" (United Nations Human Rights Office of the High Commissioner, 2012). Although the act of sexual violence among women were conducted among women many countries as highlighted above and in Nepal, but these countries were not able to punish the perpetrator under the provision of war crimes as well as under the provision of crime against humanity due to the absence of political will and due to domestic law where sexual violence is not defined as war crime and crime against humanity like in Nepal which could have provided the gender justice at some extent to the women who faced these horrific act of sexual violence.

In this context, this paper is very relevant for understanding how the women who faced gender based violence (especially women who were raped and physically assaulted), define dignity and justice, and for internalizing the need for

effective interventions to support them in establishing their dignity and justice at different levels: transitional justice mechanisms, government institutions, civil society organizations and from the communities where women are residing. Gender justice has been overlooked in the peace process and the transitional justice process anywhere around the world including Nepal. This paper highlighted the issues of women who faced sexual violence which might be very similar to other international context so that the larger audience from national and international stakeholders could understand the women's perspective of justice and dignity and play a vital role in shifting the social and cultural norms which suppress women. Further, this paper calls national and international actors to incorporate survivor's voice and needs and the lens of gendered peace building in transitional justice settings where gender based violence has occurred during conflict to promote peace and reconciliation by addressing the issues of women who faced sexual violence in the time of conflict. If the voices of women who faced sexual violence during armed conflict about their dignity, justice and need are not addressed, women are compelled to experience injustice in their everyday lives which is the source of

gender hierarchy and inequality that can also lead to destabilizing peace in the society.

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