

Authority without accountability: The struggle for justice in Nepal

Executive summary



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Executive Summary



'In the decade-long conflict, at least 17,000 people were killed and over 1,300 subjected to enforced disappearance. There has yet to be a single prosecution or conviction for these crimes.'

EXECUTIVE SUMMARY

Seven years after Nepal's People's Movement ('Jana Andolan') halted the country's ten-year civil war and toppled the centuries-old monarchy, there has been almost no justice for the thousands of Nepalis who were subject to extrajudicial execution, enforced disappearance, torture, rape and other gross violations of human rights during the course of the conflict. The failure to address these egregious violations has continued the longstanding expectation of perpetrators that they can, and nearly always will, escape accountability for serious violations of human rights.

Rather than seizing on the momentum following the signing of the 2006 Comprehensive Peace Agreement and the abolition of the monarchy by the Constituent Assembly in 2008, to make a clean break with the past and to secure accountability for crimes and abuses, those in power in Nepal have used public office to enjoy the fruits of authority without accountability. Thus the impunity once abused by the royal family, high government officials and security personnel is now also being exploited by the army and security forces as well as all the major political parties – Nepali Congress (NC), Communist Party of Nepal-Unified Marxist (CPN-UML), Unified Communist Party of Nepal-Maoist (UCPN-M), and more recently the Terai-based Madhesi parties.

Alleged perpetrators of gross violations of human rights are not being investigated, tried or punished. Nepalis who have been victims of abuses are being denied their human right to a remedy and reparation and Nepali people as a whole have been denied the right to know the truth about the violations that took place during the armed conflict. Attempts to seek remedies for violations have been stymied by a powerful consensus amongst the political party leadership, security forces and public officials, all of whom have a vested interest in maintaining their own powers and privileges and acting to protect 'their own' from accountability. In Nepal today prominent political figures, members of the government, senior members of Nepal's security forces and those with political affiliation can commit serious crimes without sanction; these include crimes that amount to violations of international human rights law.

Perversely, high-level suspected perpetrators have even been promoted, rewarded with lucrative postings within the United Nations, and in the worst cases allowed to hold high office, including in Nepal's Legislature and Cabinet. One of the most striking examples is the abduction and unlawful killing of Arjun Bahadur Lama, in which UCPN-M Central Committee member Agni Sapkota is credibly alleged to be involved and responsible. Despite a March 2008 Supreme Court order directing the police to register a murder case against Agni Sapkota, among others, and to carry out full investigations, no proper investigation of the allegations against Sapkota have taken place. Instead he was appointed Minister for Information and Communication in May 2011. This appointment was challenged at the Supreme



Colonel Kumar Lama

Kumar Lama is a Colonel in the Nepalese Army. During 2005 and 2006, Colonel Lama was commanding officer at Gorunsinghe Army Bararacks. Between April and October 2005, Colonel Lama was allegedly involved in the torture and ill-treatment of at least two detainees, Janak Bahadur Raut and Karam Hussain. Kumar Lama was never investigated or prosecuted for these crimes in Nepal. He was promoted to the rank of Colonel and selected to serve as a United Nations Peacekeeper. In January 2013, Colonel Lama was arrested in the United Kingdom under the principle of 'universal jurisdiction' to stand trial for his role in the alleged torture Janak Bahadur Raut and Karam Hussain.

Court, which questioned the propriety of Agni Sapkota serving in government, but did not suspend him from public office. Even though Agni Sapkota lost his ministerial position in a cabinet reshuffle in August 2011, he remained an active member of the Constituent Assembly/Legislature-Parliament until it dissolved in May 2012. To date, Agni Sapkota continues to be Spokesperson for the UCPN-M, and has never been questioned, let alone charged despite serious allegations of his involvement in the abduction, enforced disappearance and murder of Arjun Bahadur Lama.

Similarly, the current Inspector General of Police, Kuber Singh Rana, faces allegations of the extra-judicial execution of five students in October 2003. The Supreme Court of Nepal, on 3 February 2009, directed police to investigate Rana and the other accused. He was neither arrested nor investigated. He was promoted and then promoted again. He is now the most senior police officer in the country, and is in charge of implementing urgent reforms that focus on accountability.

The expectation that politically powerful people are shielded from accountability is so prevalent in Nepal, including at the highest levels of government, that any attempt to demand justice produces shock—even when it occurs outside Nepal. In early January 2013, police in the United Kingdom arrested Nepal Army Colonel Kumar Lama, charging him with the torture of two detainees in Nepal in 2005. The UK arrested him under its own international obligation to prosecute persons alleged to have committed torture, even where the person is a national of another country. The arrest set off a shrill government response in Nepal, primarily portrayed as a defense of national sovereignty (rather than the well-being of the Nepali people). The response of the Nepali government was notable in that it sought to resolve the issue through political approaches to the United Kingdom government; which in turn claimed, appropriately, that it was unable to interfere with a criminal justice process.

This ongoing and widespread failure to provide justice and accountability has posed a serious obstacle to the creation of a stable and legitimate government in Nepal since the end of the civil war. The lingering instability reconfirms the accumulated experience from around the world that a climate of impunity undermines efforts to re-establish respect for human rights and the rule of law. It is for this reason that international law demands that States must effectively investigate and hold criminally accountable those found guilty of gross human rights violations. The right of victims to a remedy and reparation is a well-established principle of international law, contained in international human rights treaties and other international standards. It is not only a right in itself; it is the mechanism by which all other rights are realized.

Relevant international legal instruments cited in this report

- **Universal Declaration of Human Rights**
- **The International Covenant on Civil and Political Rights (ICCPR) and its First and Second Optional Protocols**
- **The International Covenant on Economic, Social and Cultural Rights**
- **The Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT)**
- **The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol**
- **Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflicts**
- **Declaration on the Protection of All Persons from Enforced Disappearance**
- **UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law**
- **Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity**

THE COMPLEX WEB OF IMPUNITY

The ICJ has published a substantial number of reports on Nepal over the past decade, documenting impediments to the functioning of the rule of law and the safeguarding of human rights. The ICJ, like many other international and national bodies has highlighted the debilitating problem of impunity in Nepal. This report explains the evolution of the system of *de jure* and *de facto* impunity in Nepal. In six chapters, this report describes the historic system of statutory immunities that have protected Nepali political leaders, government officials and security personnel from accountability. The deleterious impact of these laws has been significantly aggravated by the failure or refusal of law enforcement officials—from the Attorney General to District Attorneys to police officers—to pursue cases involving allegations of serious human rights violations by politically powerful people. This combination of *de jure* and *de facto* impunity has persisted despite efforts by the Supreme Court, the National Human Rights Commission, and many *ad hoc* commissions of inquiry to push for accountability. Untangling and dismantling this complex web requires determined and sustained efforts from the highest political levels of government. It also requires an understanding of the embedded structures of power and privilege inherited by the young republic that were historically entrenched by centuries of royal rule.

DE JURE IMMUNITY

The application of legal provisions providing immunity to various government officials in Nepal serves as a predictable and avoidable demonstration as to why international law and standards insist on no immunity for gross violations of human rights. Despite some attempts to curtail the range of official immunity after the 2006 People's Movement, Nepal's legal landscape remains rife with constitutional, statutory and regulatory provisions granting political office holders and members of security forces immunity from prosecution for what would otherwise typically be considered criminal acts, including crimes under international law. This catalogue of immunities has contributed to the crisis of impunity plaguing the country, and continues to do so in significant ways.

It is important to point out that not all legal immunities are contentious or foster impunity. Indeed, limited immunities may be important for effective and accountable governance. For instance, members of parliament must be able to discuss contentious political issues; judges must be able to conduct their affairs without fear of official reprisal; and diplomats need some reciprocal protection from local rules. But legal immunity cannot be absolute—it must be qualified and conditional. International law expressly prohibits immunity for gross violations of human rights and crimes under international law. Where immunity is granted for criminal or other legal liability, it must be circumscribed by a particular treaty, statute or other authoritative legal source and



Dekendra Thapa

On 26 June 2004, radio journalist Dekendra Thapa was abducted by Maoists supporters. Dekendra Thapa was subjected to torture and then allegedly buried alive on 11 August 2004. On 28 August 2008, Dekendra Thapa's wife filed a first information report with the Dailekh police. The police refused to investigate. After four years, a writ of mandamus was issued ordering the police to act. On 4 January 2013, five suspects were arrested. Shortly thereafter, the Attorney General under pressure from the Maoist government, issued a letter to halt the investigation. The Supreme Court intervened and ordered the police to disregard the Attorney General's letter and continue the investigation. No further arrests have been made and the investigation was ongoing at the time of publication of this report.

subject to review by an independent court who should ultimately decide whether it should apply on a case-by-case basis.

Nepal's constitutional, statutory and regulatory immunities fail these requirements. Nepal's immunities are too often overbroad, poorly defined, interpreted and applied through political considerations and, critically, not subject to judicial review. They offer, in practice and application, immunity not just from serious crimes, but also gross violations of human rights.

The basis of legal impunity in Nepal (as in most other countries) was the position of the monarch. Nepal's first Constitution vested all executive power in the King and granted him absolute immunity for any decision made or any action undertaken. With the end of the monarchy, the Interim Constitution of 2007 granted senior members of the Government (including the President) a significantly limited degree of immunity, to a much lesser extent than under previous constitutions. While under the Constitution the process and procedures of the Government's business cannot be challenged before a court of law, the immunity arguably does not extend to substantive areas – though this has so far not been tested in a court of law. But in practice, ministers and other senior government officials continue to evade accountability despite police complaints (First Information Reports, FIRs) being filed against them for allegations of serious crimes.

Legal immunity has historically extended far beyond senior government officials to cover security personnel. The ICJ, along with Nepali and other international organizations, have repeatedly criticized the misapplication of immunities as set out in the following legislation: the *Public Security Act 2046 (1989)*, the *Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO) 2001*, as well as Section 37 of the *Police Act, 2012 (1955)*, Section 26 of the *Armed Police Force Act, 2058 (2001)*, Section 6, 6A and 6B of the *Local Administration Act, 2028 (1971)*, Section 22 of the *Army Act, 2063 (2006)*, Section 24(2) of the *National Parks and Wildlife Conservation Act, 2029 (1973)*, Section 6 of the *Essential Commodities Protection Act, 2012 (1955)*, and Section 2 and Section 5 of the *Muluki Ain (General Code) 2020 (1963)*.

Broadly, under the General Code, officials are shielded if they have carried out their duties in 'good faith.' This defense has been widely abused as an immunity clause to preclude those persons from being investigated to determine whether actions carried out by them have in fact been carried out in good faith. As explained below, a statutory immunity is a defence that is available to persons or entities excluded from legal liability, and that may be invoked in response to legal action initiated by injured parties against those protected persons or entities by a court of law on a case-by-case basis. But serious human rights violations cannot, by their nature, constitute a 'good faith' exercise of duties, and thus the investigation and prosecution of such violations cannot not be subject to this putative immunity.

Particularly grave is the problem of the immunity granted to the Nepali military, considering its involvement in the country's long civil war as well as the army's role in maintaining political control. Legal efforts following the conflict and the overthrow of the monarchy have not created more accountable internal structures for ensuring discipline. Despite repeated efforts to extend accountability to the Nepal Army, the military remains outside effective civilian jurisdiction. The *Army Act, 2063 (2006)* allows for soldiers accused of homicide and rape to be tried by civilian courts, but at the same time provides for immunity for these offences if committed by personnel on duty, stating that acts 'shall not be deemed to be an offence committed in the course of discharging duties in good faith.' A June 2011 Supreme Court order for the Government to form a task force to review the new *Army Act* and to provide recommendations on reforming the military justice system to ensure its compliance with Nepal's human rights obligations has not been acted on.

The analysis of the continuing impunity in the Nepali military underscores four crucial points: (1) immunities granted to army personnel mean that State sanctioned use of force is frequently misused and abused, resulting in the commission of crimes and human rights violations; (2) the military justice system as provided in the *Army Act, 2063 (2006)* falls far below international standards to ensure victims' right to an effective remedy and reparation and the right to a fair trial and must be reformed; (3) the jurisdiction of civilian courts to conduct inquiries, prosecute and try serious human rights violations such as extrajudicial executions, enforced disappearances and torture must be guaranteed; and (4) the military's lack of accountability continues to exercise an undue and destabilizing influence in civilian politics.

DE FACTO IMMUNITY

Confounding the problem of impunity in Nepal is the fact that it does not rely solely, or even mostly, on the *de jure* immunity provisions discussed above. In practice, these immunities have neither been invoked in specific cases nor tested during trials not least because of the refusal or failure of law enforcement officials, including prosecutors and the police, to pursue claims of serious human rights violations. The difficulties begin with the filing of a First Information Report, which has been rendered almost insurmountably difficult in cases of serious human rights violations. Even if a claim is filed, it may be subject to withdrawal as a result of political intervention by district attorneys, the Attorney General, or, in some cases, even the Cabinet. Compounding these difficulties are efforts by the various political parties to provide for amnesties in cases of serious human rights violations. This pattern of *de facto* impunity has persisted despite efforts by Nepal's Supreme Court, National Human Rights Commission, *ad hoc* commissions of inquiry, and in some cases, even legislation, to push for accountability.

The first obstacle to accountability in Nepal has been the lack of progress in complaints filed by relatives of those alleged to have

Arjun Bahadur Lama

Arjun Bahadur Lama was abducted and killed in April 2005. Purnimaya Lama, Arjun's wife, filed a police complaint naming Agni Sapkota, a Unified Communist Party of Nepal-Maoist (UCPN-M) Central Committee member as one of the accused. The Police refused to register the complaint. Purnimaya Lama filed a petition before the Supreme Court in July 2007. The Supreme Court ordered the Kavre police to register a murder case against five Maoist insurgents, including Agni Sapkota. In May 2011, Agni Sapkota was appointed Cabinet Minister. In July 2012, the Government put the Arjun Bahadur Lama murder investigation on hold.

been unlawfully killed or subjected to enforced disappearance during the conflict. Soon after the end of the conflict, relatives of victims filed FIRs identifying members of the security forces and armed insurgent groups as responsible for crimes. A recent report by the United Nations Office for the High Commissioner for Human Rights, documenting serious violations of international law during the conflict, cited approximately 2,500 cases of alleged torture and ill-treatment, 2,000 incidents of alleged unlawful killings and over 600 cases of enforced disappearance during the conflict. So far, however, criminal charges have only been filed in three cases:

(1) Maina Sunuwar, a 15-year old who was subjected to torture and subsequently died in army custody in February 2004;

(2) Reena Rasaili, an 18-year-old who was killed in February 2004; and

(3) Dekendra Thapa, a journalist, who was beaten almost to death and buried alive by a group of Maoist cadres in August 2004.

In all other cases, however, there has been little or no progress despite repeated court orders directing the police and the Attorney General's Office to proceed with investigations.

Troublingly, the Office of the Attorney General has resisted efforts to provide justice for serious human rights violations, utilizing the Attorney General's powers to initiate and conduct prosecutions, and protected by a statutory immunity from oversight. This immunity makes it difficult to legally challenge any decisions to not prosecute or withdraw criminal cases pending in the courts. Although appointments to the office of the Attorney General are coloured by political considerations the world over, the Attorney General in the Nepali criminal justice system has proven to be an obstacle to protecting human rights, rather than fulfilling his professional responsibility to advance justice. The Attorney General's partisan approach has highlighted the clear conflict of interest between the prosecutorial and representational roles played by the AG in cases involving alleged misconduct by government officials.

This problem is endemic throughout the Nepali government's law enforcement system. As set out in the main report, (1) prosecutors have routinely disregarded their duty to investigate credible allegations of crimes, including crimes under international law; (2) prosecutors are not exercising their functions with the objective of protecting human rights and promoting rule of law; and (3) prosecutors have not been able to function independently or impartially.



Maina Sunuwar

In the early morning on 17 February 2004, Nepal Army soldiers came looking for Devi Sunuwar. The soldiers took 15-year old Maina Sunuwar instead. The 15-year old girl was subjected to torture, which included simulated drowning and electrocution. Maina Sunuwar died as a result of her injuries. On 8 September 2005, three military officers were convicted in a court martial for wrongful interrogation and improper disposal of a body. A fourth military officer, Niranjan Basnet, was never arrested or prosecuted. Instead, Basnet was promoted to the rank of Major and then selected to serve as a UN peacekeeper in Chad.

Kuber Singh Rana

Kuber Singh Rana is allegedly involved in the enforced disappearance and extrajudicial killing of five students in October 2003. The Supreme Court of Nepal directed police to investigate Kuber Singh Rana on 3 February 2009. While being investigated, Kuber Singh Rana was promoted to Inspector General of Police, the most senior police post in the country, on 13 September 2012.

WITHDRAWAL OF CASES

Immunity is further compounded by political abuse of Clause 5.2.7 of the *Comprehensive Peace Agreement*, which allows for the withdrawal of politically-motivated cases; this is in contravention of Clause 7.1.3, which expresses a commitment to ensuring impartial investigations.

Section 5.2.7 of the CPA states: 'Both sides guarantee to withdraw accusations, claims, complaints and under-consideration cases levelled against various individuals due to political reasons and immediately make public the state of those imprisoned and immediately release them.'

Under a strict reading of this clause, within the context of the CPA, withdrawal of cases could only extend to cases brought during the course of the conflict and up to-and not after-the signing of the CPA against members of the CPN-M and initiated against them for political reasons. Several governments, however, have since widened the application of Clause 5.2.7, enabling the withdrawal of ordinary criminal cases which occurred during and after the signing of the CPA as part of political bargaining.

Three successive governments between 2008 and 2012, from across the political spectrum, have withdrawn more than 1055 criminal cases filed in district courts across the country. The overbroad and vague definition of what constitutes a 'politically-motivated' allegation has led to the withdrawal of a host of cases that explicitly constitute crimes under international law including, unlawful killings torture and sexual violence. For instance, in mid-2011, withdrawal of cases was a pre-condition for cooperation between the Maoists and Madhesi political parties, which led to the formation of a government led by Prime Minister Baburam Bhattarai. Such cases, however, do not fall within the ambit of the CPA; more important, these cases deal with gross violations of human rights and as such their investigation and, if appropriate, prosecution, are legal obligations of the Nepali government.

This pattern of impunity cannot be characterized solely as deriving from political inertia. Rather more seriously in Nepal there is a tacit consensus across the political spectrum not to hold perpetrators of human rights violations accountable. This view has seriously undermined the rule of law in an already weak criminal justice system.

MISUSE OF POLITICAL PARDONS

Political considerations also obstruct accountability through the misuse of politically motivated pardons. The long-standing prerogative of the Nepali monarch to pardon even those convicted of serious crimes was repeated in Article 151 of the 2007 Interim Constitution, which grants the President (on the recommendation of the Council of Ministers) the power to grant pardons, and to suspend, commute or remit any sentence passed by any court, special court, military court or any other judicial, quasi-judicial, or administrative authority or institution.

But Nepal's Supreme Court has repeatedly affirmed that a pardon can only be exercised in exceptional cases, and that it cannot be invoked for cases still pending before the courts. As explained in detail below, the Supreme Court's jurisprudence covers the Royal Pardon under the 1990 Constitution as well as the President's power to pardon under the 2007 Interim Constitution.

Reena Rasaili

On 12 February 2004, ten security personnel broke into the family home of Reena Rasaili and took her from her bed. The security personnel allegedly gang-raped 18-year old Reena Rasaili for several hours before killing her. A first information report was registered on 25 May 2006 but no subsequent investigation was initiated. Despite the Supreme Court ordering the District Police to proceed with investigations, no arrests have been made to date.

FAILURE TO IMPLEMENT SUPREME COURT DECISIONS

Even when Nepal's Supreme Court has interceded to protect the right of Nepalis to receive justice, for instance by ordering the investigation or even prosecution of perpetrators of gross violations of human rights, consecutive governments and State agencies have simply ignored the Supreme Court's orders. Similarly, many recommendations by the National Human Rights Commission (NHRC) for further investigations into cases and prosecutions have not been implemented. As set out in this report, Nepal's Supreme Court has repeatedly issued strong judgments in support of human rights. The failure of the Nepali government to implement these judgments is itself a major blow to accountability and the rule of law.

WAITING FOR TRANSITIONAL JUSTICE

Government officials, security commanders as well as the leadership of the major parties have sought to excuse police inaction and even the defiance of court orders on the basis of their apparent belief in the need to wait for a transitional justice mechanism to be set up. This appears to be a misinterpretation of the purpose of any future transitional justice mechanism. Any such body should be complementary to the formal justice system and criminal justice processes should continue in the interim.

In March 2013, the President approved an ordinance to establish just a single transitional justice mechanism, conferring wide discretion on a Commission of Inquiry to recommend amnesties for serious crimes, including those amounting to crimes under international law. Many civil society organizations as well as the United Nations Office of the High Commissioner for Human Rights raised concerns about the Ordinance and its compliance under international law. The caretaker Cabinet delivered the ordinance directly to the President without consulting with victims and their families, the NHRC or with the general public. Immediately following its approval, civil society groups and victims challenged the constitutionality of the Ordinance before the Supreme Court, obtaining a stay order.

The Truth, Reconciliation and Disappearance Ordinance leaves open the door to amnesties for persons implicated in gross human rights violations and crimes under international law.

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Amnesties for serious rights violations are prohibited under international law and betray victims, who are denied justice in the name of political expediency.

Ben Schonveld, ICJ South Asia Director

“Truth & Reconciliation Law Betrays Victims”, ICJ and Human Rights Watch, March 22, 2013

CONCLUSION AND KEY RECOMMENDATIONS

If peace and political stability are to take root in Nepal, it is critical that the Nepali government dismantle the complex structure of *de facto* and *de jure* impunity that obstructs the rule of law; establish a transitional justice mechanism in line with international human rights law and standards; and bring to justice those responsible for gross human rights violations during the conflict.

The Constituent Assembly of Nepal was dismissed on 27 May 2012 after having failed to reach any agreement on a new Constitution and a transitional justice mechanism. By early 2013, Nepal was heading towards a constitutional crisis. On 13 March 2013, a political agreement was reached among the four main political parties that Chief Justice Khil Raj Regmi would take on the position as Chairman of the Electoral Council of Ministers until an election is held.

In this context, and with an eye toward the expected transition to the new elected government, the ICJ calls on the Government of Nepal to act, as a matter of priority, as set forth below (for a full list of recommendations, please refer to the Report):

- (1) **Enact legislation to ensure that any parliamentarian or State official against whom there is a credible allegation of responsibility for a gross violation of human rights or a crime under international law must be suspended from service in public office, including armed forces personnel representing Nepal in international peacekeeping operations, at least pending the outcome of an independent and impartial investigation and fair trial;**
- (2) **Repeal or amend Section 11 of the *Public Security Act, 2046 (1989)*, Section 37 and Section 38 of the *Police Act, 2012 (1955)*, Section 26 of the *Armed Police Act, 2058 (2001)*, Sections 6, 6A and 6B of the *Local Administration Act, 2028 (1971)*, Section 22 of the *Army Act 2006*, Section 24(2) of the *National Parks and Wildlife Conservation Act, 2029 (1973)*, Section 6 of the *Essential Commodities Protection Act, 2012 (1955)* and parts of the *Muluki Ain (General Code)*, notably Section 2 and Section 5, to remove any immunity afforded to State officials for gross violations of human rights;**

- (3) **Ensure the new Constitution does not permit any State official to grant an official pardon, withdraw a case or grant an amnesty to anyone suspected or convicted of a gross human rights violation or crime under international law;**
- (4) **Limit the interpretation of Section 5.2.7 of the *Comprehensive Peace Agreement* to ensure that only those cases brought during the course of the conflict and up to-and not after-the signing of the Peace Agreement are eligible for withdrawal, while also ensuring that cases involving credible allegations of gross human rights violations are not withdrawn;**
- (5) **Implement the decisions of the Supreme Court in *Kedar Chaulagain v Kavre District Police Office and District Attorney's Office (2009)*, *Rabindra Prasad Dhakal v. The Government of Nepal and Others (2007)*, *Devi Sunuwar v. District Police Office, Kavrepalanchok and Others (2007)*, *Purnimaya Lama v. District Police Office, Kavrepalanchok and Others (2008)*, issuing instructions to the Attorney General and all relevant law enforcement personnel to proactively and vigorously pursue all cases alleging serious violations of international human rights law;**
- (6) **Issue instructions to the Attorney General and all other relevant law enforcement personnel to implement the decision of the Supreme Court in *Om Parkash Aryal v the Council of Minister (6 March 2013)*, making it mandatory for the Attorney General to act on the recommendations of the National Human Rights Commission to investigate, and where appropriate prosecute cases.**

ICJ PREVIOUS WORK ON NEPAL

In June 2003, the ICJ issued a report, *Human Rights and Administration of Justice: Obligations Unfulfilled*. It highlighted the near total lack of accountability for enforced disappearances and extrajudicial killings. In March 2005, the ICJ issued a report, *Nepal: The Rule of Law Abandoned*, concluding that the state of emergency was wholly in compliance with international law. In September 2006, the ICJ issued a report, *Nepal: Recommendations for the amendment to the draft Army Act*, offering 19 recommendations to the Prime Minister on the Nepal Army Act 2006. In February 2008, the ICJ issued a report, *Nepal: Justice in Transition*, focusing on victims' access justice during the peace process. In March 2009, the ICJ published a briefing paper on *Disappearance in Nepal: Addressing the Past, Securing the Future*, examining the proposed enforced disappearances legislation. In August 2009, the ICJ issued a report, *Nepal: National Security Law and Human Rights Implications*, focusing on security laws and their compliance with international laws and standards. In June 2012, the ICJ issued a report, *Commissions of Inquiry in Nepal: Denying Remedies, Entrenching Impunity*, examining 38 commissions of inquiry established between 1990 and 2010, concluding that such mechanisms have become a vehicle of impunity for gross human rights violations, including crimes under international law.

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