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SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS, ADVOCACY FORUM - NEPAL AND THE GLOBAL SURVIVORS FUND TO THE UNIVERSAL PERIODIC REVIEW OF NEPAL

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Introduction

1. The International Commission of Jurists (ICJ), Advocacy Forum (AF) – Nepal and the Global Survivors Fund (GSF) welcome the opportunity to contribute to the UN Human Rights Council's (HRC) Universal Periodic Review (UPR) of Nepal.
2. In this submission, the ICJ, AF and GSF draw the attention of the HRC UPR Working Group to the government of Nepal's (GoN) failure to specifically address the human rights of survivors of conflict-related sexual violence (CRSV) in the context of the ongoing transitional justice (TJ) process in the country. The TJ process aims to address the systematic, mass violations of human rights during Nepal's armed conflict of 1996-2006. In particular, the submission sets out the following concerns:
 - A. Provisions in the 'Commission of Inquiry on Enforced Disappearances, Truth and Reconciliation Act (third amendment) 2014', (hereafter Amended TRC Act) and their compliance with international standards;¹
 - B. Failure to establish victim-centric, credible and independent transitional justice mechanisms;²
 - C. Continuous discrimination faced by survivors of CRSV in accessing interim relief and reparation;³
 - D. Lack of an enabling structure and procedures to ensure confidentiality and security for reporting by CRSV survivors;
 - E. Inadequate measures to ensure accountability for incidents of sexual violence committed during Nepal's decade-long armed conflict;⁴ and
 - F. Failure to ratify international human rights instruments and extend invitations to the UN Special Procedures.⁵
3. This submission concludes with recommendations addressing these concerns.

Background

4. This UPR review comes at a critical time for TJ in Nepal. The 10-year armed conflict in the country, from 1996 to 2006, ended with the signing of the Comprehensive Peace Agreement (CPA) in 2006. All parties to the conflict perpetrated sexual violence, including rape, forced marriage, forced nudity and sexual torture. National and international human rights bodies have reported on the prevalence of rape committed by both government forces and Maoist combatants during Nepal's armed conflict.⁶ Victims/survivors were predominantly women and girls, but men, boys, and sexual and gender minorities were also targeted. Such violence often occurred in detention

centers, during house searches, in security force barracks and, occasionally, in areas controlled by the Maoists.⁷ National and international human rights bodies also reported on how sexual violence was used as a tool to punish, intimidate and extract information from individuals and communities suspected of supporting the opposing side. Due to a culture of silence around sexual violence, the exact number of victims/survivors is unknown, with estimates ranging from 300 to over 2,000. Many cases remain unreported due to stigma, fear of retaliation and cultural taboos, which are compounded by legal barriers, such as an extremely short statutes of limitations at the time⁸ (35 days at the time of these incidents, now extended to two years),⁹ lack of trust in the justice system and concerns over confidentiality and security.

5. Since the signing of the CPA, the GoN has rolled out an interim relief program for conflict victims. However, victims of CRSV and torture were excluded from the program.¹⁰ To date, they have not received any relief or reparations and continue to face discrimination. CRSV survivors continue to experience long-term trauma, social stigma and economic hardship as a result of legal, socio-cultural barriers, lack of legal protection, as well as insufficient measures to protect their confidentiality and security.
6. The GoN adopted the National Action Plan on UN Security Council Resolutions 1325 and 1820 (NAP on UNSCR) in 2011-2015. However, the NAP on UNSCR did not include any support for survivors of CRSV. On 22 September 2022, the GoN adopted NAP II on UNSCR,¹¹ with a specific focus on CRSV.¹² It included provisions aimed at localizing strategies at the provincial and local levels, in line with the federalization of Nepal's administrative structure. However, the GoN has failed to allocate necessary resources and establish an appropriate policy framework and institutional architecture for the implementation of NAP II on UNSCR.¹³ As a result, these measures have failed to assist CRSV survivors in accessing relief, services and reparation.
7. The Commission of Inquiry on Enforced Disappearances, Truth and Reconciliation Act (TRC Act) was initially passed by the Parliament in 2014 amidst controversies. This Act provides a legal framework for establishing two Commissions: a Truth and Reconciliation Commission (TRC) and a Commission on Investigation of Enforced Disappearances of Persons (CIEDP). However, the law included several provisions that directly contradicted Nepal's international legal obligations and constitutional guarantees.¹⁴ Soon after the law was passed, more than 200 victims from across the country challenged its legality in the Supreme Court.¹⁵ The United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR) also declined to support the commissions, stating that their legal mandate undermined international human rights standards.¹⁶
8. In February 2015, the Supreme Court held that a number of sections of the TRC Act were unconstitutional and the Act failed to comply with international human rights law and standards. In light of this, the Court ordered the law

to be amended. Despite this, the GoN proceeded twice to appoint commissioners to the TRC and the CIEDP without making the necessary amendments to the 2014 TRC Act as directed by the Supreme Court.¹⁷ Both Commissions remained largely dysfunctional and failed to deliver on their mandates.¹⁸ They did not enjoy the confidence of CRSV survivors.

9. The CIEDP received 3,223 and the TRC received 63,718 complaints (victim statements), of which only 314 related to rape and other forms of sexual violence.¹⁹ In the absence of basic preconditions, such as confidentiality, security and sensitivity, these mechanisms remained inaccessible for CRSV survivors. Neither of these Commissions resolved even one single case of CRSV.
10. After years of efforts, the TRC Act was amended in August 2024 (hereafter Amended TRC Act). After a decade of silence, survivors of CRSVs have started to speak up and demand their right to reparation. As a result, their plight has started to receive more attention in the media and public discourse. The coordinated efforts by victims and civil society organizations (CSOs) have also generated some momentum with a view to incorporating the needs, aspirations and demands of CRSV survivors in the amendment of the TRC Act that was eventually adopted in 2024. Thus, the Amended TRC Act finally introduced some positive steps in relation to the human rights of CRSV survivors and the right to reparation more generally.
11. In October 2024, the Recommendation Committee (RC) was established under the Amended TRC Act to recommend the Commissioners for these two Commissions. However, the RC failed to recommend any candidates, citing an inability to reach consensus. The RC was reconstituted for a second time on 24 March 2025. However, while it again failed to adopt an inclusive, transparent and merit-based approach, this time the RC did come up with a list of candidates. Despite the controversies surrounding the RC, the GoN appointed the Commissioners in May 2025 that the RC had recommended. As a result, victims' groups across the country have publicly denounced the appointments and threatened to withdraw their support to and cooperation with the current Commissions.²⁰ They have demanded a fresh independent, impartial appointment process to the office bearers of the two TJ bodies ensuring meaningful participation and consultation with them.²¹

A. Provisions in the TRC Act 2014 and their compliance with international standards

12. During Nepal's third UPR cycle in 2021, Germany recommended to bring the original 2014 TRC Act into compliance with the Nepali Supreme Court's ruling of February 2015 and international standards and, in particular, to include survivors of sexual violence and their families in the transitional justice process and all related government schemes.²² At the time, Nepal supported this recommendation.²³
13. After years of efforts, in 2024, the TRC Act was eventually amended (the Amended TRC Act), incorporating some of the recommendations that victims' groups, CSOs and the international community had made in relation to CRSV

during Nepal's third UPR cycle. The Amended TRC Act features some positive developments in relation to the incorporation of a gender perspective within the transitional justice process, including the following:

- Characterization of rape and other egregious instances of sexual violence as serious human rights violations;²⁴
- No amnesty for rape and other forms of serious sexual violence;²⁵
- It has mandated the TRC to recommend interim relief to the victims/survivors of rape, other forms of sexual violence and torture after completion of the preliminary investigation;²⁶
- Establishment of a separate unit inside the TRC to investigate incidents of rape and other forms of sexual violence;²⁷
- It has empowered the TRC to adopt a specialized procedure to facilitate CRSV survivors to file their complaints;²⁸
- It has mandated the TRC to undertake the work in a transparent, gender-competent and disability-competent manner.²⁹

14. These measures constitute positive steps that survivors and CSOs have welcome. However, the Amended TRC Act falls short in some respects in ensuring truth, justice and reparation to CRSV victims/survivor. The main shortfalls include:

Problematic distinction between 'violation of human rights' and 'serious human rights violations'

15. A major concern with respect to the Amended TRC Act is its classification of human rights violations that comes under the jurisdiction of the TJ bodies. It classifies human rights violations that took place during the armed conflict into two categories: 'violations of human rights' and 'serious violations of human rights'. This classification is crucial as it determines the legal pathway for seeking redress and the types of remedies that are available.
16. 'Violations of human rights' are defined as 'any act, except serious violations of human rights, committed in contravention of existing Nepali law, international human rights, or humanitarian law during the armed conflict by the parties involved, targeting unarmed individuals or communities, or committed in a planned manner'.³⁰ 'Serious violations of human rights' are defined as 'rape or other forms of serious sexual violence', 'intentional or arbitrary killing', 'enforced disappearances (where the whereabouts of the person remain still unknown)' and 'inhuman or cruel torture', and targeting 'unarmed individuals or communities, or conducted in a "planned manner'.
17. While the introduction of this classification system reflects some progress, as it seems to bring major violations committed during the armed conflict under the jurisdiction of the TRC and CIEDP, the distinctions mentioned above raise several concerns. First, such distinctions undermine international law obligations with respect to accountability and prevent victims from exercising the right to access justice and an effective remedy. This is the case because the category of 'serious violations of human rights' does not encompass all violations of human rights that States are duty-bound to investigate and prosecute under international law. Secondly, the way torture, enforced disappearances and arbitrary killings are included in the Amended TRC Act

also creates a situation where some of these violations do not fit neatly into one category, leading to a real risk of inconsistent and arbitrary treatment by the two Commissions.

Amnesty for violations of human rights

18. Although the Amended TRC Act bars amnesties for 'serious violations of human rights', it permits amnesties for 'violations of human rights'. The arbitrary distinction of between 'violations of human rights' and 'serious violations of human rights' gives rise to the risk of unjustly granting an amnesty in cases that, under international law, constitute gross violations of international human rights law and/or serious violations of international humanitarian law,³¹ such as mutilation or prolonged arbitrary detention. The granting of an amnesty in such cases would violate Nepal's international law obligations and undermine both its Constitution and the Supreme Court's rulings on the matter.

Lack of definition to include all forms of sexual and reproductive rights violations

19. The Amended TRC Act provides that rape and other forms of serious sexual violence be categorized as 'serious violations of human rights'.³² However, it does not define the crimes as such but relies on 'existing law' for such definition. With respect to this, the definition of rape in existing domestic law is narrow. For example, Nepal's Criminal Code only recognizes acts of rape perpetrated against women or girls.³³ As a result, men, boys, and possibly transgender women and men who are victims/survivors of rape, cannot seek justice for acts of rape committed against them. Furthermore, the Criminal Code also fails to criminalize other forms of sexual violence, such as sexual slavery, enforced pregnancy, forced prostitution, forced sterilization, forced nudity, mutilation of genitals or breasts, and forced circumcision. Thus, even if these violations are recognized as serious violations of human rights under the Amended TRC Act, the lack of an 'existing law' that proscribes them as offences domestically and defines appropriate penalties upon conviction offers impunity for these acts. International human rights law and international humanitarian law recognize certain forms of sexual violence as crimes under international law.³⁴ Furthermore, requiring a 'seriousness' threshold for sexual violence, which is not clearly defined, is likely to result in denial of access to justice and effective remedies for some CRSV survivors.³⁵

Excluding war crimes and crimes against humanity from the jurisdiction of the TJ bodies

20. The Amended TRC Act also fails to incorporate war crimes and crimes against humanity within the category of serious violations of human rights. Rape and certain forms of CRSV may amount to war crimes and crimes against humanity. Excluding war crimes and crimes against humanity from the jurisdiction of the TJ bodies may result in the failure to uncover the systematic and widespread nature of CRSV, as well as in granting complete impunity to those responsible for committing war crimes and crimes against humanity, and in the denial of access to justice and an effective remedy to victims/survivors. Such a failure is also completely inconsistent with Nepal's obligations under international law, including the four Geneva Conventions,

to investigate, and when evidence so warrants, to prosecute serious crimes under international law and the obligation to ensure access to justice and effective remedies for victims/survivors of sexual violence.³⁶

Limited time to file complaints of rape and other forms of sexual violence

21. The Amended TRC Act provides a one-off three-month time period for victims of rape and CRSV who have previously not registered their cases with the TRC to do so.³⁷ Such a time limitation impedes victims/survivors' access to justice and effective remedies.³⁸ In the context of the 2021 UPR, Nepal noted the recommendation to remove the statute of limitation in respect of cases of rape and other forms of sexual violence.³⁹ The UN Special Rapporteur on violence against women its causes and consequences in her report after her visit to Nepal in YEAR had recommended to the GoN to remove the statute of limitation for filing cases of rape or other forms of sexual violence, as well as torture, perpetrated during the conflict.⁴⁰ Other international human rights expert bodies, including the CEDAW Committee,⁴¹ have made similar recommendations.

Insufficient gender mainstreaming in the TJ process

22. In its 2021 UPR, Nepal supported recommendations to adopt a gender sensitive approach in the TJ process,⁴² but gender concerns remain inadequately addressed in the Amended TRC Act. Women, children and marginalized individuals and groups were disproportionately affected by the armed conflict, particularly through increased exposure to rape and other forms of CRSV. The Amended TRC Act mandates the Commission to investigate the root causes and impacts of the armed conflict and provides a list of issues to be included in its interim and final reports.⁴³ It also requires the TRC to recommend legal and policy measures to prevent recurrence. However, the Act fails to explicitly require the Commissions to include a dedicated chapter on gender issues and CRSV. This omission risks excluding these critical concerns from both the interim and final reports.

B. Failure to establish victim-centric, credible and independent Transitional Justice mechanisms

23. During its third UPR cycle, Nepal supported recommendations regarding the establishment of a credible, independent, victim-centric TJ mechanisms, adopting a consultative, transparent, gender-competent and victim-centric approach,⁴⁴ but, today, it has failed to implement these recommendations.
24. In October 2024, the GoN formed the Recommendation Committee (RC) to recommend names of Commissioners for the TRC and CIEDP.⁴⁵ Victims and CSOs had requested a credible, consultative, public selection process that could bring people with experience, expertise and integrity in the Commissions.⁴⁶ However, when the RC published the names of shortlisted candidates, it was widely criticized as some of those shortlisted had previously defended alleged perpetrators of grave human rights violations. The RC, however, ended its tenure with no success in recommending office bearers for appointment, admitting that its members could not reach consensus on candidates.⁴⁷

25. On 24 March 2025, with the exception of one name, the GoN re-appointed the same people who had featured on the RC list. Conflict victims and civil society reiterated their call for a transparent and consultative process that ensures people with experience, expertise and credibility be appointed as Commissioners.⁴⁸ Victims' communities and civil society organizations issued press statements and met with political party leaders and the Prime Minister, raising concern about the independence of the RC and urging the GoN to follow a transparent, merit-based process.⁴⁹ However, the RC had failed to adopt the process recommended by victims and CSOs, and candidates favoured by political parties were shortlisted over those on merit. Hence, in May 2025, conflict victims and human rights organizations made their position public rejecting the list of shortlisted candidates published by the RC.⁵⁰ International organizations, including International Commission of Jurists, Human Rights Watch and Amnesty International, also called upon the GoN to urgently address the demand of the conflict victims about the appointment of competent and impartial Commissioners, who should be fully independent from any political parties.⁵¹
26. Despite the concerns raised by conflict victims, civil society organizations, both national and international, in May 2025 the GoN appointed the people recommended by the RC to the TRC and CIEDP. Many of these Commissioners are not even known to victims and CSOs working on TJ. Feeling betrayed, many victims' groups denounced the process as arbitrary, untrustworthy, disrespectful to victims and lacking transparency, declaring it unacceptable to victims.⁵² The flawed selection and appointment process seriously undermines the credibility of the TJ bodies.
27. The lack of competence of the commissioners was exposed the day after their appointment.⁵³ On 19 May 2025, a public notice was issued by the TRC calling upon victims/survivors of rape and other sexual violence, who had not previously lodge their complaint, to file their complaint within a three-month time frame, starting from 19 May 2025. The notice was published without any preparation and protocols to ensure victims' confidentiality and security while registering their applications,⁵⁴ clearly showing the Commissioners' incompetence and insensitivity, as well as their lack of understanding of the need for risk-mitigation to address the risks associated with victims/survivors of CRSV lodging complaints.⁵⁵ Consequently, it is likely that very few applications will be registered with the TRC,⁵⁶ and many CRSV survivors will be denied access to justice and an effective remedy as a result.
28. Furthermore, complaints are supposed to be submitted to the TRC office in Kathmandu, or at the District Attorney office in the districts or through email. All these options are not secure and are inaccessible to many CRSV survivors. There is also a lack of experts, including psychosocial counselors, which could result in re-stigmatization, re-victimization, disrespect and a deep sense of humiliation for CRSV survivors.

C. Continuous discrimination faced by survivors of CRSVs in accessing interim relief and reparation

29. The GoN supported the 2021 UPR recommendation to provide an effective remedy to conflict victims.⁵⁷ However, to date, CRSV survivors have not received any form of redress, such as interim relief and reparation.
30. For the last two decades, CRSV survivors and their families have been excluded from GoN's Interim Relief Program (IRP).⁵⁸ In 2019, the UN Special Rapporteur on Violence against Women raised concern about the discrimination that CRSV survivors had been facing in accessing interim relief and called on the GoN to guarantee access to adequate interim relief measures for women and girl victims of the armed conflict "as a matter of urgency".⁵⁹ The CEDAW Committee made a similar recommendation to Nepal in February 2025.⁶⁰
31. Although the Amended TRC Act recognizes reparation as a right of victims⁶¹ and prioritizes the granting of interim relief to victims of rape, other forms of sexual violence and torture once the TRC's preliminary investigation into such offences has been completed,⁶² the lack of credibility and the trust deficit in these Commissions, as well as the barriers to registration as outlined above, are likely to largely exclude CRSV survivors from accessing relief and reparation.
32. Furthermore, to create a trustworthy and supportive environment for CRSV survivors to come forward and seek relief, reparation and justice for the harm they have suffered, specific procedures and arrangements must be established to ensure their confidentiality and security, as well as that of their family members. These procedures and arrangements should be developed in consultation with survivors and civil society organizations that have long worked on these issues. However, the flawed selection and appointment process, concerns about the Commissioners' competence, and the stance of non-engagement adopted by many victims' groups make it unlikely that such measures will be implemented, thereby leaving survivors beyond the reach of the transitional justice process, including access to relief and reparation.

D. Lack of an enabling structure and procedures to ensure confidentiality and security for reporting by CRSV survivors

33. Nepal supported a 2021 UPR recommendation by Malta to provide a safe and confidential environment to report cases of violence.⁶³ CRSV survivors continue to experience long-term trauma, social stigma and economic hardship due to legal, socio-cultural barriers, lack of legal protection and arrangements to protect their confidentiality and security. As discussed above, the confidentiality, privacy and security of CRSV survivors are essential for creating an environment in which they feel safe to come forward and seek justice. However, the Amended TRC Act lacks specific provisions to address these needs, particularly in relation to ensuring security, confidentiality, psychosocial counseling and legal and economic support during the complaint and investigation process for cases of rape and other forms of sexual violence. As a result, it is likely that very few survivors will register complaints with the TRC. The absence of understanding among Commissioners, along with the lack of a comprehensive and specific policy framework and protocols on confidentiality and security, further exacerbate

the risk of re-traumatization, re-victimization, and re-stigmatization of survivors.

E. Inadequate measures to ensure accountability for incidents CRSV

34. CRSV survivors have been unable to secure remedies through the regular criminal justice system due to multiple barriers, including the statutory limitation applicable to cases of rape.⁶⁴ Additionally, the GoN has declined to investigate conflict-era cases, claiming that they fall under the jurisdiction of TJ bodies.
35. The amended TRC Act grants the TRC authority to investigate and collect evidence in cases of rape and other serious forms of sexual violence, with the mandate to present such cases to the public prosecutor. The Act also envisions the establishment of a Special Court, which is yet to be established, to adjudicate cases investigated by the TRC. However, because of inadequate legal provisions as discussed earlier and the absence of independence, competence, structural clarity, adequate procedures and the trust of victims, the TJ bodies are unlikely to deliver justice and accountability to CRSV survivors.
36. In addition, many survivors continue to endure long-term trauma, social stigma, and economic hardship. However, the Amended TRC Act lacks specific provisions to address these needs, particularly regarding security guarantees, confidentiality safeguards, psychosocial counseling, and legal and economic support during the complaint and investigation processes for rape and other forms of sexual violence. In addition, the limited understanding of the Commissions, combined with the absence of a comprehensive and targeted policy framework and protocols on confidentiality and survivor protection, heightens the risk of re-traumatization, re-victimization, and re-stigmatization.

F. Failure to ratify international human rights instruments and extend invitations to the UN Special Procedures

37. During Nepal's third UPR, a number of countries recommended that Nepal ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention for the Protection of All Persons from Enforced Disappearance; the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); and the Rome Statute of the International Criminal Court.⁶⁵ Nepal simply 'noted' the recommendations to become a party to some of these treaties. However, since then, the country has not ratified any of these treaties. Ratification of those international instruments is important, among other things, because it would contribute substantially to the effective implementation of other UPR recommendations.
38. In addition, in 2021 UPR, Nepal 'noted' the recommendations to extend invitations to all Special Procedures' mandate holders of the Human Rights

Council.⁶⁶ At the time of writing, requests for country visits from a number of Special Procedures, including the UN Working Group on Enforced or Involuntary Disappearances and from the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, are still pending with the GoN.

Recommendations

In light of the concerns set out above, the ICJ, AF and GSF call upon the UPR Working Group to recommend the following to the Government of Nepal:

Amend the Amended TRC Act, in particular the following provisions

- a) Amend Section 2(j)(2) of the Amended TRC Act on the definition of serious human rights violations by removing adjective 'serious' before 'sexual violence';
- b) Include other forms of egregious sexual and/or reproductive violence, such as sexual slavery, enforced pregnancy, forced prostitution, forced sterilization, forced nudity, mutilation of genitals or breasts, and forced circumcision, committed against anyone, under the definition of sexual violence;
- c) Include war crimes and crimes against humanity within the mandates of TJ bodies and include rape and other forms of sexual violence as war crimes or crimes against humanity, in line with international law and standards;

Ensure victim-centric, credible and independent TJ mechanisms

- d) Suspend the work of the TJ Commissions until the process is agreed by larger number of victims and civil society organizations, and initiate dialogues with victims' representatives and CSOs to chart a way forward so that conflict victims and CRSV survivors, in particular, may meaningfully and effectively participate in and contribute to the TJ process;
- e) Open dialogue with CSOs, human rights defenders accompanying conflict victims and CRSV survivors to chart the way forward so the CSOs could also participate in the TJ process.
- f) Ensure gender-competent processes and procedures in the TJ process, including the participation of women at all levels, including as Commissioners, experts and staffs of the TJ bodies.

Address discrimination against CRSV survivors in accessing interim relief and reparation and ensure survivors' participation in the design and implementation of relief and reparation programs

- g) Design a comprehensive reparation policy for conflict victims, CRSV survivors in particular, following a co-creation model and take special consideration and arrangements while designing and implementing reparation programs to address the specific needs of CRSV victims, including medical treatment, psychosocial counseling, legal aid assistance and livelihood support;
- h) Develop rules and procedures for relief and reparation programs together with survivors and ensure they have easy access to them;
- i) Immediately provide interim relief to CRSV to address their immediate needs, including medical and psychosocial support in coordination with civil society organizations.

Confidentiality and security of CRSV survivors

- j) Make necessary arrangements, at the legal, policy and institutional level, to ensure the confidentiality and security of CRSV so as to create a favourable environment for them to move forward in seeking justice for the harm they had suffered;

Ensure accountability for incidents of CRSV committed during the armed conflict

- k) Remove the three months' time-period for filing complaints of rape and other forms sexual violence in the Amended TRC Act,
- l) Amend the Criminal Code to ensure that the offence of rape be codified in a manner consistent with international law and to remove the time limitation imposed in reporting rape and other serious forms of sexual violence;
- m) Make the necessary legal, policy and institutional arrangements to ensure the confidentiality and security of CRSV survivors so as to create a favourable environment for them to come forward and seek justice for the harm they had suffered;
- n) Develop gender-competent policies and guidelines for investigating cases of rape and other forms of CRSV, including with respect to the registration process; the taking of statements; victim and witness protection; rules of evidence. Allow the use of contemporaneous evidence and documentation from the United Nations and national and international human rights organizations when assessing CRSV cases;
- o) Ensure gender-sensitive and gender-responsive working procedures for the Commissions that are not limited to having women as Commissioners but include training for staff, experts and other officials of the Commission on the gendered aspects of the TJ process;
- p) Guarantee the protection of victims of sexual violence, duly investigate allegations and ensure that those responsible be prosecuted, convicted and punished when the evidence so warrants and in keeping with the right to a fair trial of the accused;
- q) Enact gender-competent rules of evidence to make prosecution possible with respect to instances of rape and other forms of sexual violence committed during the conflict while ensuring respect for the right to a fair trial of the accused.

Ratify international instruments

- r) Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention for the Protection of All Persons from Enforced Disappearance and other international human rights and humanitarian law instruments to which Nepal is not yet a party;
- s) Ratify the Rome Statute of the International Criminal Court.

Extend standing invitations to all Special Procedures' mandate holders

- t) Accept the pending requests to visit Nepal from the UN Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,

and extend standing invitations to all UN Special Procedures' mandate holders of the Human Rights Council.

ENDNOTES

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- ¹ Commission of Inquiry on Enforced Disappearances, Truth and Reconciliation Commission Act 2014 (Third amendment) <https://trc.gov.np/rules/%E0%A4%AC%E0%A5%87%E0%A4%AA%E0%A4%A%E0%A5%8D%E0%A4%A4%E0%A4%BE-%E0%A4%AA%E0%A4%BE%E0%A4%B0%E0%A4%BF%E0%A4%8F%E0%A4%95%E0%A4%BE-%E0%A4%B5%E0%A5%8D%E0%A4%AF%E0%A4%95%E0%A5%8D%E0%A4%A4%E0%A4%BF%E0%A4%95%E0%A5%8B-%E0%A4%9B%E0%A4%BE%E0%A4%A8%E0%A4%AC%E0%A4%BF%E0%A4%A8-%E0%A4%A4%E0%A4%A5%E0%A4%BE-%E0%A4%B8%E0%A4%A4%E0%A5%8D%E0%A4%AF-%E0%A4%A8%E0%A4%BF%E0%A4%B0%E0%A5%82%E0%A4%AA%E0%A4%A3-%E0%A4%A4%E0%A4%A5%E0%A4%BE-%E0%A4%AE%E0%A5%87%E0%A4%B2%E0%A4%AE%E0%A4%BF%E0%A4%B2%E0%A4%BE%E0%A4%AA-%E0%A4%86%E0%A4%AF%E0%A5%8B%E0%A4%97-%E0%A4%90%E0%A4%A8-%E0%A5%A8%E0%A5%A6%E0%A5%AD%E0%A5%A7%E0%A4%B8%E0%A4%82%E0%A4%B6%E0%A5%8B%E0%A4%A7%E0%A4%BF%E0%A4%A4-1648702958.pdf>; Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para 159.62, 159.63, available at: https://upr-info.org/sites/default/files/documents/2021-08/a_hrc_47_10_e.pdf
- ² *Ibid*, Paras 159.21, 159.64, 159.65, 159.67, 159.68, 159.69, 159.71, 159.72
- ³ Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para 159.65
- ⁴ *Ibid*, Paras 159.64, 159.66, 159.70, 159.157, 159.158, 159.17
- ⁵ *Ibid*, Paras 159.8, 159.11, 159.12, 159.13, 159.14, 159.15, 159.16, 159.17, 159.18, 159.19
- ⁶ Advocacy Forum and International Center for Transitional Justice, Across the Lines, the Impact of Nepal's Conflict on Women, available at: <https://www.advocacyforum.org/downloads/pdf/publications/acrossthelines.pdf>; Nepal Conflict Report, 2012, United Nations, Office of the High Commissioners for Human Rights (OHCHR), available at: https://www.ohchr.org/sites/default/files/Documents/Countries/NP/OHCHR_Nepal_Conflict_Report2012.pdf
- ⁷ *Ibid*.
- ⁸ Section 11, Chapter on Rape, Country Code (Muluki Ain) states, “if a suit on the matter of rape is not registered within thirty – five days from the date of the cause of action, the suit shall not be entertained.”
- ⁹ The Criminal Code, enacted in 2017, increased the statute of limitation to file rape cases to one year from the date of the incident. This was later extended to two years.
- ¹⁰ https://advocacyforum.org/downloads/pdf/publications/Discriminations_and_Irregularities_A_painful_tale_of_Interim_Relief_in_Nepal.pdf
- ¹¹ The first National Action Plan (NAP) on the implementation of UN Security Council Resolutions 1325 and 1820 adopted by the GoN (February 2011- February 2016) outlined measures to increase women's political participation but failed to address CRSV victims' access to justice and reparation.
- ¹² GoN, The Second National Action Plan for the Implementation of United Nations Security Council Resolution 1325 and 1820 Resolution on Women, Peace and Security (FY 2022/2023-2024/2025)(September 2022-September 2025)
- ¹³ Advocacy Forum, “Briefing on the Implementation of National Action Plan II for the Implementation of the UN Security Council Resolutions 1325 and 1820 on Women, Peace and Security”, (December 2023), available at : <https://www.advocacyforum.org/downloads/pdf/publications/tj/briefing-on-the-implementation-of-national-action-plan-II.pdf>
- ¹⁴ OHCHR, *Technical Note: The Nepal Act on the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, 2071 (2014) – as Gazetted 21 May 2014 (2014)*.
- ¹⁵ *Suman Adhikari and Others v. Office of the Prime Minister and Council of Minister and Others*, Writ no 070-WS-0050 (Judgment delivered on 26 February 2015) para. 76.

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- ¹⁶ OHCHR, ‘Technical Note The Nepal Act on the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, 2071 (2014) – as Gazetted 21 May 2014’, [<https://studylib.net/doc/17675392/ohchr-technical-note-commission-on-investigation-of-disap...>], p. 1.
- ¹⁷ On 10 February 2015, the first TRC and CIEDP were established. Their mandate expired in April 2019 without any tangible result. Similarly, the second TRC and CIEDP established in January 2020 were dissolved in 2022.
- ¹⁸ Advocacy Forum, ‘The state of Transitional Justice in Nepal’, Briefing Paper, February 2019, p.12, available at: <https://www.advocacyforum.org/downloads/pdf/publications/tj/the-state-of-transitional-justice-in-nepal-briefing-paper-english-2019-unpublish.pdf>
- ¹⁹ TRC has not published disaggregated data of the CRSV case registered at the TRC. Reports suggests that only 314 cases relating to rape and CRSV are registered at the TRC. See <https://kathmandupost.com/national/2024/02/19/conflict-era-rape-victims-trauma-compounds>
- ²⁰ On 1 May victims issued a press release listing 11 points of critique against the ongoing process [<https://kathmandupost.com/national/2025/05/02/victims-reject-transitional-justice-shortlist-demand-new-selection-panel?s=09>]. On 6 May 2025, 10 organizations working on TJ appealed to immediately address the serious concerns of the conflict victims regarding the selection process for the TJ Commissions [6 May 2025, ‘Immediately Address Serious Concerns of Conflict Victims Regarding the Selection Process of Officials for the Transitional Justice Commissions’- Advocacy Forum (AF), Amnesty International, Accountability Watch Committee, Informal Sector Service Center (INSEC), JuRI-Nepal, Legal Aid and Consultancy Centre Nepal (LACC). On 14 May 2025, victims also submitted an open letter to the Prime Minister requesting a credible and transparent process for appointing officials to the two TJ commissions [<https://kathmandupost.com/national/2025/05/04/conflict-victims-urge-prime-minister-for-transparency-in-appointments-to-transitional-justice-bodies> and [<https://www.linkedin.com/company/advocacy-forum-nepal/posts/?feedView=all>]. On 16 May, victim organizations CVCP, CVWN, NEFAD held a joint press conference expressing their objections [<https://www.ratopati.com/story/490261/conflict-victims-object-to-appointment-of-officials-to-commissions>], and on 23 May the Gender and TJ Network condemned the inception of three month deadline for receiving the application of CRSV survivors [<https://www.facebook.com/share/p/1DBFdDu8bh/>].
- ²¹ Republica, TJ Faces turmoil as victims reject commission appointment, available at: <https://www.myrepublica.nagariknetwork.com/news/tj-faces-turmoil-as-victims-reject-commission-appointments-57-83.html>
- ²² Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para 159.64
- ²³ Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para 159.62, 159.63, 159.64 available at: https://upr-info.org/sites/default/files/documents/2021-08/a_hrc_47_10_e.pdf. (Para 159.62: Bring the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act into compliance with international norms, particularly with regard to the definition of amnesty, witness protection and the delays in processing complaints (Belgium); Para 159.63: Bring the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act in line with the Supreme Court’s ruling of 26 February 2015 to deliver meaningful results on truth, justice and reconciliation (Canada); Para 159.64: Bring the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act into compliance with the Supreme Court’s ruling and international standards and, in particular, include survivors of sexual violence and their families in the transitional justice process and all related government schemes. (Germany)).
- ²⁴ TRC Act (Third Amendment) 2014, Section 2(j)(1)
- ²⁵ *Ibid.*, Section 22 and Section 26(2).
- ²⁶ *Ibid.*, Section 23(1)(b)
- ²⁷ *Ibid.*, Section 31(a)
- ²⁸ *Ibid.*, Section 13(7)
- ²⁹ *Ibid.*, Section 19
- ³⁰ Section 2(j) of the TRC (Third Amendment) Act, 2014
- ³¹ Add an endnote here with link to: the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law; <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>
- ³² Section 2 J (1) of TRC (Third Amendment) Act, 2014.
- ³³ Section 219(2) of the National Criminal Code, 2017 states: “Where a man has sexual intercourse with women without her consent or with a minor girl below the age of eighteen years with her consent, the man shall be considered to commit rape on such women or girl child.”

- ³⁴ The Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, IT-96-23 and IT-96-23/1, Appeals Chamber, Judgement, 12 June 2002; United Nations Security Council Resolution 1820 (2008), S/RES/1820(2008)
- ³⁵ CEDAW, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (18 October 2013)
- ³⁶ UN Security Council Resolution 1820 (2008), Adopted by the Security Council and its 5916th meeting, on 19 June 2008, S/RES/1820(2008), available at: https://www.un.org/shestandsforpeace/sites/www.un.org/shestandsforpeace/files/unscr_1820_2008_on_wps_english.pdf. UN Security Council Resolution 1820 has acknowledged that rape and other forms of sexual violence can constitute a war crime and crime against humanity, or a constitutive act with respect to genocide and called upon member states to comply with their obligation for prosecuting persons responsible for such acts to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice
- ³⁷ Section 13 (6a) of the TRC (Third Amendment) Act, 2014 states that, “after the appointment of chair and other officials of the TRC it could publish a public notice, for one time, calling victims of rape and sexual violence or on their behalf to register complaint, who were left out to register their complaint previously, within three months’ time period.”
- ³⁸ <https://ekantipur.com/en/news/2025/05/23/objections-of-the-victims-to-the-notice-of-the-commission-01-43.html>
- ³⁹ UN Human Rights Council, Forty seven session, 21 June – 9 July 2021, Report of the Working Group on Universal Periodic Review Nepal, A/HRC/47/10, Para. 159.157, 159.158, 159.170, 159.175 available at: <https://documents.un.org/doc/undoc/gen/g21/074/68/pdf/g2107468.pdf?OpenElement> (159.157 Eliminate the current statute of limitations on reporting cases of rape and sexual violence, even in the context of conflicts (Uruguay); 159.158 Remove the one-year statute of limitations for rape and sexual violence to ensure that cases are brought to justice (Bahamas); 159.170 Eliminate the statute of limitations for rape and other sexual and gender-based violence in order to bring legislation into line with international standards (Denmark); 159.175 Abolish the statute of limitations for rape, bring existing legislation on rape into accordance with international standards, and enforce legislation on domestic violence and harmful practices (Germany).
- ⁴⁰ UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Forty – first session, 24 June – 12 July 2019, A/HRC/41/42/Add.2, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/176/95/PDF/G1917695.pdf?OpenElement>
- ⁴¹ Committee on the Elimination of Discrimination against Women, Concluding Observation on Seventh Periodic Report of Nepal, UN Doc. CEDAW/C/NPL/CO/7 (28 February 2025), available at: <https://docs.un.org/en/CEDAW/C/NPL/CO/7>
- ⁴² Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para 159.65 available at: https://upr-info.org/sites/default/files/documents/2021-08/a_hrc_47_10_e.pdf (Para 159.65: Ensure that the transitional justice process takes a gender-sensitive approach and upholds international standards, with the transparent and timely conclusion of cases by commissions of inquiry, ensuring the rights of all victims to truth, justice and reparation (Ireland)
- ⁴³ Section 27, TRC (third amendment) Act 2014 provides that the report should incorporate details about complaints investigated and proceedings suspended by the Commission, details on the truth and facts discovered from the investigation, the root causes of the armed conflict and matters on policy, legal, institutional, administrative and practical reforms required for non-recurrence of such incidents in the future.
- ⁴⁴ Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para 159.62, 159.63, 159.64 available at: https://upr-info.org/sites/default/files/documents/2021-08/a_hrc_47_10_e.pdf. (Para 159.69: Advance a credible and victim-centric transitional justice process that is consistent with the judgments of the Supreme Court of Nepal and international law (Australia), Para 159.71; Adopt, on the basis of transparent and inclusive consultations, a holistic transitional justice strategy, combining fact-finding, justice, reparations and guarantees of non-repetition, as well as institutional reforms (Switzerland)
- ⁴⁵ <https://kathmandupost.com/national/2024/10/20/government-restructures-committee-to-nominate-tj-commissions-officials>
- ⁴⁶ A statement published by 38 organizations of conflict victims and survivors, available at <https://nagariknews.nagariknetwork.com/social-affairs/1474049-1746094462.html>
- ⁴⁷ <https://myrepublica.nagariknetwork.com/news/committee-fails-to-recommend-office-bearers-in-tj-commissions-6762246884425.html>
- ⁴⁸ <https://myrepublica.nagariknetwork.com/news/conflict-victims-skeptical-call-for-a-new-public-selection-process-30-39.html>

- ⁴⁹ On 1 May victims issued a press release listing 11 points of critique against the ongoing process [<https://kathmandupost.com/national/2025/05/02/victims-reject-transitional-justice-shortlist-demand-new-selection-panel?s=09>]. On 6 May 2025, 10 organizations working on TJ appealed to immediately address the serious concerns of the conflict victims regarding the selection process for the TJ Commissions [6 May 2025, ‘Immediately Address Serious Concerns of Conflict Victims Regarding the Selection Process of Officials for the Transitional Justice Commissions’ - Advocacy Forum (AF), Amnesty International, Accountability Watch Committee, Informal Sector Service Center (INSEC), JuRI-Nepal, Legal Aid and Consultancy Centre Nepal (LACC). On 14 May 2025, victims also submitted an open letter to the Prime Minister requesting a credible and transparent process for appointing officials to the two TJ commissions [<https://kathmandupost.com/national/2025/05/04/conflict-victims-urge-prime-minister-for-transparency-in-appointments-to-transitional-justice-bodies> and [<https://www.linkedin.com/company/advocacy-forum-nepal/posts/?feedView=all>]. On 16 May, victim organizations CVCP, CVWN, NEFAD held a joint press conference expressing their objections [<https://www.ratopati.com/story/490261/conflict-victims-object-to-appointment-of-officials-to-commissions>], and on 23 May the Gender and TJ Network condemned the inception of three month deadline for receiving the application of CRSV survivors [<https://www.facebook.com/share/p/1DBFdDu8bh/>].
- ⁵⁰ <https://kathmandupost.com/national/2025/04/28/calls-grow-for-proper-vetting-of-transitional-justice-candidates>
- ⁵¹ ICJ, HRW and AI, Nepal: Ensure Credible Transitional Justice Appointments, available at: <https://www.icj.org/nepal-ensure-credible-transitional-justice-appointments/>
- ⁵² Nepal conflict victims reject transitional justice appointments as arbitrary, insulting, available at: <https://kathmandupost.com/national/2025/05/16/conflict-victims-reject-transitional-justice-appointments>; TJ Faces turmoil as victims reject commission appointment, available at: <https://www.myrepublica.nagariknetwork.com/news/tj-faces-turmoil-as-victims-reject-commission-appointments-57-83.html>
- ⁵³ Section 13 (6a) of the TRC (Third Amendment) Act, 2014 states that, “after the appointment of chair and other officials of the TRC it could publish a public notice, for one time, calling victims of rape and sexual violence or on their behalf to register complaint, who were left out to register their complaint previously, within three months’ time period.”
- ⁵⁴ <https://ekantipur.com/en/news/2025/05/23/objections-of-the-victims-to-the-notice-of-the-commission-01-43.html>
- ⁵⁵ <https://kathmandupost.com/national/2025/05/22/insurgency-era-victims-turn-down-call-to-register-new-complaints>
- ⁵⁶ Previously established TRC had collected around 314 complaint of sexual violence out of 60,00 complaint it had received. The commission faced trust deficit since its establishment as it was established without consultation with conflict victims and selection process was not transparent and independent. (<https://kathmandupost.com/national/2025/03/30/conflict-era-victims-of-sexual-violence-still-ignored>)
- ⁵⁷ Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para 159.65 available at: https://upr-info.org/sites/default/files/documents/2021-08/a_hrc_47_10_e.pdf (Para 159.65 Ensure that the transitional justice process takes a gender-in approach and upholds international standards, with the transparent and timely conclusion of cases by commissions of inquiry, ensuring the rights of all victims to truth, justice and reparation (Ireland)
- ⁵⁸ Global Survivors Fund, “Reparations For Survivors Of Conflict-Related Sexual Violence”, Country Briefing Nepal (June 2022), available at: https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Global_Reparation_Studies/GSF_Country_Sheet_Nepal_EN_June2022_WEB.pdf
- ⁵⁹ Report of the Special Rapporteur on Violence against Women, its causes and consequences, Human Rights Council, Forty First Session, 24 June – 12 July 2019, A/HRC/41/42/Add.2 (19 June 2019).
- ⁶⁰ Concluding observations of the CEDAW Committee on the seventh periodic report of Nepal, February 2025, para 15(b) available at: <https://docs.un.org/en/CEDAW/C/NPL/CO/7>
- ⁶¹ Section 22(a) of the TRC (Third Amendment) Act, 2014
- ⁶² Section 23 (1b) of the TRC (Third Amendment) Act, 2014: while recommending for interim relief in accordance with sub section (1) priority should be given to survivors of rape, sexual violence and torture.
- ⁶³ Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, (Para 159.188: Continue working to ensure that the police provide a safe and confidential environment for women and girls to report incidents of violence, including sexual violence, and that such complaints are recorded and investigated and those responsible are brought to justice (Malta)

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- ⁶⁴ Section 292 (2) of the Criminal Code, 2017. The time limit has been increased from six months to two years from the commission of the crime. However, so far the incidents committed more than two decade ago have not been addressed.
- ⁶⁵ Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para: 159.8, 159.12, 159.16, 159.17, 159.18, 159.19, available at: https://upr-info.org/sites/default/files/documents/2021-08/a_hrc_47_10_e.pdf
- ⁶⁶ Human Rights Council, Forty Seventh Session (21 June – 9 July 2021), Report of the Working Group on the Universal Periodic Review: Nepal, UN Doc. A/HRC/47/10, Para: 159.10, available at: https://upr-info.org/sites/default/files/documents/2021-08/a_hrc_47_10_e.pdf