

The Place of Economic, Social and Cultural Rights in Nepal's Transitional Justice Process

Baseline Study

March 2026



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Published in March 2026

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Acknowledgements

This report was researched and drafted by ICJ Consultant Roshani Giri and Legal Adviser Karuna Parajuli. The legal review was conducted by Dr. Mandira Sharma, ICJ Senior International Legal Adviser; Timothy Fish Hodgson, ICJ Senior Legal Adviser; and Livio Zilli, Deputy Program Director, ICJ Legal & Policy Office.

The Focus Group Discussions (FGDs) in Banke and Bardiya were facilitated by ICJ Legal Adviser Kashi Ram Dhungana. ICJ Staff members Nikunja Nepal, Saugat Gautam, Laxmi Pokharel, Pooja Shah, Pratistha Basnet, Shiwa Chaudhary, and Rijan Maharjan provided additional support for organizing all the FGDs and validation workshop.

The ICJ would also like to express its sincere gratitude to colleagues from the Nepal Society of Families of the Disappeared and Missing (NSFDM), Conflict Victims' National Alliance (CVNA), Conflict Victim Women National Network (CVWN), Conflict Victims Common Platform (CVCP), and Advocacy Forum (AF) for their invaluable support in coordinating locally with victims and their families during the organization of the FGDs for this report. Most importantly, the ICJ extends its heartfelt thanks to all the victims and their families who generously shared their firsthand experiences, as well as to the members of civil society organizations whose valuable input helped make this study possible.

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Acronyms and Abbreviations

CESCR	Committee on Economic, Social and Cultural Rights
CIED	Commission of Inquiry on Enforced Disappearances
CPA	ceve Peace Agreement
CPR	Civil and Political Rights
CRSV	Conflict Related Sexual Violence
CSOs	Civil society organizations (CSOs)
ESCR	Economic, Social and Cultural Rights
FGD	Focal Group Discussion
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Commission of Jurists
ICL	International Criminal Law
IHL	International Humanitarian Law
IHRL	International Human Rights Law
IRP	Interim Relief Program
NIAC	Non-International Armed Conflict
OHCHR	Office of the High Commissioner for Human Rights
TJ	Transitional Justice
TRC	Truth and Reconciliation Commission
UN	United Nations
UNDP	United Nations Development Programme
UNIRP	UN Interagency Rehabilitation Programme

Executive summary

A key challenge in Nepal's transitional justice process is its inadequate attention to victims' social and economic rights.¹ While the Constitution of Nepal, 2015 guarantees economic, social and cultural rights (ESCR),² and Nepali courts have developed a substantial jurisprudence on ESCR violations, drawing on both domestic and international human rights law and standards,³ these legal developments are yet to be integrated into the transitional justice process.

This study finds that while the recently amended Truth and Reconciliation Commission (Third Amendment) Act, 2014 recognizes reparations as a right, broader plans for the realization of ESCRs through the transitional justice process and how victims of ESCR violations are to be granted reparations are still missing.⁴ The Act also fails to recognize ESCR violations as serious violations requiring accountability. By focusing narrowly on individual violations of civil and political rights (CPRs), the TJ process risks failing to address the deeper socio-economic exclusions that continue to fuel grievances at individual, community and societal levels. As a result, the cycle of poverty persists, and the government has largely overlooked the ongoing hardships faced by victims.

The study also finds that lately, reparations have been a focus of victims, civil society and political actors. However, the focus has largely been about providing reparations through compensation, relief and services, rather than broader and more targeted efforts to alleviate poverty and inequality through the realization of ESCRs.⁵ Portrayal of reparations as a substitute for other critical instruments of transitional justice, including criminal accountability⁶, is also concerning.

The report further highlights that the provision of reparations does not absolve the State of its duty to pursue criminal accountability for serious human rights violations, nor does the pursuit of criminal accountability justify the exclusion of efforts to ensure reparations and measures to realize ESCRs more generally. A holistic TJ process requires that reparative social and economic justice and criminal prosecutions operate synergistically, reinforcing each other to achieve a comprehensive sense of justice for victims. Siloed approaches undermine both the TJ process and the very essence of reparative justice, thereby compromising the integrity of the accountability framework. Furthermore, reparations for ESCR violations during and beyond the armed conflict should not obstruct or delay the formulation and implementation of simultaneously broader and more targeted laws and policies that are essential to fully realize Nepal's broader ESCR obligations.

This study concludes that violations of ESCRs that occurred during the armed conflict in Nepal continue to endure in the post-conflict period. The ongoing impact of such violations disproportionately affects marginalized, low-income communities, with a particularly severe gendered impact. Importantly, the ongoing impact of ESCR violations restricts access to basic services, employment opportunities, land, housing, and

¹ Kathmandu Declaration- 2078 (2022), Endorsed through the National Interaction on Transitional Justice for Conflict Victims' Community Kathmandu, 2078 Chaitra 24 (April 7, 2022), Demands 9, 15 and 18 <https://www.advocacyforum.org/downloads/conflict-victims-kathmandu-declaration-2078-english-version.pdf>.

² The Constitution of Nepal 2015, arts 31-36 and 46.

³ Supreme Court of Nepal, Writ No. 3384/2061 (10 February 2006); Writ Nos 3575, 100, 104, 323, 500, 45, 41, 155, 162, 164, 167, 97, 110, 111, 142, 211, 250, 223, 262, 378, 418, 485, 617, 632, 635, 54(0002) 0004, 2588/0038 (01 June 2007); Writ No. 2063-WO-0920 (27 December 2007); NKP 2065 (2008) Issue 9, Decision No. 8012.

⁴ International Commission of Jurists, 'A Brief Review of Nepal's Transitional Justice (TJ) Law Donors and Supporters Must Be Vigilant To Ensure Compliance With Nepal's International Legal Obligations, While Supporting Its Implementation' (November 2024); Amnesty International, Human Rights Watch & International Commission of Jurists, 'Nepal: Transitional Justice Bill needs to protect victims, not abusers' (Press Release, 24 March, 2023) <https://www.ici.org/nepal-transitional-justice-bill-needs-to-protect-victims-not-abusers/>; Amnesty International, Human Rights Watch & International Commission of Jurists, 'Nepal: next Parliament should prioritize justice for conflict victims; carry out Supreme Court's law reform orders' (Press Release, 24 October 2022) <https://www.ici.org/nepal-next-parliament-should-prioritize-justice-for-conflict-victims-carry-out-supreme-courts-law-reform-orders/>; International Commission of Jurists, 'Nepal: Amendment bill to Transitional Justice Act needs revision' (Web Story, 29 July 2022) <https://www.ici.org/nepal-amendment-bill-to-transitional-justice-act-needs-revision/>.

⁵ Ruben Carranza, 'Relief, Reparations, and the Root Causes of Conflict in Nepal' (International Center for Transitional Justice, October 2012) <https://www.ictj.org/sites/default/files/ICTJ-Nepal-Reparations-2012-English.pdf>

⁶ Binod Ghimire, 'Reparation no substitute for truth and prosecution, say conflict victims, activists' *The Kathmandu Post* (12 May 2024) <https://kathmandupost.com/national/2024/05/12/reparation-no-substitute-for-truth-and-prosecution-say-conflict-victims-activists>

social security, especially for women, former child soldiers, and the families of victims, leading to intergenerational social, economic and cultural consequences.

Grounded in the robust inclusion of ESCRs in Nepal's post-conflict Constitution and its binding domestic and international commitments, TJ mechanisms have a significant role to play in operationalizing these rights. Nepal's TJ mechanisms must understand and interpret the mandate entrusted by the amended TRC Act consistently with domestic and international law and standards on ESCRs. While the Act recognizes the right to reparations, this provision can and should be understood and applied in such a manner to address the socio-economic harms characteristic of ESCR violations. This entails explicitly integrating such violations into the work of the TJ bodies and designing reparations programs that effectively address them.

Global experience shows that integrating ESCRs into transitional justice processes improves inclusivity and better addresses the root causes of armed conflicts.⁷ Nepal's continued failure to provide for a structured approach to connecting ESCRs with transitional justice highlights the need for legal, policy and institutional reforms. Moreover, a coherent framework requires clear differentiation in how ESCRs are understood:

- (i) ESCR violations as structural drivers of conflict;
- (ii) ESCR violations as harms arising from the conflict; and
ESCRs as central components of reparations and recovery.

Failing to address all three dimensions' risks limits the scope and effectiveness of transitional justice.

Key recommendations from the study include the following measures

1. Legislative Authorities

- 1.1 Reform the amended Truth and Reconciliation Commission (Third Amendment) Act, 2014
 - i. Amend Section 2 (j) 1 definition of "serious violations of human rights" to explicitly include ESCR violations, such as forced displacement, domicide, and systematic attacks on schools and educational institutions.
 - ii. Include provisions for monitoring and accountability in the Act to create a robust system to oversee the implementation of the mandates of the two Commissions, as well as the design and execution of reparation policies and programs.
- 1.2 Amend the Labor Act, 2017 to include affirmative provisions for conflict victims, by:
 - i. including provisions that encourage or mandate affirmative action, such as employment quotas and/or incentives for hiring conflict-victims, to promote their inclusion in the formal workforce.
 - ii. introducing legal requirements for regular monitoring and public reporting on the employment status of conflict victims, enabling data-driven policy-making and ensuring institutional accountability.
- 1.3 Amend the Right to Housing Act, 2018 to incorporate the following provision to address domicide by:
 - i. Defining "*domicide*" as the forced destruction, permanent loss, or unlawful occupation of a person's lawful home, residence, or dwelling, whether caused by government action, armed conflict, natural disaster, development projects, or private actors, resulting in the inability of the person or family to access adequate housing.
 - ii. Introducing provision for remedies for domicide that include restitution of their original housing, or provision of equivalent housing; financial compensation for loss of property and related damages; Access to social support services, including assistance for livelihoods, utilities, and relocation if required; and legal assistance to pursue claims arising from domicide.
 - iii. Including provision on "Monitoring and Reporting" such that the relevant authority shall maintain a registry of reported cases of domicide, monitor compliance with this Act, and

⁷ Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Adviser to the Secretary-General on the Prevention of Genocide, A/HRC/39/53 (2018) para 70.

publish annual reports on actions taken, remedial measures provided, and the status of victims' housing restoration.

- 1.4 Take the legislative measures necessary to ratify the Optional Protocol to the ICESCR and enable the filing of individual complaints alleging violations of the Covenant with the CESCR.

2. Executive Authorities

2.1 Cabinet of Ministries

- i. Formation of the Commission
 - Responding to the demands of victims' groups, appoint capable and independent Commissioners for the TJ mechanisms, following a transparent process.
 - Develop an analysis of Nepal's compliance with the recommendations of the CESCR⁸ in respect of the rights to education, health, employment, housing, social security and cultural rights and take measures to ensure compliance with the CESCR's concluding observations.
 - Submit a follow-up report to the CESCR providing updates on the government's plans to recognize and address ESCR-related violations through the TJ mechanisms.
 - Take the executive measures necessary to ratify the Optional Protocol to the ICESCR and enable the filing of individual complaints alleging violations of the Covenant with the CESCR.
- ii. Policy Measures addressing social and economic needs
 - Ministry of Law, Justice, and Parliamentary Affairs (MoLJPA), as the line Ministry of the TJ commissions in collaboration with them to develop a separate comprehensive policy framework on reparations, outlining clear measures and implementing strategies that align with international standards. Such measures could include:
 - Lifelong support: Provide lifelong support for the victims and their families living below the poverty line, based on a thorough assessment of their situation and needs, ensuring comprehensive and sustained support.
 - Pension Scheme: Establish a pension system for conflict victims to provide a steady source of livelihood, prioritizing those with disabilities, older individuals, and other vulnerable groups, ensuring long-term support for all affected.
 - Direct Financial Aid: Provide one-time grants or phased cash assistance for victims to rebuild their lives through the State-led need assessment.
 - Sustainable Livelihood Training: Provide long-term skills and livelihood training to victims and their families, tailored to local economic opportunities.
 - Adopt a new comprehensive National Housing Policy that explicitly incorporates the constitutional and internationally protected right to housing, as well as the provisions of the Right to Housing Act (2018). This policy should include special provisions for conflict victims, ensuring their access to adequate housing as part of the transitional justice framework.

⁸ Committee on Economic, Social and Cultural Rights (CESCR), *Concluding observations on the third periodic report of Nepal* (12 December 2014) para 28.

"The Committee calls on the State party to adopt legislation making primary school compulsory. It further recommends that the State party:

(a) Ensure access to schooling in rural areas and for Dalit and indigenous children in the context of its "Program me of education for all 2015";

(b) Make all necessary efforts to make secondary school free;

(c) Address the high rate of school dropout of girls, including by providing adequate sanitary infrastructure in all school..."

- iii. The TJ Commissions
 - Ensure that the Commissioners develop expertise in ESCR, international human rights law, and transitional justice to ensure a broad interpretation of their mandate through training and other capacity enhancement programs.
 - Ensure accurate identification of conflict victims and conduct a comprehensive needs assessment for victims and their families nationwide.
 - Ensure all human rights violations, including ESCR, are actionable within transitional justice processes, with Commissions interpreting them according to international standards to include victims of economic, social, and cultural harms.
 - Ensure that the Commissions interpret violations in line with international standards, avoiding arbitrary categorization that limits victims' access to justice.
 - Establish a comprehensive framework to address both individual and community harms, including financial compensation, psychosocial support, housing, education, employment, and healthcare. Ensure explicit coverage of economic, social, and cultural rights violations and set clear regulations for fair and systematic delivery of community reparations.
 - Involve victims and their families in the design and implementation of reparative measures, addressing the need for enhanced coordination between all three levels of the government, victims and civil society organizations in developing and implementing the reparation programs.
- iv. Take measures to harmonize and link efforts of TJ bodies and the NAP–II implementation mechanisms to facilitate, enable and promote participation of victims of CRSV and to address their rights and needs through holistic, comprehensive reparations.
- v. Ensure systemic and comprehensive responses to the alleviation of poverty and inequality, which integrate the work of TJ commissions with broader poverty alleviation plans and programs;
- vi. Programs to implement for victims' support and livelihood
 - Victim-Sensitive Land Return and Tenure Security: Ensure that all victims living on unregistered land have their property rights officially recognized and legally protected. Implement measures to formalize land ownership through title registration for individuals displaced or affected during the conflict.
 - Financial Assistance to support the livelihoods of victims and their families: While conducting employment programs as provided by the Right to Employment Act, 2015 ensure that priority is given to women, Dalits, those who are economically destitute, martyrs' families and families of the persons who were victims of enforced disappearances.
 - Social Security measures: Social security measures and their implementation should prioritize victims, including those with disabilities, torture survivors, widows, or individuals living in poverty, who have not received such support under other relevant laws. This should be done in accordance with Section 14 of the Social Security Act, 2018.
 - Social Security Allowances: Implement the provision of social security allowances to the wives of disappeared persons, recognizing them as single women eligible for such benefits, consistent with the Supreme Court's ruling⁹ and subject to detailed guidance to be provided in the full text of the judgment.
- vii. National Action Plan II implementation

Take measures to harmonize and link efforts of TJ bodies and the NAP–II implementation mechanisms to facilitate, enable and promote participation of victims of Conflict Related Sexual Violence (CRSV) and to address their rights and needs.

⁹ Birendra Thapaliya & et al. vs Nepal Government and Cabinet of Ministries, Supreme Court of Nepal, Case of 2072, 072-W0-0407 & 072-WO- 0408 Decision Date: March 2024.

2.2 Local Government

- i. Ensure Accessible and Equitable Delivery of Essential Services
 - Right to Education
 - Local level governments, including relevant educational authorities, should ensure access to free education for all people as provided by the Right to Free and Compulsory Education Act, 2018.
 - Implement section 3(9) of the Act relating to the right to get “special opportunities for education” for the “children of the martyrs, who have sacrificed their lives in the process of popular movements, armed struggle, revolution, of the disappeared persons, of conflict victims, of the wounded, of the persons with disabilities”.
 - Ensure that, where residential educational facilities are used as a means of providing access to education, children who are placed in such facilities can live in proximity to their families and communities.
- ii. Create a safe space for Cultural practices
 - Revival of Festivals and *Melas*
 - Work with local communities who want to restart traditional festivals and *melas* that were disrupted during the armed conflict, fostering an environment conducive to cultural revival and community healing.
 - Support for Cultural Preservation
 - Provide funding and logistical support for cultural events, rituals, and local traditions to restore a sense of identity and belonging.
- iii. Social support networks
 - Local governments should collaborate with communities to create support networks or support groups for widows of conflict victims to foster community solidarity, emotional support and combat stigma, discrimination and harmful practices against widows and single women to end stigma and discrimination against them.

2.3 Multilevel government coordination

- i. Right to Comprehensive Healthcare
 - Local and provincial government authorities should take all necessary measures to implement the programs for special social health security for “women, children...martyrs’ families...” as required by section 47 of the Public Health Services Act, 2018.
- ii. Right to Housing
 - The government of Nepal at all three levels should coordinate to provide immediate temporary housing for victims whose homes were destroyed or damaged during the conflict, ensuring safe and secure shelter in terms of section 13 of the Right to Housing Act, 2018 before making any arrangement for their resettlement pursuant to section 14 of the same Act.

3. Judicial Authorities

- 3.1 Where appropriate, initiate actions such as contempt of court proceedings, where the State fails to comply with judicial orders, decisions and rulings.
- 3.2 Follow up on the measures taken by the State to comply with the Supreme Court’s order regarding revision of the TRC Act to ensure its compliance with international law and standards.¹⁰

¹⁰ *Suman Adhikari et al. v Government of Nepal* 069-WS-0057, Supreme Court of Nepal (26 February 2015) (ordered government to create commissions for reconciliation, ensure prosecution of human rights violators, and provide victim reparation; *Rabindra Prasad Dhakal on behalf of Rajendra Prasad Dhakal v Ministry of Home Affairs, Government of Nepal and Others*, Supreme Court of Nepal (1 April 2013) (directive to formulate relief programme including employment, financial, and educational assistance); *Madhab Basnet and Others v Office of the Prime Minister and Council of Ministers and Others*, Supreme Court of Nepal (1 June 2007) (ordering reparation to victims and families with adequate economic, legal, and institutional arrangements); *Liladhar Bhandari and Others v Government of Nepal and Others*, Supreme Court of Nepal (related to confiscation of property and displacement; ordering establishment of district-level property return committees, assessment of losses, restitution of property, and fund for relief).

Chapter One

1. Background

Economic disparities,¹¹ persistent and systematic exclusion and discrimination against certain groups of people (e.g. ethnic, religious, cultural, geographical groups) often leave them feeling abandoned,¹² which, in turn, can contribute to such groups being persuaded to see violent conflict as the only effective or available means to change their circumstances.¹³ Nepal's armed conflict is a case in point. Before 1996, a centralized, unitary government, based in Kathmandu, contributed to a feeling of abandonment and discrimination in the rural parts of the country, where the presence of government was significantly less visible than in the capital.¹⁴

On 4 February 1996, the Nepal Communist Party Maoist (former rebels) presented their "40 Point Demand"¹⁵ document to the then government before taking up arms.¹⁶ The demands included various aspects relating to ESCRs, such as:

- ending the unequal land tenure system;
- guaranteeing employment for everyone;
- ensuring minimum wages for workers;
- providing homeless persons with adequate rehabilitation, ensuring access to secure housing and essential services;
- providing free education;
- ending the commercialization of education; and
- ensuring free and science-based health services to all.¹⁷

These demands were asserted as the means of establishing "a new democratic socio-economic system and State".¹⁸ It is widely argued that, in addition to the failure of the Nepali government to undertake social reforms, discrimination based on caste, gender, ethnicity, as well as social exclusion, economic inequality,¹⁹ inequitable access to education,²⁰ and scarcity of jobs and social services contributed to the conflict.²¹

The civil war stretched for a decade and only ended with a political settlement through the Comprehensive Peace Agreement (CPA) in 2006. The parties to the peace agreement agreed to address "issues faced by women, Dalits, indigenous peoples, Madheshis, minorities, and the marginalized by ending discrimination based on class, caste, language, gender, culture, religion, and region"²² and to establish a Truth and Reconciliation Commission (TRC) to probe the legacies of the human rights violations of the past.²³

As the government has established a TRC, the legal framework on transitional justice (TJ) and TJ-related discussions are largely focused on addressing violations of civil and political rights, such as unlawful killings,

¹¹ Lars-Erik Cederman & Manuel Vogt, 'Dynamics and Logics of Civil War', (2017) 61(9) *Journal of Conflict Resolution*, 1992 <https://www.jstor.org/stable/26363974>; Ted Robert Gurr, *Why Men Rebel* (40th Anniversary edn, Princeton University Press 2011).

¹² Frances Stewart, 'Social Exclusion and Conflict: Analysis and Policy Implications' (2004) UK Department for International Development, London (2004) <https://gsdrc.org/document-library/social-exclusion-and-conflict-analysis-and-policy-implications/>.

¹³ United Nations and World Bank, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* (2018) <https://openknowledge.worldbank.org/handle/10986/28337>.

¹⁴ Mahendra Lawoti, 'Looking Back, Looking Forward: Centralization, Multiple Conflicts, and Democratic State Building in Nepal' (*Policy Studies* 43, East-West Center 2007), <https://www.jstor.org/stable/pdf/resrep06531.pdf>.

¹⁵ Nepal Communist Party (Maoist), '40 Point Demand', (4 February 1996) <https://www.satp.org/satporgtp/countries/nepal/document/papers/40points.htm>

¹⁶ Nepal Communist Party (Maoist) was a political party in Nepal that emerged as a significant force during the country's civil war, the Maoist Insurgency (1996–2006). Its armed wing, the People's Liberation Army (PLA), led the armed insurgency in Nepal.

¹⁷ NCP (Maoist) (n15) point 27-40.

¹⁸ Baburam Bhattarai, 'Politico-Economic Rationale Of People's War In Nepal' (1998) 4 *The Worker: Organ of the Communist Party of Nepal (Maoist)* <https://www.bannedthought.net/Nepal/Worker/Worker-04/Bhattarai-RationaleOfPW-W04.htm>.

¹⁹ Bishwa Nath Tiwari, *An Assessment of the Causes of Conflict in Nepal* (University of New Mexico 2007) 24 https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=1033&context=nsc_research

²⁰ Tejendra Pherali, 'A critical analysis of conflict, education and fragility in Nepal: Towards a peacebuilding education', in Z. Gross and L. Davies (eds), *The Contested Role of Education in Conflict and Fragility* (Sense Publishers 2015) 93-107.

²¹ Nishchal Nath Pandey, 'Nepal's Maoist Movement and Implications for India and China' (RCSS Policy Studies No 27, Manohar Publishers 2005).

²² Comprehensive Peace Agreement 2006, art 3.5.

²³ Ibid art 5.2.5.

torture, enforced disappearances, and sexual violence. This framework and process, however, have not consistently or fully investigated, let alone addressed, violations of ESCRs.

2. Objectives of the Study

The objectives of this study are to:

- Analyze major ESCR violations committed during the armed conflict and assess their implications for transitional justice, accountability, and guarantees of non-recurrence in the post-conflict context; and
- Make recommendations on how a reparations programme in Nepal may fully consider, cater for and address ESCR violations in the transitional justice process that is currently underway.

3. Methodology

This study draws on a literature review²⁴ and nine Focus Group Discussions (FGDs).²⁵ A pre-study consultation with victim group leaders in Kathmandu in October 2024 helped identify participants and key ESCR violations. The FGDs were conducted across various locations²⁶ and focused on a range of issues, including ESCR violations; transitional justice experiences; government response to the challenges faced by victims in meeting ESCR-related needs; and recommendations regarding reparations. Researchers collaborated with the ICJ's long-standing local partners to ensure smooth engagement.²⁷ Following the FGDs, in early December 2024, the ICJ solicited feedback from representatives of victims' groups who had participated in the October pre-study consultation to validate the information received from the FGDs. A review of major policy documents, reports and national and international legal frameworks on ESCRs and transitional justice was conducted for the study.

4. Ethical Considerations

Researchers prioritized participants' rights, dignity and safety by ensuring voluntary participation, informed consent and providing anonymity as an option. Trauma-sensitive approaches were employed, and counselling referrals were made available.²⁸ Discussions were conducted in preferred languages, with translation provided as needed.²⁹

²⁴ The details of the literature review have been listed in the references and are cited throughout the report.

²⁵ Victims of conflict-related sexual violence were not included in the FGDs to protect their well-being, privacy, and safety. Further, many did not join the FGDs for fear of being ostracized.

²⁶ Nine FGDs were held across five districts, Banke, Bardiya in the Western part of Nepal and Morang and Sunsari in the Eastern part of Nepal including a FGD in Kathmandu with victims from Rolpa. Four FGDs focused on the wives and daughters of the victims of enforced disappearance or killings, due to their significant social economic burdens. FGDs involved conflict victims participating in transitional justice, with open-ended questions to guide discussions. Ten to 12 participants per group were purposefully selected to represent different violations. Additionally, one FGD was conducted with victims from Rolpa to ensure consultation with people from the district where the armed conflict originated, reinforcing the study's comprehensiveness and relevance. In total, 41 male participants and 74 female participants participated in the FGDs.

²⁷ Nepal Society of Families of Disappeared and Missing in Nepal, Conflict Victims National Alliance (CVNA), Conflict Victim Women National Network (CVWN), Conflict Victims Common Platform (CVCP) and Advocacy Forum.

²⁸ Substance Abuse and Mental Health Services Administration (SAMHSA), *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach* (2014), <https://library.samhsa.gov/sites/default/files/sma14-4884.pdf>.

²⁹ For those not comfortable with Nepali, local facilitators translated the questions as well as responses to local languages preferred by the victims.

5. Limitations

Geographically, the study involved participants from the districts of Banke, Bardiya, Morang and Sunsari, and displaced people from Rolpa district currently living in Kathmandu.³⁰ These districts were selected to probe and understand the experiences of victims living away from the capital.

The literature review highlights violations of ESCRs, which significantly deepened existing inequalities and fueled grievances and, therefore, were both the root causes and the consequences of the armed conflict.³¹ In light of this, this study focused on six key ESCRs: education, health, work, housing, social security and cultural rights. These specific rights were consistently identified through consultations and validated in the FGDs as among the ESCRs most impacted during and after the conflict. However, this focus presents a limitation, as this study may not fully capture the broader range of ESCRs affected by or contributing to the armed conflict or reflect all community-specific experiences.

As a qualitative study, data may reflect participant perspectives, but cross-referencing multiple sources helped mitigate subjectivity.

³⁰ UN Resident and Humanitarian Coordinator's Office, 'Transition from conflict to peace: a case study from Rolpa' (Issue 37, March 2012) <https://un.info.np/Net/NeoDocs/View/2344> states that on 13 February 1996, the then Communist Party of Nepal (Maoist) (CPN-M) declared the 'People's War' against the Government of Nepal (GoN) by attacking the Holeri police post in Rolpa district. The Maoist movement has been described as "a social and economic movement fueled by poverty, inequality and discrimination. The conflict lasted for ten years and hit Nepal hard, claiming more than 15,000 lives. In Rolpa alone 1,023 people were killed and much infrastructure destroyed". Therefore, it was crucial to incorporate the experience of conflict-affected people from Rolpa.

³¹ Ruben Carranza (n 5); Bishnu Raj Upreti and Ulrike Müller-Böker, 'Livelihood Insecurity and Social Conflict in Nepal' (South Asia Regional Coordination Office, Swiss National Centre of Competence in Research (NCCR) North-South Kathmandu 2010) https://www.dsgz.geo.uzh.ch/pdfs/Upreti_Livelihoods.pdf

Chapter Two: ESCR Situation Analysis

2.1 Introduction

Previous studies and reports highlight the violation of ESCRs as the major driver for Nepal's conflict.³² Building on this, victim testimonies in this report reveal how the armed conflict negatively affected their exercise and enjoyment of their ESCRs for various reasons, including as a result of: enforced disappearances; killings; and the forced recruitment and deployment of child soldiers.

Many victims shared personal struggles, including the loss of family members, financial hardship, ill-health and forced displacement. Their accounts emphasize the armed conflict's multi-generational harms, particularly those affecting children.

These experiences highlight the need for the transitional justice process to address violations of both CPRs and ESCRs, in line with the State's legal obligations under international human rights law (IHRL), international humanitarian law (IHL), and international criminal law (ICL).

2.2 International Obligations Relating to ESCRs

Nepal is party to a wide range of international human rights treaties.³³ Under international human rights law, States have legal obligations to respect, protect and fulfil human rights. This report focuses on Nepal's obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to respect, protect and fulfill ESCRs.³⁴ The Committee on Economic, Social and Cultural Rights (CESCR), through its General Comment No. 3 has elaborated on the *nature of States parties' obligations* under the ICESCR. It emphasizes the need for State parties to take both immediate and progressive measures to ensure that the realization of all ESCRs. While some ICESCR obligations are immediately effective, others may be realized over time. The four main obligations of immediate effects are:

- States must take steps towards realizing ESCRs in full;³⁵
- States must avoid any retrogressive steps decreasing the existing enjoyment/exercise of ESCRs;³⁶
- States must ensure ESCRs are enjoyed without discrimination;³⁷ and
- States must ensure enjoyment of at least the "minimum essential level" of ESCRs.³⁸

In addition to these immediate obligations, States must also, through the maximum use of their available resources, take progressive steps to realize all other aspects of ESCRs.

Furthermore, Nepal is a party to the four Geneva Conventions and Additional Protocol II of 1977. ESCRs are also to be guaranteed during non-international armed conflicts (NIAC) under principles such as humane treatment,³⁹ and under Additional Protocol II, 1977. This Protocol obligates all parties to a NIAC to protect

³² Dhruva Kumar, "Proximate Causes of Conflict in Nepal", *Nepalese Study*, vol.32, no.1. (January 2005); OHCHR, The Nepal Conflict Report, (01 October 2012), available at: <https://www.ohchr.org/en/documents/country-reports/nepal-conflict-report> ; Center for Research on Environment Health and Population Activities and International Center for Transitional Justice (ICTJ), Reporative Justice, "To Walk Freely with a Wide Heart", *A Study of the Needs and Aspirations for Reporative Justice of Victims of Conflict Related Abuses in Nepal*, (September 2014), available at: <https://www.ictj.org/sites/default/files/ICTJ-Report-Nepal-Reparations-2014.pdf> ; Mandira Sharma, The Complexities of Delivering Justice and Truth Simultaneously in Transitional Justice Processes with a Special Focus on Nepal, (2021) PhD thesis, University of Essex, available at <https://repository.essex.ac.uk/30782/> ;

³³ International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), Convention on Rights of the Child (CRC), Convention on Elimination of All Forms of Discrimination against Women (CEDAW), Convention on Rights of People with Disabilities (CRPD), The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) and also four Geneva Conventions.

³⁴ International Commission of Jurists (ICJ), *Practitioners Guide on Adjudicating Economic, Social and Cultural Rights at National Level*, No.8 (2014) 53 <https://www.icj.org/wp-content/uploads/2015/07/Universal-ESCR-PG-no8-Publications-Practitioners-guide-2014-eng.pdf>.

³⁵ Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 3: The Nature of States Parties' Obligations para 2 (14 December 1990).

³⁶ Ibid para 9.

³⁷ Ibid para 1.

³⁸ Ibid para 10.

³⁹ *Geneva Conventions of 12 August 1949*, Common Article 3, 75 U.N.T.S. 31.

individual civilians and the civilian population,⁴⁰ as well as cultural objects and places of worship.⁴¹ It prohibits the destruction of "objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works".⁴² It also requires the protection of the wounded and sick and requires healthcare services for them.⁴³ If these provisions are violated and civilians are targeted, then such violations may also amount to war crimes.

Similarly, some violations of ESCRs, if committed against the civilian population as part of a widespread or systematic attack,⁴⁴ may also amount to crimes against humanity. For example, starving a civilian population intentionally as a method of extermination,⁴⁵ deportation or forcible transfer,⁴⁶ or persecution on political, racial, ethnic, cultural, or religious grounds,⁴⁷ may amount to crimes against humanity. States are required to investigate, prosecute and provide effective remedies to victims of such violations.⁴⁸

2.3 Constitutional and Legislative Guarantees of ESCRs

The Constitution of Nepal, 1990, which was in force during the conflict, recognized certain ESCRs, such as cultural and education rights⁴⁹ and the right to religion,⁵⁰ as fundamental rights, but they were limited in their scope. Some of these rights were also included under the Directive Principles of the State, making them unenforceable through courts.⁵¹ The 2007 Interim Constitution, adopted in the immediate aftermath of the armed conflict, significantly expanded the ESCR guarantees in Nepali law.⁵² The 2015 Constitution further elaborated and consolidated ESCR protections, making ESCRs broadly justiciable. In addition, the 2015 Constitution explicitly addressed the rights and needs of victims of the armed conflict.⁵³ Various laws and policies have subsequently been adopted to give effect to ESCRs.⁵⁴

2.4 ESCR Violations During the Conflict

In light of relevant provisions of international and domestic law, the following sections analyze the ESCR violations during the conflict.

⁴⁰ Protocol II, art 13.

⁴¹ Ibid art 16.

⁴² Ibid art 14.

⁴³ Ibid arts 7–12.

⁴⁴ ICTY, Prosecutor v. Kunarac, Kovac and Vukovic, "Appeals Judgement", IT-69-23/IT-96-23-1, 12 June 2002, para. 85 "In order to amount to crime against humanity, the acts of an accused must be part of a widespread or systematic attack 'directed against any civilian population'. This phrase has been interpreted [...] as encompassing five elements: i. There must be an attack, ii. The acts of the perpetrator must be part of the attack, iii. The attack must be directed against any civilian population, iv. The attack must be widespread or systematic, v. The perpetrator must know that his acts constitute part of a pattern of widespread or systematic crimes directed against a civilian population and know that his acts fit into such pattern."

⁴⁵ Rome Statute of the International Criminal Court art 7(1)(b) (17 July 1998).

⁴⁶ Ibid art 7(1)(d).

⁴⁷ Ibid art 7(1)(h).

⁴⁸ Ibid arts 1 and 17.

⁴⁹ The Constitution of Nepal (n 2) art 18.

⁵⁰ Ibid art 19.

⁵¹ Ibid art 24. Application of Directive Principles and Policies: "(1) The principles and policies contained in this Part shall not be enforceable in any court. (2) The principles and policies contained in this part shall be fundamental to the activities and governance of the State and shall be implemented in stages through laws within the limits of the resources and the means available in the country".

⁵² *The Interim Constitution of Nepal* (2007) arts 13, 14, 16-18, 21-23, 30, 33-35.

⁵³ The Constitution of Nepal (n 2) art 42(5).

⁵⁴ The Act Relating to Compulsory and Free Education 2018; The Public Health Service Act 2018; Right to Food and Food Sovereignty Act 2018; The Right to Housing Act 2018; The Social Security Act 2018; and Right to Employment Act 2018.

2.4.1 Disruption in Access to Education

International Legal Provisions and Obligations

Article 13 (2) of ICESCR requires State parties to ensure that primary education is “compulsory and available free to all”,⁵⁵ while secondary education is made “generally available and accessible” and progressively made free.⁵⁶

CESCR has indicated that education is an empowerment right, enabling marginalized adults and children to escape poverty and fully participate in their communities.⁵⁷ Moreover, CESCR has interpreted the ICESCR to lay down the following four interrelated and essential features of education at all levels: availability,⁵⁸ accessibility,⁵⁹ acceptability⁶⁰ and adaptability.⁶¹ Furthermore, CESCR has noted that, “the obligation to fulfil (facilitate) requires states to take positive measures that enable and assist individuals and communities to enjoy the right to education”.⁶²

During emergencies, such as armed conflicts, violations of the right to education are often reported. Vernor Muñoz, a former Special Rapporteur on the right to education, has noted that half of out-of-school children reside in conflict-affected areas “with enrolment below 50% in some countries”.⁶³ In the context and aftermath of armed conflict, educational costs play an even bigger role than in peacetime in determining whether children access education.⁶⁴

Muñoz has emphasized that “uninterrupted education in conditions conducive to knowledge acquisition and character development” forms part of the right to education.⁶⁵ Indeed, education can “mitigate the psychosocial impact of conflict ... by giving a sense of normality, stability, structure and hope in times of crisis”,⁶⁶ and ongoing education during conflicts can save lives and help protect children against human rights violations. Similarly, in 2019, Koumbou Boly Barry, also a former Special Rapporteur on the right to education, emphasized education's preventive role in stopping atrocities and supporting transitional justice initiatives.⁶⁷ She also emphasized that “educational access” may be provided as a “form of reparations to help victims of human rights violations”.⁶⁸ Underfunding of public school systems and lack of access to schooling may, conversely, inhibit the preventative potential of education.⁶⁹

Domestic Legal Provisions and Obligations

At the time of the armed conflict, the applicable constitutional framework, the Constitution of the Kingdom of Nepal, 1990 Article 18 (2), provided that, “each community shall have the right to operate schools up to the primary level in its own mother tongue for imparting education to its children”. However, this provision did not guarantee free and compulsory basic education, despite Nepal already being a party to the ICESCR.

⁵⁵ International Covenant on Economic, Social and Cultural Rights adopted 16 December 1966) art 13(2)(a).

⁵⁶ Ibid art 13(2)(b).

⁵⁷ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No 13: *The Right to Education* (Art.13, 1999), Para 1 <https://www.ohchr.org/en/resources/educators/human-rights-education-training/d-general-comment-no-13-right-education-article-13-1999>.

⁵⁸ Ibid para 6 (a).

⁵⁹ Ibid para 6 (b).

⁶⁰ Ibid para 6 (c).

⁶¹ Ibid para 6 (d).

⁶² Ibid para 47.

⁶³ UN Human Rights Council, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, Right to Education in Emergency Situations*, Report of the Special Rapporteur on the Right to Education, Vernor Muñoz (20 May 2008), para 6 <https://docs.un.org/en/A/HRC/8/10>

⁶⁴ Ibid para 107.

⁶⁵ Ibid para 21.

⁶⁶ Ibid paras 34-35.

⁶⁷ Report to the United Nations General Assembly, *Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms*, Report of the Special Rapporteur on the right to education (29 July 2019) paras 4, 30-33 <https://docs.un.org/en/A/74/243>

⁶⁸ Ibid para 4.

⁶⁹ Ibid paras 39-41.

Article 31 of the Constitution of Nepal 2015 guarantees the right to education. To secure the implementation of this right, the Free and Compulsory Education Act 2018 was enacted. It provides that, "every citizen shall have the right of equal access to quality education. No one shall be discriminated on any ground to get education".⁷⁰ With regard to special measures for the education of the children of conflict victims, the Act also includes provisions for individuals who are "economically destitute"⁷¹ and, of direct relevance for present purposes, affirms that:

"Children of the martyrs, who have sacrificed their lives in the process of popular movements, armed struggle, revolution, of the disappeared persons, of conflict victims, of the wounded, of the persons with disabilities shall have the right to get special opportunities".⁷²

Furthermore, the Act requires authorities at all levels to ensure basic education for every citizen.⁷³ In line with international human rights standards, particularly the ICESCR and the principle of non-discrimination, the right to education should be guaranteed to all individuals without discrimination, including based on nationality, citizenship, or legal status.⁷⁴

Moreover, the Free and Compulsory Education Act, 2018 mandates local governments to provide "special opportunities for education" to armed conflict victims,⁷⁵ including basic education, a day breakfast,⁷⁶ education materials,⁷⁷ scholarships,⁷⁸ and residential education where needed.⁷⁹

Analysis of Victims' Testimonies

a. Forced Displacement and disruption in access to school

Overall, one victim of the conflict summarizes the impact of the conflict on their family members' right to education as follows:

"Before the conflict, we lived well, but losing our home and everything to looting left my brothers without an education".⁸⁰

Forced displacement during the armed conflict in Nepal had a profound impact on the right to education, disrupting the lives of students,⁸¹ teachers,⁸² and entire communities. In addition, the pervasive fear of abduction among students and their families further compounded the disruption,⁸³ as attending school became a potentially life-threatening activity.

Moreover, many families struggling financially due to the loss of their primary breadwinner had to sell their land to fund their children's education.⁸⁴ This also led to their displacement, while others had to shift the burden of earning a livelihood onto their young children,⁸⁵ preventing them from pursuing their education.⁸⁶

⁷⁰ Compulsory and Free Education Act (n 54) sec 3 (1).

⁷¹ Ibid sec 3 (8).

⁷² Ibid sec 3 (9).

⁷³ Ibid sec 4(1).

⁷⁴ ICESCR (n55) arts 2(2) and 13.

⁷⁵ The Compulsory and Free Education Act (n 54) sec 3(9).

⁷⁶ Ibid sec 25.

⁷⁷ Ibid sec 22.

⁷⁸ Ibid sec 23.

⁷⁹ Ibid sec 7.4.

⁸⁰ N17 (To preserve the anonymity of victims and other individuals interviewed for this study, the report simply refers to them through alphanumeric codes)

⁸¹ K5 was student when he was displaced and thus his education got disrupted.

⁸² K4 was a teacher who got displaced because the Maoist pressurize him to join their movement.

⁸³ K5 stated how the general feeling of fear of children either being taken by Maoist or beaten by the Army deterred parents from sending their children to school.

⁸⁴ V1 sold her disappeared husband's land to educate her daughter to be a pilot.

⁸⁵ N12 said that after he was bedridden from the torture inflicted on him, the economic burden shifted on his children depriving them of their education.

⁸⁶ N18 said that after his father disappeared, the responsibilities shifted on him, and he was unable to pursue the education in his chosen field.

When M19's brother was subjected to enforced disappearance, their father dedicated all his time to searching for him. As a result, M19 was forced to leave school to assume the responsibility of earning an income for the family, highlighting the intergenerational impact of enforced disappearance on the right to education and economic security. He told the ICJ:

"My brother was studying, so he was the hope of the family that our family would have a better status. But after his disappearance, I had to take on more responsibilities and could not continue my studies".

b. Schools as targets

Schools are civilian objects and targeting of schools during an armed conflict is thus prohibited under international humanitarian law.⁸⁷ Nevertheless, schools were often used as shelters or mined and bombed during periods of armed conflict.⁸⁸ Teachers and students were abducted, held hostage, killed and disappeared.⁸⁹

The Maoists dismissed formal education, labelling it as "bourgeois", while the army's activities created a climate of fear, deterring regular school attendance.⁹⁰ As a consequence of the armed conflict, the educational pathways of many individuals and families were profoundly affected, particularly in cases involving the enforced disappearance or killing of primary earners.⁹¹ The loss of breadwinners meant that families were left without the financial means to support their children's education and, in many cases, children were forced to take on income-generating responsibilities to help sustain their households.

In addition, families lived in constant fear of children being abducted by Maoists and forcibly recruited as child soldiers or harassed and beaten by the Nepali army on suspicion of affiliation with Maoists, especially while at school.⁹² This pervasive fear led many parents to keep their children home, disrupting their enjoyment of the right to education.

c. Inability to afford education

When the armed conflict ended, most conflict-affected families could not afford basic education. Many children were pulled out of school to work, while others could not pursue higher education due to prohibitively high costs.⁹³ Some families switched their children from private to public schools, despite believing it compromised education quality and future job prospects. This shift often marked a decline in economic status,⁹⁴ as families who once could afford private schooling for their children could no longer do so for their younger children.⁹⁵

⁸⁷ ICRC, *Rules of Customary International Humanitarian Law*, vol I (Cambridge University Press 2005) rule 10.

⁸⁸ Watchlist on Children and Armed Conflict, *Caught in the middle* (January 2005) <https://watchlist.org/wp-content/uploads/watchlist-english-final-20-jan.pdf>.

⁸⁹ Human Rights Watch, *The Maoists' Use of Child Soldiers in Nepal* (2007) <https://www.hrw.org/report/2007/02/01/children-ranks/maoists-use-child-soldiers-nepal> ; CPA (n 18) sec 7.5.4.

⁹⁰ K5.

⁹¹ N1, N2, N3, N8, N9, N11, N13, N15, N18, S2, S7, S19 all stated that their husband was the sole breadwinner of the family.

⁹² K5 stated how the general feeling of fear of children either being taken by Maoist or beaten by Army deterred parents from sending their children to school.

⁹³ B9's son completed 11th grade but could not proceed to the 12th grade due to financial limitations. Similarly, B5 had to sell land to repay loans taken for the business her husband ran, which severely limited her ability to pay for her children's education.

⁹⁴ S15 said that before his father's disappearance, they used to go to boarding school as he was running a business but after he disappeared, they had to shift to public school.

⁹⁵ N11's eldest son was enrolled in a boarding school, but when her husband disappeared, she could not send her other son to boarding school.

A participant whose husband was the victim of an enforced disappearance said to the ICJ:

"If my husband were here, I could have provided better education for my children".⁹⁶

Similarly, another participant noticed a difference in the quality of education between her children and her brother-in-law's children. She explained:

"My brother-in-law sent his children to boarding school, but I couldn't afford to. If my husband were with us, our children would also be in boarding school".⁹⁷

Although scholarships were available, they were often difficult to access or ceased once children turned 18,⁹⁸ rendering them inadequate for continuing education in the aftermath of the armed conflict. In some cases, scholarships came too late, as children had already grown older than the age limit and were no longer eligible for government scholarships.⁹⁹

Moreover, participants in the FGDs expressed hesitation about sending their children to residential schools established far from their local communities, even though these schools are intended for the children of conflict victims specifically.¹⁰⁰ They explained that the distant location of residential schools created difficulties for families in commuting frequently and posed emotional and psychological challenges for children who must live away from their homes and support systems.

d. School dropout causes: trauma and social stigma

Psychological trauma from witnessing violence or losing a loved one added to the predicaments faced by children.¹⁰¹ Many struggled to continue their education or secure stable employment afterwards.

Social discrimination against families of the disappeared affected their children's schooling, with children often feeling isolated or targeted, sometimes leading to them dropping out of school.¹⁰² Some faced stigma and peer pressure, being teased, or faced accusations that their father's disappearance was linked to alleged Maoist ties, which, in turn, led to them being labeled as Maoists themselves.¹⁰³

The loss of a father figure and lack of parental guidance further contributed to some children dropping out of school.¹⁰⁴ One participant described how her children's education was affected by their father's fate, stating:

"Because of trauma from what their father endured, they couldn't study. Now they work as labourers".¹⁰⁵

e. Severe impact on child soldiers

The armed conflict disrupted education, especially for children forcibly recruited and deployed as Maoist soldiers, who faced lasting educational deprivation.¹⁰⁶ Many were forcibly recruited at a young age, unaware

⁹⁶ B3.

⁹⁷ B8.

⁹⁸ B3 said that though her daughter studied up to 12th grade with a government scholarship, she could not get higher education because there was no scholarship after that.

⁹⁹ B4 said her daughter could not continue her education due to financial constraints as there was no scholarship at the time when she was in school.

¹⁰⁰ M1, M2, S1 & S2

¹⁰¹ N2 herself and her son have been suffering from mental health issues after the disappearance of her husband and her son thus was not able to continue his education.

¹⁰² S19 said that because her brother's friends used to tease him that his father had disappeared, he felt embarrassed and dropped out of school.

¹⁰³ N8's son stopped going to school because his friends teased him that his father disappeared because he was a Maoist.

¹⁰⁴ B1, B7's children did not obey them after their husbands disappeared and thus dropped out of school

¹⁰⁵ M8.

¹⁰⁶ Kate Macfarlane, 'Child Soldiers in Nepal: Re-conceptualizing reintegration and identity' (2023) 99(3) *International Affairs*; Child Workers in Nepal, April 2006, http://www.cwin.org.np/resources/issues/cic/cazop_enews/news3_4.pdf (accessed October 8, 2006). P1, V1 both stopped their education as they were recruited as child soldiers.

of the long-term impact on their future.¹⁰⁷ Despite the UN's rehabilitation program,¹⁰⁸ only a small fraction of former child soldiers received a formal education, and reintegration into the school system was often impossible due to the age gap between former child soldiers and children in the school system.¹⁰⁹

Most former child soldiers were left with no opportunity other than to accept low-paid, unstable jobs, making it difficult for them, in turn, to afford quality education for their own children,¹¹⁰ perpetuating a cycle of limited opportunities and unstable employment across generations.¹¹¹

2.4.2 Obstacles in Access to Healthcare

International Legal Provisions and Obligations

Article 12 (1) of ICESCR guarantees "the right to the enjoyment of the highest attainable standard of physical and mental health".¹¹² The CESCR has noted that guaranteeing the right to health requires healthcare systems, facilities, goods and services of sufficient quality to be available, accessible and acceptable to all persons.¹¹³ In relation to armed conflict and the right to health, the CESCR recommends that State parties should refrain from "limiting access to health services as a punitive measure, e.g. during armed conflicts in violation of international humanitarian law".¹¹⁴

In the context of international humanitarian law, Common Article 3 of the four General Conventions, which applies to NIAC, prohibits attacks on medical personnel and facilities, particularly health infrastructure, as civilian objects. Similarly, APII (1977) provides explicit protection of the medical units and establishments. These provisions are, among other things, aimed at safeguarding the right to health during armed conflict.

Referring to the violence in armed conflict and its impact on the right to health, the current Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng, has also noted that, a robust human rights framework on the right to health should actively prevent violence, safeguard individuals from all forms of harm, and ensure accountability and avenues for redress.¹¹⁵ She has emphasized, in particular, the prevalence of conflict-related sexual violence (CRSV), and has noted that, "states embroiled in conflict often have an insufficient number of qualified, trained health-care workers available to treat survivors of sexual violence".¹¹⁶ In respect of reparations, the Special Rapporteur has recommended that health services should be "provided as part of reparation programs for sexual violence survivors, especially for conflict-related sexual violence."¹¹⁷

¹⁰⁷ Brandon A Kohrt and others 'Recruitment of child soldiers in Nepal: Mental health status and risk factors for voluntary participation of youth in armed groups' (2016) 22(3) *Peace and Conflict: Journal of Peace Psychology*, 208–216 <https://doi.org/10.1037/pac0000170>

¹⁰⁸ Sophie Hodgson, 'Whose action plan? An analysis of the UN Security Council Resolution 1612 action plan and monitoring and reporting mechanism in Nepal' (2012) 4(2) *Journal of Human Rights Practice* 164–86, <https://doi.org/10.1093/jhuman/hus006>; 'Nepal: rehabilitation challenge for child soldiers', *The New Humanitarian* (12 January 2010) <https://reliefweb.int/report/nepal/nepal-rehabilitation-challenge-child-soldiers>.

¹⁰⁹ P1 could not continue his education after the conflict ended as he felt like he was past that age and could not go to class with students much younger than him

¹¹⁰ P1 said that he was too young to contemplate the impact of being a child soldier. When the conflict ended, he was already an adult, so he did not resume his education which has thus negatively impacted his own employment as well as the education of his children.

¹¹¹ P1 said that because he does not have good education, he does not have good employment and because he does not earn well, he is unable to provide the financial means necessary for a good education for his children.

¹¹² ICESCR (n 55) art 12(1).

¹¹³ General Comment No. 13 (n 57) para 6.

¹¹⁴ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No 14: *The Right to Highest Attainable Standard of Health* (Art.12, 2000) Para 34.

¹¹⁵ UN General Assembly, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Violence and its impact on the right to health*, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (14 April 2022), para 13 <https://docs.un.org/en/A/HRC/50/28>.

¹¹⁶ *Ibid* para 64.

¹¹⁷ *Ibid* para 22.

Previous Special Rapporteurs on the right to health have also highlighted the need for available, accessible and acceptable health services, including mental health services, during and after armed conflicts,¹¹⁸ especially for vulnerable groups.¹¹⁹ International humanitarian law assumes a functioning healthcare system exists even during armed conflict.¹²⁰

CESCR has warned that failing to monitor health rights, address inequities, or adopt gender-sensitive approaches violates the right to health. Moreover, the Special Rapporteur on the right to health has noted that under ICESCR:

“all States have an obligation to take steps, individually and through international cooperation and assistance, towards the full realization of economic, social and cultural rights, including the right to health. To comply with their international obligations, States must respect the right to health of populations in other countries, protect against violations by third parties where they can influence those third parties through legal or political means, and facilitate access to essential health services in other countries, depending on the availability of resources. In particular, States have an obligation to provide humanitarian aid in disasters and emergencies, including conflict and post-conflict situations”.¹²¹

Denying access to health services, including to survivors of violence, due to gender and other forms of discrimination, also breaches States’ obligations concerning the right to health.¹²²

Domestic Legal Provisions and Obligations

The Constitution of the Kingdom of Nepal, 1990, which was in force during the armed conflict, did not explicitly recognize the “right to health” as a fundamental right. Instead, it addressed health indirectly through the Directive Principles, particularly Article 25, which sets out the State’s responsibility to promote a “healthy social life” by reducing inequalities and ensuring general welfare.¹²³

Article 35 of the Constitution of Nepal, 2015 provides for the right to free access to basic health services from the State.¹²⁴ To give effect to the right to health, the Public Health Services Act, 2018 provides that, “every citizen shall have the right to obtain quality health service easily and conveniently”,¹²⁵ and that, “no citizen shall be deprived of health service.”¹²⁶ However, limiting the enjoyment of this right to only to citizens is inconsistent with international human rights law obligations under the non-discrimination principle and the right to equality before the law and equal protection of the law without discrimination.¹²⁷

The Act also guarantees “free basic health services”, including for “mental diseases”,¹²⁸ and extends this guarantee to all individuals, including elderly citizens.¹²⁹ The Act also authorizes the local and provincial governments to provide additional health services other than those guaranteed by the Act,¹³⁰ for which the concerned authorities would bear the financial burden.¹³¹ Under the Act, it is the duty of the Government to

¹¹⁸ UN General Assembly, *Right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, Note by the Secretary-General (9 August 2013) para 11 <https://digitallibrary.un.org/record/756304?ln=en&v=pdf>

¹¹⁹ Ibid para 71 (c).

¹²⁰ Amrei Muller, ‘The Right to Health and International Humanitarian Law: Parallel Application for Building Peaceful Societies and the Prevention of Armed Conflict’ (2015) *Wisconsin International Law Journal*; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, (1978) 1125 UNTS 308 arts 8(c) (‘medical personnel’), 8(e) (‘medical units’), 8(f) (‘medical transportations’), 8(g) (‘transports’), 16 (‘medical activities’).

¹²¹ UN General Assembly (n 118) para 52

¹²² UN Human Rights Council, *Violence and its impact on the right to health*, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng (14 April 2022) para 18 <https://docs.un.org/A/HRC/50/28>.

¹²³ The Constitution of the Kingdom of Nepal 1990 art 25 (3).

¹²⁴ The Constitution of Nepal (n 2) art 35.

¹²⁵ The Public Health Services Act 2018, sec.3 (1).

¹²⁶ Ibid sec 3(3).

¹²⁷ ICESCR (n 55) arts 2(2) and 12.

¹²⁸ Public Health Services (n 125) sec 3(4)(e).

¹²⁹ Ibid sec 3(4)(f).

¹³⁰ Ibid sec 3 (5).

¹³¹ Ibid sec 3(6).

"make arrangements for providing every citizen with quality health service from a health institution".¹³²
Pursuant to the Act:

"the Ministry and provincial government shall set up an emergency health treatment fund to make arrangements for bearing the expenses of treatment of poor and destitute... the family members of martyrs who sacrificed their lives in the course of the popular movement, armed struggle and revolution, the family of the enforced disappeared persons, the warrior of democracy, conflict victim and the displaced, the disabled, the wounded and the victim, in the case of not being able to bear the expenses incurred in treatment".¹³³

Local and provincial government authorities are also specifically required to make necessary arrangements "to implement the programs for special social health security for women, children...martyrs' families... as prescribed by the Government of Nepal."¹³⁴

The Act Relating to Children, 2018 makes provisions for "children who have lost both or either of their parents, or whose parents have disappeared, or have themselves got injured physically or mentally or [have developed a] disability due to a disaster or armed conflict" and considers them as "children in need of special protection".¹³⁵ In light of this, the Act requires other services and support, such as health treatment, psychosocial support, rehabilitation, and alternative care, to be provided to such children.¹³⁶

Similarly, the National Health Policy, 2019, emphasizes universal access to quality health services,¹³⁷ focusing on marginalized groups, such as Dalits and indigenous communities.¹³⁸ It commits the government to providing free basic health services,¹³⁹ with additional services to be provided by provincial and local governments.¹⁴⁰ The Policy notes that, "based on the principles of social justice, poor and prioritized target groups shall be linked with the State-subsidized insurance system".¹⁴¹ It aims to improve access to mental health and psychosocial services through primary hospitals¹⁴² and to ensure disability-friendly structures at all levels to guarantee healthcare access for persons with disabilities.¹⁴³

Analysis of Victims' Testimonies

a. Poverty and Financial Strain

The armed conflict plunged many victims of torture and families of victims of enforced disappearances into poverty, forcing them to sell land and/or livestock to cover medical expenses and other necessities.¹⁴⁴ Many victims took out loans for urgent health needs, leading to mounting debt and deepening financial strain.¹⁴⁵ Additionally, other victims were forced to leave work due to injury, illness or forced displacement, compounding their economic hardship.

b. Mental Health Challenges

¹³² Ibid sec 7.

¹³³ Ibid sec 33.

¹³⁴ Ibid sec 47.

¹³⁵ The Act Relating to Children 2018, sec 48 (1)(k).

¹³⁶ Ibid sec 48 (2).

¹³⁷ National Health Policy 2019, sec. 5.2 (a).

¹³⁸ Ibid sec 5.2 (c).

¹³⁹ Ibid sec 6.1.1.

¹⁴⁰ Ibid sec 6.1.2.

¹⁴¹ Ibid sec 6.2.2.

¹⁴² Ibid sec 6.17.5.

¹⁴³ Ibid sec 6.15.5.

¹⁴⁴ B11 sold all his cattle to cover his medical expenses for the injuries he suffered due to the torture inflicted on him.

¹⁴⁵ B12, who acquired a disability as a result of having been tortured by the army during the armed conflict, also had to take a loan from friends and families to cover his medical cost, N1 also took loans to cover her grandson's medical expenses.

The trauma from conflict-related violence, enforced disappearances, and the loss of loved ones resulted in widespread mental health difficulties being experienced by victims.¹⁴⁶ Despite their importance in post-conflict recovery, mental health services have either been unavailable or financially inaccessible,¹⁴⁷ with stigma further hindering sorely-needed mental health treatment and services.¹⁴⁸

c. Healthcare System Strain

Although healthcare institutions were not directly targeted during the conflict, the collapse of basic health services during the armed conflict affected victims' access to healthcare.¹⁴⁹ In the post-conflict period, despite efforts by some local governments to cover health insurance premiums,¹⁵⁰ victims still face delays in treatment and struggle to access care due to bureaucratic barriers and financial constraints.

d. Chronic Health Conditions

Victims report an inability to maintain a livelihood for themselves due to health complications and the loss of their previous income sources.¹⁵¹ Victims with ongoing health conditions, such as diabetes¹⁵² or cancer,¹⁵³ report finding it difficult to access the necessary healthcare, including free medicines, and point out that healthcare coverage is often insufficient, since it does not cover specific needs, such as urgent medical travel and related costs.¹⁵⁴

2.4.3 Joblessness and Lack of Employment Opportunities

International Legal Provisions and Obligations

Article 6(1) of ICESCR recognizes the right to work, which includes the right to the opportunity to earn a living by freely chosen work.

The steps to be taken by a State party to the Covenant to achieve the full realization of this right include "technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual."¹⁵⁵

¹⁴⁶ Himal Gaire and Sujita Baniya, 'Psychological Problems Experienced by Conflict-Affected Adolescents of Selected District of Nepal' (2022) <https://www.cmcnepal.org.np/wp-content/uploads/2024/07/PS-Problems-experienced-by-Conflict-affected-Adolescents-of-selected-district-of-Nepal.pdf>; International Centre for Transitional Justice, 'To Walk Freely with a Wide Heart: A Study of the Needs and Aspirations for Reparative Justice of Victims of Conflict Related Abuses in Nepal' (September 2014) <https://www.ictj.org/sites/default/files/ICTJ-Report-Nepal-Reparations-2014.pdf>; Brandon A Kohrt et al, 'Political violence and mental health in Nepal: prospective study' (October 2012) *British Journal of Psychiatry* <https://pmc.ncbi.nlm.nih.gov/articles/PMC3461445/>; DR Shakya et al, 'Nepalese psychiatric patients with armed-conflict related stressors' (2011) 9(2) *Health Renaissance* pp 67-72 <https://www.nepjol.info/index.php/HREN/article/view/4975/4109>; Rubeena Mahato, 'No Peace Within' *Nepali Times* (26 March 2010 – 01 April 2010) https://archive.nepalitimes.com/news.php?id=16930#.Xa_KL-Yza7Q; B7 has developed mental health issues. When she received the first installment of 1 lakh for reparation, she went to Lucknow for treatment. B15 said that she is suffering from mental health issues following her husband's disappearance; N2 has not been able to afford mental health care for her son, and B7 had to wait for reparation money just to be able to get some mental health treatment.

¹⁴⁷ N2 has not been able to afford mental health care for her son and B7 had to wait for reparation money just to be able to get some mental health treatment.

¹⁴⁸ Alok Atreya and others, 'Barriers to mental health care access in Nepal' (2023) 91(1) *Medico-Legal Journal*, <https://doi.org/10.1177/00258172221141293>.

¹⁴⁹ Bhimsen Devkota and Edwin R Van Teijlingen, 'Understanding effects of armed conflict on health outcome: A case of Nepal' (2010) *Conflict and Health* <https://conflictandhealth.biomedcentral.com/articles/10.1186/1752-1505-4-20>.

¹⁵⁰ S19 stated that Sundar Haraicha Municipality has made provision for free health insurance for conflict victims, but this is not available in all other local governments.

¹⁵¹ M1 was a health worker till 2 years ago but now she cannot work because of her health and old age.

¹⁵² S10 said that she is suffering from diabetes, abnormal uric acid levels, etc.

¹⁵³ M1 said her husband died of cancer and now she is suffering from cancer too.

¹⁵⁴ M1 needs to travel to Bharatpur, Chitwan every few months. Although the treatment is free, she cannot afford the travel and accommodation costs.

¹⁵⁵ ICESCR (n 55) art. 6 (2).

The full realization of the right to work requires the availability,¹⁵⁶ accessibility,¹⁵⁷ acceptability and adequate quality of work.¹⁵⁸ In addition, the right to work contributes to individual and family survival,¹⁵⁹ and work is important to ensure social and economic inclusion.¹⁶⁰ In elaborating on this right, the CESCR has observed that violations of the right to work occur when States fail to guarantee it, for example, when they fail to adopt national employment policies, or misallocate funds, or neglect marginalized groups.¹⁶¹

Article 7 of the ICESCR provides that States “recognize the right of everyone to the enjoyment of just and favorable conditions of work”.¹⁶² Elaborating on this provision, the CESCR has indicated that it requires, for example, fair and reasonable remuneration ensuring a decent living for workers and their families, as well as equal pay for equal work.¹⁶³ Moreover, safe and healthy working conditions must be ensured for the protection of the right to work and related rights, such as the rights to health and an adequate standard of living.¹⁶⁴

Nepal’s labour force is characterized by pervasive informality, with the majority of workers engaged in the informal economy.¹⁶⁵ Nonetheless, informal workers are entitled to the protections guaranteed by articles 6 and 7 of the ICESCR.¹⁶⁶ Moreover, noting the situation of informal workers globally, CESCR has stated, “many people living in an informal economy do so for the most part because of the need to survive, rather than as a matter of choice”. Nepal’s domestic policies, laws, and measures to give effect to the right to work should take these realities into account. Furthermore, CESCR has noted that, “domestic and agricultural work must be properly regulated by national legislation so that domestic and agricultural workers enjoy the same level of protection as other workers”.¹⁶⁷

Domestic Legal Provisions and Obligations

The Constitution of the Kingdom of Nepal 1990, which remained in force throughout the armed conflict, did not guarantee the right to work or the right to employment opportunities as fundamental rights. Instead, they were recognized under the Directive Principles and State Policies, reflecting them as aspirational goals rather than judicially enforceable rights.¹⁶⁸

The current Constitution distinguishes the components of the right to work from the rights at work, labelling them as the “right to employment” (right to work) and “labor rights” (rights at work), respectively.

Article 33 of the Constitution of Nepal 2015 guarantees the right to employment in the following terms:

¹⁵⁶ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 18: The Right to Work (Art. 6, 2005) para 12(a) <https://www.refworld.org/legal/general/cescr/2006/en/32433>.

¹⁵⁷ Ibid para. 12 (b).

¹⁵⁸ Ibid para 12 (c).

¹⁵⁹ Ibid para 1.

¹⁶⁰ Ibid para 4.

¹⁶¹ Ibid para 36.

¹⁶² This includes:

“(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays”.

¹⁶³ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23: The right to just and favorable conditions of work (Article 7, 2016), paras 7-11, <https://www.refworld.org/legal/general/cescr/2016/en/122360> .

¹⁶⁴ Ibid para 1.

¹⁶⁵ The Central Bureau of Statistics (CBS), *The Government of Nepal, Report on the Nepal Labor Force Survey 2017-2018* <https://data.nsonline.gov.np/dataset/nepal-labour-force-survey-2018> “This report has estimated that 62 percent people to be currently employed in the informal sector. It is estimated that there are 84.6 percent of the currently employed who are informally employed in all industries as compared to formal employment 15.4 percent in Nepal”.

¹⁶⁶ International Labour Organization, *Transition from the Informal to the Formal Economy Recommendation*, 2015 (No 204) https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R204.

¹⁶⁷ General Comment No. 18 (n 156) para 10.

¹⁶⁸ The Constitution of the Kingdom of Nepal (n 123) art 26.

- “(1) Every citizen shall have the right to employment. The terms and conditions of employment and unemployment benefits shall be as provided for in the Federal law.
(2) Every citizen shall have the right to choose employment.”

The Right to Employment Act, 2015 also provides that “every citizen shall have the right to employment”¹⁶⁹ and when unemployed, “every citizen shall have the right to get unemployment support”.¹⁷⁰ The Act further requires national, provincial and local levels of government to “conduct necessary employment programs to provide the unemployed persons with minimum employment”.¹⁷¹ Furthermore, it provides that,

“While conducting programs pursuant to sub-section (1), priority shall be given to the women, Dalits, economically destitute, martyr’s families and families of the persons enforcibly disappeared”.¹⁷²

While the Constitution and the Act restrict employment rights to citizens only, under international human rights law, there is no such restriction, and the right to work¹⁷³ and rights at work¹⁷⁴ are to be guaranteed to all individuals without discrimination.¹⁷⁵

In respect of support in situations of unemployment, national, provincial and local authorities must:

“provide information relating to employment opportunities, provide employment-oriented and skill-oriented trainings, provide soft loans for self-employment through banks and financial institutions...”¹⁷⁶

The Government’s Employment Policy 2014 aims to provide “entrepreneurial and self-employment training to ... conflict-affected, and marginalized rural communities”.¹⁷⁷ The Policy promotes “scholarships for the poor and bright students from rural areas who want to pursue higher studies in information technology”.¹⁷⁸ It also commits to adopting policies through which “the poor and marginalized communities can get involved in income-generation activities through these small financial institutions”.¹⁷⁹

Finally, the Policy also provides for “special programmes”, including those relating to waivers of school fees and other costs (such as uniforms and books) for “children belonging to poor and deprived communities”.¹⁸⁰

While the Labour Act, 2017 introduced important reforms, including the recognition of informal workers, the provision of social security benefits from the first day of employment, and the establishment of health and safety committees in larger enterprises, it does not include specific provisions or targeted measures to support the integration of conflict-affected populations into the formal labour market.

Analysis of Victims’ Testimonies

Victims identified two broad types of impact of the armed conflict on employment: first, the direct loss of employment due to the conflict; second, the loss of future opportunities due to limited education and displacement.

a. Loss of the Breadwinner and Employment

¹⁶⁹ The Right to Employment Act 2015, sec 3(1).

¹⁷⁰ Ibid sec 5.

¹⁷¹ Ibid sec 8 (1).

¹⁷² Ibid sec8 (2).

¹⁷³ ICESCR (n 55) art 6.

¹⁷⁴ Ibid art 7.

¹⁷⁵ Ibid art 2(2).

¹⁷⁶ Right to Employment Act (n 169) sec 20.

¹⁷⁷ National Employment Policy 2014 sec 10.11.

¹⁷⁸ Ibid sec 10.44.

¹⁷⁹ Ibid sec 11.4.

¹⁸⁰ Ibid sec 12.3.

When male breadwinners were forcibly disappeared, killed or disabled, for example, as a result of torture¹⁸¹ or other conflict-related causes, such as landmine explosions, entire families faced long-term economic hardship.¹⁸²

Before the armed conflict, many of these families were self-sufficient through farming,¹⁸³ running small businesses,¹⁸⁴ or employment.¹⁸⁵ However, due to the armed conflict, some victims were forced to resign from their employment,¹⁸⁶ while others were forced to close down their business.¹⁸⁷

b. Lack of Employment Opportunities

While some children of victims did access education, most of them remain unemployed,¹⁸⁸ either due to a lack of employment opportunities or because of a lack of connections to political leaders, which they indicate are necessary to facilitate employment.¹⁸⁹

Moreover, forcible displacement, whether of individuals or workplaces,¹⁹⁰ led to job losses,¹⁹¹ sometimes forcing victims to work as daily labourers or make and sell homemade liquor to support their children's education.¹⁹²

The non-operation of local markets (such as melas¹⁹³/hat bazaars¹⁹⁴) during the armed conflict led to reduced business opportunities.¹⁹⁵ Participants stressed the importance of local employment to keep families together. For example, one participant explained that: "*If my brothers had good local jobs, they could return from the Gulf and live with us*".¹⁹⁶

Finally, armed conflict victims, including those who were forcibly displaced, face several barriers in accessing formal employment opportunities.¹⁹⁷ Victims who lost their family breadwinners and lacked job opportunities have often been forced to seek work in the informal sector, where employment is unstable and insecure. They

¹⁸¹ N21 said that he had a technical job prior to the conflict, but he had to give it up after he suffered massive injuries and subsequent disability because of the conflict. N12 could not do physical labour due to the torture inflicted on him and thus the economic responsibility shifted to his children. N19 also could not work anymore because of the damage to both of his legs as a result of being tortured.

¹⁸² N1, N2, N3, N8, N9, N11, N13, N15, N18, S2, S7, S19 said that their husband/father was the sole breadwinner at the time of incident.

¹⁸³ M4's husband was a farmer who provided for them before he was subjected to enforced disappearance; KII-1, B6, B10 and B2 said the same had happened to them.

¹⁸⁴ N11's husband was running a furniture business that shut down when her husband was subjected to enforced disappearance; S15's father used to run a poultry business; N4 and her husband used to run a boarding school; B16 owned a small agrovet shop that was destroyed during the conflict. N1's husband owned a shop that shut down after he was subjected to enforced disappearance. N5's husband used to run a chicken farm that provided for their livelihood but, after he disappeared, the business was shut; B5's husband used to run a tile factory.

¹⁸⁵ M4's husband was a farmer and provided for them before being subjected to enforced disappearance, KII-1, B6, B10 and B2 said the same.

¹⁸⁶ M12 used to work in postal services but was forced to resign by the Army. N16's husband was also forced to resign from the police.

¹⁸⁷ N4 and her husband used to run a boarding school that had to shut after her husband disappeared; B5 had to shut her husband's tile factory after his disappearance as she did not know how to run it; N11 also shut down her husband's furniture business because she did not have the skills to run it after he disappeared.

¹⁸⁸ M3, M6, M10, N2, N6, N8, S9's children do not have education. S4 completed her 12th grade but is unemployed. KII 1's son is also unemployed.

¹⁸⁹ Several victims stated that those with connections to political leaders have gained benefits, such as employment and access to government packages. Additionally, most of the victims (B6, B7, B8, B9, B11, B12, B19, S3, S9, S11, S12, S13, S16, S19, M3, M6, M8, M9) still seek stable employment for their children.

¹⁹⁰ K4 was a teacher at a boarding school which was displaced during the conflict causing him to lose his job.

¹⁹¹ Som Prasad Niroula, 'Voiceless Citizens: A Case Study of Internally Displaced Persons in Nepal' (Refugee Watch Research Paper No 32, Madras Institute of Development Studies 2008), http://www.mcrq.ac.in/rw%20files/RW32/7.Som_Prasad_Niroula.pdf

¹⁹² K2.

¹⁹³ *Melas* in Nepal are culturally significant gatherings, typically organized during religious or seasonal festivals. They play a vital role in community life—bringing people together for worship, social interaction, trade, entertainment, and the celebration of shared traditions and local heritage.

¹⁹⁴ *Hat bazaars* in Nepal are weekly open-air markets service as local trade and social hubs, especially in rural areas and southern belt of Nepal. It is typically once a week or fortnightly.

¹⁹⁵ K6 stated that melas, which were prevalent prior to the armed conflict, have virtually disappeared.

¹⁹⁶ S19.

¹⁹⁷ David Seddon and Karim Hussein, *The Consequences of Conflict: Livelihoods and Development in Nepal* (Overseas Development Institute, December 2002) 45 <https://www.files.ethz.ch/isn/100544/wp185.pdf>.

therefore had to take work, for example, as construction labourers,¹⁹⁸ domestics and/or house-keepers,¹⁹⁹ casual and day labourers,²⁰⁰ street vendors,²⁰¹ and small-scale traders.²⁰² By their nature, these jobs often lead to economic struggles due to irregular income and lack of social protection, exposing individuals to exploitation and perpetuating the cycle of poverty.

2.4.4 Internal Displacement and Its Impact on Access to Housing

International Legal Provisions and Obligations

The right to adequate housing is a component of the right to an adequate standard of living guaranteed in Article 11 (1) of ICESCR. This right entitles individuals and families to access adequate housing without discrimination.²⁰³ States must prioritize the provision of housing for marginalized groups.²⁰⁴

CESCR has cautioned that this right should not be interpreted “in a narrow and restrictive sense” by viewing it merely as “a commodity”.²⁰⁵ Adequate housing is a universal right, ensuring security, peace and dignity for individuals and families, regardless of status.²⁰⁶ The full realization of the right to adequate housing requires the fulfilment of a range of components of the right, including protection of legal security of tenure, which guarantees legal protection against forced eviction,²⁰⁷ and protection against arbitrary destruction and demolition of people’s homes.²⁰⁸ In summary, the components of the right to adequate housing are:²⁰⁹ (a) security of tenure; (b) availability of services; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy.

States are required under international law and standards to take measures to prevent homelessness and alleviate it. Moreover, States have a positive duty to guarantee the right to housing through measures such as public financing of housing and direct construction of new housing.²¹⁰

In addition, CESCR has highlighted that “many instances of forced eviction” are “associated with violence, such as evictions resulting from international armed conflicts, internal strife and communal or ethnic violence.”²¹¹ Forced evictions that deliberately destroy homes can amount to *domicide*—“the deliberate destruction of homes, the rendering of homes uninhabitable or any other systematic denial of housing”—which, in turn, violates ESCRs, such as the right to adequate housing. The Special Rapporteur on adequate housing has also called on States to recognize “domicide”²¹² as “an international crime of its own standing”.²¹³ He has further observed that, during armed conflicts, destruction of housing is not always merely incidental—it is “not only systemic, but systematic”.²¹⁴ Forced eviction of civilians during the armed conflict, without military necessity and lawful grounds, may amount to war crimes²¹⁵ and/or crimes against humanity, when such evictions are widespread or systematic.²¹⁶

¹⁹⁸ N3 worked as construction worker.

¹⁹⁹ B1.

²⁰⁰ N8, B4 worked as casual and daily worker, B10’s children work as daily labourers.

²⁰¹ K1.

²⁰² S12, N4 and N10 had their small unregistered shops.

²⁰³ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing (Art. 11 (1), 1991) para 6, available: <https://www.refworld.org/legal/general/cescr/1991/en/53157>

²⁰⁴ Ibid para 11.

²⁰⁵ Ibid para. 7.

²⁰⁶ Ibid para. 7.

²⁰⁷ Ibid para. 8.

²⁰⁸ OHCHR, *The Right to Adequate Housing: Fact sheet 21* (Rev 1) (2009) 3 https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf.

²⁰⁹ CESCR General Comment No. 4 (n 203), para 8.

²¹⁰ Ibid para 13.

²¹¹ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (art. 11 (1), 1997): Forced evictions, para 6.

²¹² UN General Assembly, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context*, Balakrishnan Rajagopal (19 July 2022) para 48, <https://docs.un.org/en/A/77/190>.

²¹³ Ibid para 47.

²¹⁴ Ibid para 10.

²¹⁵ Rome Statute (n 45) art 8(2)(e)(viii).

²¹⁶ Ibid art 7(1)(d).

Additionally, the destruction of housing in the context of armed conflict may violate any of the above-mentioned components of the right to adequate housing by, for example, eliminating security of tenure (through eviction)²¹⁷ and reducing the habitability of homes (because of damage to homes or lack of safety in continuing to live in them).²¹⁸ Even where housing is not destroyed, it may be rendered inaccessible to those who lived in it (compromising accessibility), or access to vital services—such as water, healthcare, education, energy supply and transport that are critical to enjoying adequate housing—may be compromised by armed conflict (compromising availability of services).²¹⁹ Families may also be required to live in distant places, which are not familiar to them, and in contexts and environments that “undermine their fundamental sense of belonging and home” (compromising location and cultural adequacy).²²⁰

The Special Rapporteur on adequate housing has therefore emphasized the importance of the right of access to timely remedies for violations of the right to housing in the context of armed conflict, emphasizing that “restitution to the original position ... takes precedence”.²²¹ He has therefore recommended that it is central to restorative justice that property, land and housing lost by individuals and families during conflicts be returned to them.²²² He further notes that:

“the right of return applies only to voluntary return. Persons, groups and communities must not be forced or otherwise coerced, either directly or indirectly, to return to their former homes, lands or places of origin and must be based on a free, informed and individual choice”.²²³

Where such restoration is “factually impossible”, compensation should be provided, considering any “economically assessable damage”, including business losses, losses to equipment/inventory, livestock, land, trees/crops and lost or decreased income and/or wages.²²⁴

²¹⁷ CESCR General Comment No. 4 (n 203) para 7.

²¹⁸ International Covenant on Civil and Political Rights (adopted 16 December 1966) art 17.

²¹⁹ *Report of the Special Rapporteur on Adequate Housing (n 212)* para 12.

²²⁰ *Ibid* para 14.

²²¹ *Ibid* para 71.

²²² *Ibid* para 71.

²²³ *Ibid* para 73.

²²⁴ *Ibid* paras 71-75

Domestic Legal Provisions and Obligations

In the Constitution of the Kingdom of Nepal 1990, which was in force during the armed conflict, housing was framed not as an enforceable right, but as a key component of people's standard of living and an instrument for promoting social justice and balanced regional development under the State's policies.²²⁵

Article 37 of the current Constitution guarantees the right to housing and protects against unlawful eviction.²²⁶ Furthermore, the Right to Housing Act, 2018 guarantees that "a citizen shall be allowed to use his or her housing peacefully without any interruption",²²⁷ and that no citizen will be evicted from his or her residence, for public purposes, without resettlement or compensation.²²⁸ Before eviction, sufficient notice must be provided, along with reasons for the eviction, and the presence of an authorized official at the time of eviction is required.²²⁹ The Act also requires homeless persons and families to, over time, be provided with housing by Nepali authorities.²³⁰

In line with the ICESCR and the principle of non-discrimination, the right to adequate housing should be guaranteed to all individuals regardless of nationality, as restricting it to citizens is inconsistent with Nepal's international human rights law obligations.²³¹

Concessional financial facilities²³² are provided under the Act for homeless persons,²³³ and, where such individuals are unable to build a house even with such concessional financial facility, housing is required to be provided to them by the State on a progressive basis, based on the priority of their need.²³⁴ In practice, to obtain housing under the Act, such individuals are required to make a self-declaration that they or their family do not have any land to their name in any part of the country and do not have the financial means to provide for their own housing.²³⁵ Critically, the Act only makes provision for temporary housing/resettlement for people displaced by "natural disasters", without any reference to those displaced in other circumstances, including as a result of the armed conflict.²³⁶ It therefore does not assist victims of the conflict rendered homeless or without housing, in its wake.

The National Housing Policy 2012, on the other hand, which predates the current Constitution and new Act on housing, requires the federal government to prepare a "Temporary Housing Plan, as Contingency Plan" for persons displaced as a result of the armed conflict.²³⁷ However, the policy has neither been implemented nor updated to align with the newer constitutional legal framework.

The provincial government of Madesh province has introduced a scheme to provide affordable housing for the "urban poor".²³⁸ Although the scheme does not explicitly list armed conflict as a criterion, it includes vulnerable groups, such as poor persons, widowed women and orphaned children, among its targeted beneficiaries.²³⁹

Analysis of Victims' Testimonies

²²⁵ The Constitution of the Kingdom of Nepal (n 123) art 26.

²²⁶ The Constitution of Nepal 2015 (n 2) art 37.

²²⁷ The Right to Housing Act 2018, Sec.4(1).

²²⁸ Ibid sec 5(2).

²²⁹ Ibid sec 5(4)(b).

²³⁰ Ibid sec 7.

²³¹ ICESCR (n 55) arts 2(2) and 11 (1).

²³² The United Nations has recognized concessional financial support, such as grants, low-interest loans, and technical assistance, as effective tools for addressing homelessness and promoting access to adequate housing. For example, UN-Habitat's Housing Rights Programme collaborates with the Office of the High Commissioner for Human Rights (OHCHR) to assist governments and civil society in advancing the right to adequate housing, see UN-Habitat, 'Housing Rights' <https://unhabitat.org/programme/housing-rights>.

²³³ Right to Housing Act (n 227) sec 8(1).

²³⁴ Ibid sec 8(2).

²³⁵ Ibid sec 12.

²³⁶ Ibid sec 13 and 14.

²³⁷ The National Housing Policy 2012, Strategy 3.1.E,3.1.7 , Procedure 4.6.1.

²³⁸ Mahendra Narayan Nidhi Deprived Housing Scheme 2018.

²³⁹ Mahendra Narayan Nidhi Deprived Housing Scheme, Implementation Procedure 2018.

The testimonies of the victims identify violations of the right to adequate housing during and after the armed conflict, resulting, in turn, in a general worsening of their economic, social and psychological circumstances.

a. Destruction/demolition of homes

Many victims' homes were destroyed, severely damaged or abandoned due to the conflict. Other victims were forcibly displaced as a result of their homes being destroyed, demolished or damaged. This left multiple families homeless and struggling to rebuild their lives. Several victims were displaced due to the destruction of their homes.²⁴⁰ For example, one family of 13 was forced to leave their home after it was looted and then destroyed.²⁴¹ Losses of homes,²⁴² forced displacements, and the looming threats of eviction from their current living spaces have inflicted severe trauma on the victims.

b. Lack of Security of Tenure and forced eviction

Many victims were forced to leave their homes because of the threat of violence, torture and killing of their loved ones. Forced conscription and extortion also forced many to leave their homes.²⁴³ In cases where victims now live in houses built on land not legally registered in their names, they have faced heightened insecurity,²⁴⁴ having to live with the fear of eviction. A victim displaced to Kathmandu faced additional housing challenges as a result of the fact that they hailed from the Rolpa district,²⁴⁵ further diminishing their access to secure housing.²⁴⁶ In one case, a widow and her daughters were expelled by her in-laws and forced to take refuge in a cattle shed.²⁴⁷ This case highlights the vulnerability of widows²⁴⁸ and their children to homelessness when they lack the means to protect their property or access social support, and are simultaneously subjected to severe mental stress resulting from the threat of homelessness/eviction. This distress is evident in the pleas of many victims, who have resorted to simply asking for the bare minimum: to have the small, unregistered plots of land they currently inhabit officially registered in their names as a form of reparation.²⁴⁹

c. Property Grabs and Delays in Restoration

People experienced land grabs, violent looting and, in some cases, their homes were destroyed by bombs.²⁵⁰ Nearly two decades after the conflict ended and the CPA was signed, many people continue not to have access to the properties that were taken away from them during the conflict, and some have not been able to recover their houses/land.²⁵¹ Property returns have often been handled on an *ad hoc* basis through local negotiations, sometimes requiring "donations" to those occupying the land for its return.²⁵²

²⁴⁰ K6, K1.

²⁴¹ N17's house was destroyed thereby displacing her family of 13.

²⁴² K6, K1.

²⁴³ K4 was forced to flee his village after repeated attempts by the Maoists to forcibly recruit him into their ranks; K2 was displaced while pregnant. After her father, an elected representative, was killed by Maoists, her husband, a police official, was forced to resign, and their home and belongings were seized by the armed group; K5, who was a teacher during the conflict and remains one today, was regularly forced by the Maoists to surrender a month's salary.

²⁴⁴ M5, M4 said that the land where they live in right now is not registered fueling their fear of being evicted. They said that for them, registration of land in their name would be a form of reparation itself to enhance the quality of their life.

²⁴⁵ As Rolpa District is widely considered to be the place where the 1996–2006 armed conflict originated, people from Rolpa district have found it difficult to rent rooms in other places in the country. They were suspected of associating with the then rebels (maoists).

²⁴⁶ K6.

²⁴⁷ B2 said that her in-laws forced her out of the house, saying there was no one to care for her five daughters now that her husband was gone. With nowhere else to go, she had to live in a cattle shed for five days.

²⁴⁸ Manor Shlomit, 'Widows and the Termination of the Gender Contract' (2023) *Ageing and Society* 233-252. Widowhood is often described through stereotypes and images of passive, weak, lonely and dependent women. However, the victims used this term during the conversation with the researchers. This also explains the discrimination they are facing due to the status of "widowhood".

²⁴⁹ M5, M3: as a form of reparation, they want the registration of land on which they live these days.

²⁵⁰ N21 also said that bombs were planted in his house and detonated, completely flattening it.

²⁵¹ B11 said that, although the property grabbed during the armed conflict is still in his name, he does not have possession of the land. He also receives threats against selling the land.

²⁵² Internal Displacement Monitoring Centre & Norwegian Refugee Council, *Nepal: Unresolved Property Issues and IDP Policies Hiatus Undermine Search for Durable Solutions* (11 April 2012) 7 https://api.internal-displacement.org/sites/default/files/publications/documents/201204-nepal-overview-en.pdf?_gl=1*26zvpf* ga*MTE3MDY0NjM2MS4xNz0M0MDc0OTk1* ga_PKVS5L6N8V*MTc0MDk3MTI4Ny4zljAuMTc0MDk3MTI4Ny42MC4wLjA.

2.4.5 Failure to Implement Social Security Measures

International Legal Provisions and Obligations

Article 9 of the ICESCR guarantees the right to social security. It mentions “the right of everyone to social security, including social insurance”. CESCR has elaborated on this right as follows:

“the right to access and maintain benefits, whether in cash or in kind, without discrimination to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents.”²⁵³

Social security therefore, has a “redistributive character” and “plays an important role in poverty reduction and alleviation, preventing social exclusion and promoting social inclusion”.²⁵⁴ Elements of the right to social security include the availability of a social security system²⁵⁵ and the accessibility of social security.²⁵⁶ The CESCR emphasizes that internal migrants, including internally displaced people, should access social security regardless of their registration status in a new place of residence.²⁵⁷ States must adopt a national social security strategy that is adequate, accessible, and covers all “social risks and contingencies”.²⁵⁸

Domestic Legal Provisions and Obligations

The Constitution of the Kingdom of Nepal, 1990 included social security for vulnerable groups as a State policy aimed at their protection and welfare, but not as a fundamental right.²⁵⁹

Article 43 of the present Constitution guarantees the right to social security in the following terms:

“The indigent citizens incapacitated and helpless citizens, helpless single women, citizens with disabilities, children, citizens who cannot take care of themselves and citizens belonging to the tribes on the verge of extinction shall have the right to social security, in accordance with law”.

The Social Security Act was introduced in 2018 to give effect to the right to social security guaranteed by the Constitution; it provides that, “...people with disability, indigent, incapacitated persons... have the right to get social security from the State”.²⁶⁰

Furthermore, the Act also makes provision for a destitute citizen allowance²⁶¹ and an incapacitated and helpless citizen allowance.²⁶² Under the “helpless single woman” allowance, “women who have not had a second marriage after getting divorced, widows...” upon turning 60 years old receive “helpless single woman” allowance in a sum specified by the federal government.²⁶³ This definition does not include single women whose husbands have been the victim of enforced disappearances, leaving them without an entitlement to this support.

In relation to this issue, a petition was filed before the Supreme Court challenging the existing legal gaps that exclude the wives of disappeared persons from being recognized as “helpless single women” and, thereby, preventing them from accessing the social security allowance.²⁶⁴ Although the full judgment is still pending,

²⁵³ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The Right to social security (Art. 9 of the International Covenant on Economic, Social and Cultural Rights) (04 February 2008) para 2. <https://www.refworld.org/legal/general/cescr/2008/en/41968>

²⁵⁴ Ibid para 3.

²⁵⁵ Ibid para 11.

²⁵⁶ Ibid para 23 ‘coverage’; para 24 ‘eligibility’; para 25 ‘affordability’; para 26 ‘participation and information’; and para 27 ‘physical access’.

²⁵⁷ Ibid para 39.

²⁵⁸ Ibid para 48.

²⁵⁹ The Constitution of Kingdom of Nepal (n 123) art 26.

²⁶⁰ The Social Security Act 2018 sec.3 (1).

²⁶¹ Ibid sec 5.

²⁶² Ibid sec 6.

²⁶³ Ibid sec 7.

²⁶⁴ Birendra Thapaliya (n 9).

the Court, through an interim order, has directed the federal government to provide social security allowances to the wives of disappeared persons, recognizing them as eligible for receipt of these benefits.

More generally, individuals who “are unable to take care of themselves” are entitled to receive a social security allowance.²⁶⁵ The Act specifically provides that, except where they are receiving social security as per prevailing laws, “the families of the martyrs who have sacrificed their lives, of the persons subjected to enforced disappearance, warriors of democracy, persons with disabilities, and those injured and victims, in the course of popular movement, armed conflict and revolution having taken place for a progressive democratic change in Nepal”²⁶⁶ are entitled to security.

During and following the armed conflict in Nepal, several attempts were made by the federal government to address the social security-related needs of “the victims”.²⁶⁷ Such efforts included targeted relief, compensation, and financial support measures outlined in the 2008 and 2009 federal government guidelines.²⁶⁸ While these initiatives marked an important acknowledgement of state responsibility in the aftermath of the conflict, they fell short of establishing a comprehensive, inclusive, and rights-based social security framework grounded in ESCR, which would have recognized victims as entitled to enforceable entitlements such as adequate social security, health care, education, and livelihood support.

Analysis of Victims’ Testimonies

The testimonies highlight a pressing need for lifelong social security measures for victims and their families living below the poverty line. Across all focus group discussions, the participants explained that their needs, particularly those relating to livelihoods, health and social reintegration, remain unevaluated by government agencies. While these are self-reported claims, they point to a significant perceived gap in State outreach and support to understand the needs of victims. A commonly voiced concern was the need for lifelong assistance to maintain financial independence and dignity, with one participant noting:

*“I need lifelong support from the government authorities so that we don’t have to depend on anyone, even our own children”.*²⁶⁹

This reflects not only a demand for reparative justice but also reveals a critical gap in Nepal’s broader social security and protection systems, which currently do not sufficiently accommodate the long-term needs of conflict victims. These claims warrant further examination and underline the need for a comprehensive and participatory assessment of victims’ long-term needs.

2.4.6 Compounding Deprivations: Impact on the Right to an Adequate Standard of Living

International Legal Provisions and Obligations

Under ICESCR, the right to an adequate standard of living is guaranteed under Article 11, which provides “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. Thus, this right is foundational in terms of guaranteeing, in turn, the enjoyment of the rights to education, health, work, housing and social security in a dignified way. It is also taken as an “overarching right that encompasses elements essential for human survival, health and physical and intellectual development”.²⁷⁰

²⁶⁵ The Social Security Act (n 260) sec 11.

²⁶⁶ Ibid sec 14 (2).

²⁶⁷ Govinda Sharma et. al, *From Relief To Redress, Reparations In Post- Conflict Nepal* (October 2019), https://reparations.qub.ac.uk/assets/uploads/QUB-Nepal_Report_ENG_DP.pdf ;

²⁶⁸ Government of Nepal, *Guideline on Relief, Compensation and Financial Assistance to the Citizen* 2009; Government of Nepal, *Guidelines for Granting Relief to the Beneficiary of Disappeared Persons* 2008; Government of Nepal, *Guidelines for Granting Financial Support to Beneficiary of Deceased Persons* 2008.

²⁶⁹ N3.

²⁷⁰ OHCHR, *Guiding Principles on Extreme Poverty and Human Rights* (01 January 2014) https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_EN.pdf.

Moreover, the *Guiding Principles on Extreme Poverty and Human Rights* by the OHCHR note that the lack of an adequate standard of living is related to “limited or insecure means of livelihood”.²⁷¹ This situation leads to poverty, which “is both a cause and a consequence of human rights violations and an enabling condition for other violations”.²⁷² Therefore, the Guiding Principles require that the State should “invest in infrastructure to improve access to basic services necessary for an adequate standard of living”.²⁷³

Domestic Legal Provisions and Obligations

During the armed conflict period, the Constitution of the Kingdom of Nepal, 1990, which was then in force, underscored the State’s commitment to enhancing citizens’ standard of living through policy measures, albeit this policy commitment was not judicially enforceable.²⁷⁴

The Constitution of Nepal, currently in force, establishes a strong and progressive framework for the right to an adequate standard of living, encompassing specific rights to housing,²⁷⁵ health,²⁷⁶ food,²⁷⁷ and social security.²⁷⁸ These constitutional provisions are further supported by legislation introduced in recent years to operationalize and enforce these rights.²⁷⁹ Similarly, the federal government has introduced, in its 16th Five-Year plan, a commitment towards improving the living standards, and its poverty alleviation aims are measurable and consistent with human rights standards.²⁸⁰

Analysis of Victims’ Testimonies

The experiences reported by conflict-affected families reflect widespread violations of their economic, social, and cultural rights — including the rights to adequate housing, education, health, employment, and social security — resulting, in turn, in a significant undermining of their right to an adequate standard of living.

a. Intersecting Deprivations

Conflict victims and their families reported widespread and sustained violations of their rights to adequate housing, education, social security, health care, and employment. These deprivations are not isolated but intersecting and systemic in nature. The obstacles faced in enjoying an adequate standard of living have resulted in deepening income inequality, the reinforcement of social exclusion, and ultimately the erosion of the right to an adequate standard of living.

b. Cumulative Impacts on Livelihoods and Well-Being

The cumulative impact of these multiple and overlapping violations — such as disrupted access to education, prolonged displacement, inadequate health care services, and the absence of job opportunities—has often forced individuals into precarious informal work and has pushed many victims and their families into cycles of entrenched poverty and marginalization. Rather than being short-term or individually remediable, these conditions are mutually reinforcing and long-lasting, making recovery extremely difficult.

2.4.7 Impact of the armed conflict on cultural practices

²⁷¹ Ibid para 73.

²⁷² Ibid p 2.

²⁷³ Ibid para 73.

²⁷⁴ The Constitution of the Kingdom of Nepal (n 123) art 26.

²⁷⁵ The Constitution of Nepal (n 2) art 37.

²⁷⁶ Ibid art 35.

²⁷⁷ Ibid art 36.

²⁷⁸ Ibid art 43.

²⁷⁹ Right to Food and Food Sovereignty Act, 2018, Public Health Service Act, 2018, Social Security Act (n 260), Right to Employment Act 2018, Compulsory and Free Education Act (n 54).

²⁸⁰ Government of Nepal, National Planning Commission, *Sixteenth Plan (Fiscal Year 2024/25–2028/29)* (NPC 2024), available at: <https://npc.gov.np/content/6462/the-sixteenth-plan--fiscal-year-2024-25-2028-29/>.

International Legal Provisions and Obligations

Cultural rights are protected under Article 15 of ICESCR, which, among other things, entitles all persons to “take part in cultural life” and requires States to take steps necessary to ensure the conservation, development and diffusion of culture. Cultural rights ensure everyone’s right “to access, participate in, enjoy and contribute to cultural life”.²⁸¹ Additionally, cultural rights are intrinsically valuable and crucial for development, peace and eradication of poverty²⁸² and “for building social cohesion...”.²⁸³ In terms of this right, States’ legal obligations include: the obligation to remove discriminatory barriers to cultural access;²⁸⁴ and the obligation to safeguard cultural heritage in circumstances such as “war, peace, or natural disasters”.²⁸⁵

The Special Rapporteur in the field of cultural rights has also highlighted culture’s role in “strengthening the resilience and helping individuals and communities recover from human rights violations”.²⁸⁶ In addition, she has addressed specific recommendations to authorities, calling on them to “uphold international standards on the right to take part in cultural life”,²⁸⁷ which is particularly important in the context of dehumanization of specific cultures and groups common in the context and aftermath of armed conflict.²⁸⁸ “Rehumanizing” and developing trust are critical parts of transitional justice processes and the provision of reparations.²⁸⁹

Domestic Legal Provisions and Obligations

Under the Constitution of the Kingdom of Nepal, 1990, Article 18(1) enshrined cultural rights in the following terms: “Each community residing within the Kingdom of Nepal shall have the right to preserve and promote its language, script and culture”.

Article 32 of the Constitution currently in force in the country guarantees “the right to language and culture for all persons and communities”. It ensures that “every individual and community have the right to use their own language, participate in the cultural life of their communities”, and “for every Nepalese community residing in Nepal, the right to preserve and promote its language, script, culture, civilization, and heritage”.

Furthermore, under Article 51 of the Constitution, the State is required to take steps “to promote the national unity while developing mutual cooperative relations” and “maintaining mutual cohesion, harmony and solidarity between various castes, tribes, religions, languages, cultures and communities”.

Analysis of Victims’ Testimonies

Victims’ testimonies reveal severe disruptions to social and cultural life that range from barred funeral rituals and discrimination against widows to altered festivals and deepened community divisions, resulting in lasting social, cultural, and psychological harm.²⁹⁰

a. Challenges in Performing Funeral Rituals

²⁸¹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 21: Right of Everyone to Take Part in Cultural Life (Art. 15 (1) a of the International Covenant on Economic, Social and Cultural Rights) E/C.12/GC/21 (21 December 2009) para 15.

²⁸² United Nations Development Programme (UNDP), Human Development Report 2004 (New York, 2004), pp. 1–12, <https://hdr.undp.org/system/files/documents/human-development-report-2004-english.human-development-report-2004-english>

²⁸³ UN Human Rights Council, *Report of the independent expert in the field of cultural rights, Ms. Farida Shaheed*, submitted pursuant to Human Rights Council resolution 10/23 (22 March 2010) para 3 <https://documents.un.org/doc/undoc/gen/q10/124/40/pdf/q1012440.pdf>.

²⁸⁴ General Comment No. 21 (n 281) para 55 (d).

²⁸⁵ *Ibid* para 50(a).

²⁸⁶ UN Human Rights Council, *Report of the Special Rapporteur, in the field of cultural rights, Karima Bennouna* (04 January 2018) para 37 <https://documents.un.org/doc/undoc/gen/q18/002/68/pdf/q1800268.pdf>.

²⁸⁷ *Ibid* para 86 (a).

²⁸⁸ *Ibid* para 48.

²⁸⁹ *Ibid* paras 45–48.

²⁹⁰ N2 and N4 stated that they were socially isolated as a result of people accusing them of being Maoists.

Many victims could not perform traditional final rituals for family members who had been victims of enforced disappearances, either due to the absence of their loved one's body²⁹¹ or because they continue to live in hope they might return one day.²⁹² This inability to grieve has resulted in additional suffering, as families have been haunted by their belief that their loved ones' spirits could not be laid to rest.

In addition, those unable to perform funeral rituals for their loved ones faced social and family pressure,²⁹³ often being blamed for misfortunes, including illness,²⁹⁴ which was attributed to the fact that funeral rituals had not been performed.²⁹⁵ Under family and social pressure, some have therefore performed makeshift rituals using symbols like holy grass in place of a body.²⁹⁶ Despite this, many still felt haunted and spiritually unsettled, reflecting the psychological toll of incomplete cultural closure.²⁹⁷

The uncertainty over their loved ones' fates intensified their quest and the cultural significance of funeral rites. One victim explained that:

"We haven't done funeral rituals for my father, but I believe that it is culturally necessary to do so".²⁹⁸

b. Discrimination Against Widows²⁹⁹

Discrimination against widows is widespread in Nepal, affecting both widows of conflict victims and other widows.³⁰⁰ Many widows whose husbands were victims of enforced disappearances during the armed conflict explained the additional challenges they faced in their communities. Widows of the disappeared faced exclusion, particularly during festivals and rituals, where they were barred from touching sacred items or fully participating.³⁰¹ For example, B3 was forbidden from attending her sister-in-law's wedding, as her presence was believed to bring bad luck.³⁰²

Widows are also often denied important traditional roles in ceremonies, such as a widowed mother being unable to sit on the *Chando*³⁰³ with her son during his wedding.³⁰⁴ One mother expressed her distress about this exclusion, fearing the emotional pain it would cause:

"I fed him and raised him, but now I won't be able to sit on the Chandol at his wedding. It's deeply painful for me".

Such fear and social stigma led some widows to stop attending such ceremonies,³⁰⁵ deepening their social isolation and highlighting the need for greater social support. In one case, a woman's in-laws prevented her

²⁹¹ N1 said that she had not performed final rites for her husband in the absence of his remains.

²⁹² M15 still has hopes every Dashain (A major Hindu festival in Nepal, celebrating the victory of good over evil through rituals, family reunions, and honouring elders) that his father will return.

²⁹³ S2, S4, M5, M6, M19 stated that their families, and society more generally, put pressure on them to perform the funeral rites for their family members who were victims of disappearances.

²⁹⁴ B16 said that if someone in his family falls ill, people say that it is because they have not performed funeral rites for his father.

²⁹⁵ B5 said that whenever her in-law's family had any accidents or misfortunes, they blamed her, claiming it was because she had not completed the rituals for her husband.

²⁹⁶ N2 said that she was forced to perform the final rites for her husband by making a fake body of holy grass 'kush' that refers to a sacred grass (*Desmostachya bipinnata*) widely used in Hindu ritual practice. In certain rites, a symbolic or substitute body may be constructed from this grass when a physical body is absent.

²⁹⁷ N7 said that she feels like her husband is not at peace, and that she senses his presence haunting them, despite performing the final rites. She even said her husband appears in her dreams demanding a temple or *dharmashala* in his name, some others have said that if someone in their family falls ill, they feel like and society also says that it is because of not performing final rites.

²⁹⁸ S15.

²⁹⁹ Manor Shlomit (n 248).

³⁰⁰ B3 stated that if the conflict had not occurred and her husband had not gone missing, she would not have had to face such discrimination.

³⁰¹ B3, B6, B8, B9, N2 shared how they are not allowed to touch or be at the forefront of auspicious occasions like marriage, or even touch things during funeral rituals. One specific example, following the death of B8's brother-in-law, was the failure to send ritual flowers to Kashi and the Ganga, sacred sites in the Hindu faith in India, which left the funeral rites incomplete. In the Hindu tradition, it is believed that sending flowers to Kashi and Ganga symbolizes offering respect and devotion to the sacred city and river, aiding the soul's journey toward peace. It is often part of final rituals or ancestral rituals seeking purification and liberation of the deceased person.

³⁰² B9 said that she is not allowed to touch anything in auspicious occasions, as she would bring bad luck.

³⁰³ In the Tharu community, during the bridal procession, the groom's mother traditionally escorts her son to the *Chandol*, a ceremonial carriage used to transport the bride and groom that holds deep cultural and symbolic significance in the wedding ceremony.

³⁰⁴ B6.

³⁰⁵ N3 said that she has stopped attending cultural festivals because she does not want to face the social embarrassment.

from applying for interim relief (a form of reparative measure) as a widow whose husband had disappeared during the armed conflict, as they feared that she would run away if she obtained any relief payment.³⁰⁶

c. *Altered Festival and Celebration Practices*

During the conflict, large cultural gatherings were often viewed as security threats by both State forces and Maoist insurgents. In Tharu culture,³⁰⁷ once grand festivals were significantly scaled back out of fear of surveillance, recruitment and violence.³⁰⁸ Weddings are reduced to a single day, and night melas³⁰⁹ were moved to the daytime, diminishing cultural vibrancy and disrupting the continuity of traditional practices. Traditional performances like *Ramleela*³¹⁰ were, and continue to be, rare. Some victims associate festivities with the activities that their disappeared family members used to enjoy and thus find such occasions no longer enjoyable.³¹¹ One victim shared that:

"Melas³¹² and festivals are associated with emotions, but because we were forced to stop those, we lost touch with those festivals and melas, and they have not been revived much".³¹³

There have been alterations in cultural practices, illustrated, for example, by a woman who stopped eating goat meat for Dashain (tradition of a Dashain festival) out of respect for her father (killed during the armed conflict), who would enjoy goat meat.³¹⁴ In the Rolpa district, key *melas* like Madi Chaur and Triveni vanished, and women were banned from celebrating Teej.³¹⁵ Brothers were unable to visit their sisters during Bhaitika,³¹⁶ a significant cultural ritual symbolizing sibling love and protection. Such disruptions illustrate how the armed conflict suppressed cultural expression and weakened familial bonds that are central to social cohesion.³¹⁷

The Maoists also imposed coercive financial demands on community members during key cultural rituals, such as childbirth, marriage, and housewarming ceremonies, further undermining their cultural autonomy. Such coercive financial demands were used to discourage the continuation of traditional cultural and religious practices, contributing to the erosion of community identity.

d. *Social Division*

The armed conflict created divisions within the Tharu community, splitting it along political lines and eroding cultural harmony. This split also led to the disappearance of shared cultural expressions, such as community dances, which were integral to their collective identity. Traditional community-based marriage ceremonies, where multiple couples are married at the same time, no longer take place.³¹⁸ As family members also divided

³⁰⁶ M5.

³⁰⁷ Tharu culture refers to the distinct traditions, language, and customs of the Tharu people, an indigenous community primarily living in Nepal's western Terai region. It is deeply rooted in nature, community life, and rich ceremonial practices.

³⁰⁸ B13 said that festivals used to be celebrated with grand festivities, but after the disappearance of her father, they are no longer the same. B14 said that her family is never truly happy during festivals anymore.

³⁰⁹ *Melas* in Nepal are culturally and socially significant gatherings, typically organized during religious or seasonal festivals. They play a vital role in community life—bringing people together for worship, social interaction, trade, entertainment, and the celebration of shared traditions and local heritage.

³¹⁰ *Ramleela* is a traditional folk performance that dramatizes the life of Hindu God, Ram from the *Ramayana*, a foundational text of the Hindu. In the Tharu community of Nepal, it is a significant cultural and religious practice that reinforces communal identity, transmits oral traditions, and strengthens intergenerational ties through collective participation.

³¹¹ B1 said that she does not enjoy Dashain where dancing and music were once a joyful part of her and her husbands' lives as her husband, who loved dancing, was taken from her on the day of Dashain, and now she cannot bring herself to participate in these celebrations.

³¹² *Melas* in Nepal are culturally and socially significant gatherings, typically organized during religious or seasonal festivals. They play a vital role in community life—bringing people together for worship, social interaction, trade, entertainment, and the celebration of shared traditions and local heritage.

³¹³ K5.

³¹⁴ B14 said that her entire family did not eat meat for many years and till today they do not eat goat meat.

³¹⁵ K5.

³¹⁶ *Bhaitika* is a Hindu religious festival celebrated during Tihar (five-day Hindu festival in Nepal celebrating with light) where sisters apply colorful tika and pray for their brothers' long life and prosperity.

³¹⁷ K1, *Bhaitika* is a Nepalese festival that celebrates the bond between brothers and sisters. On this day, sisters perform special rituals and prayers for their brothers' long life and well-being.

³¹⁸ B16 recalls community marriage practices among Tharu culture whereby many couples would get married together.

along party lines, aligning themselves to one or the other party to the armed conflict, friends and neighbours avoided visiting each other even during festivals, increasing social and cultural isolation.³¹⁹

³¹⁹ N8 said that as the sole bread winner, her husband was subjected to enforced disappearance, when people used to go from home to home to celebrate (such as in Tihar for *deusi-bhailo*), they skipped her house because she was too poor to entertain them and offer anything.

Chapter Three: ESCRs and Transitional Justice: Nepal's Post-Conflict Struggles

3.1 Attempts to Mainstream ESCRs in the Transitional Justice Process

TJ mechanisms are often criticized for prioritizing civil and political rights (CPRs) over ESCRs.³²⁰ However, violations of CPRs are intrinsically linked to violations of ESCRs. Moreover, the CESCR Committee has affirmed that ESCR are fully justiciable. While violations of ESCRs can be case-specific, just like violations of CPRs, they are too often portrayed only broadly as societal issues—as opposed to human rights violations – in which there are no individual victims' claims to be addressed.³²¹

A similar tendency is observed in the reporting of violations during Nepal's armed conflict, as many organizations, including UN entities, have mainly focused on documenting serious individual violations of CPRs (including enforced disappearances, unlawful killings, and torture) during the conflict.³²² Thus, the reporting of violations that sets the foundation of Nepal's TJ is severely limited and fails to bring out the broader structural and socio-economic harms caused by the conflict, thereby failing to address the ESCR violations experienced by victims of the conflict.

In addition, in a practical sense, CPR violations often produce socio-economic harm, as reflected in several petitions and complaints arising from cases linked to the armed conflict. Both the UN Human Rights Committee (HRC) and domestic courts have reminded Nepal of its obligation to respect, protect, and fulfill human rights, including ESCRs. For example, in its views and recommendations issued in several individual communications, the UN Human Rights Committee has underscored how violations of CPRs often entail ESCR-related needs when it comes to the right to an effective remedy.³²³ For instance, victims of torture, enforced disappearance or other serious human rights abuses may require remedies that address ESCR issues—such as provision of necessary medical treatment;³²⁴ access to psychological rehabilitation;³²⁵ and adequate compensation.³²⁶ These forms of reparation are essential: not only are they necessary to restore dignity and well-being, but also to give full effect to rights, such as the right to health and to an adequate standard of living.

Furthermore, in the aftermath of the armed conflict in Nepal, particularly in cases focusing on victims of unlawful detention, enforced disappearances,³²⁷ forced displacement,³²⁸ and the seizure of property,³²⁹ the Supreme Court (SC) of Nepal has stressed the State's responsibility to provide compensation to the victims and their families.

Several victims' groups and civil society organizations in Nepal have called for comprehensive reparations that go beyond compensation for direct victims of the armed conflict, highlighting the State's legal obligation to

³²⁰ UN General Assembly, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, Fabián Salvioli, A/77/162 (14 July 2022) <https://documents.un.org/doc/undoc/gen/n22/425/76/pdf/n2242576.pdf>.

³²¹ Sonia Cardenas, "Shifting the Human Rights Reporting Paradigm: From Description to Assessment of State Practices", Regional Consultation for North America and the English Speaking Caribbean on the 2020 Review of the United Nations Treaty Body System (Columbia University, 1-2 June 2017) <https://www.geneva-academy.ch/joomlatools-files/docman-files/Sonia%20Cardenas%20-%20Treaty%20Memo.pdf>.

³²² *Nepal Conflict Report (n 32)*.

³²³ *Purna Maya v Nepal (Human Rights Committee, Communication No. 2245/2013, 17 March 2017)* para 14.

³²⁴ *Ibid.*

³²⁵ *Ibid.*

³²⁶ *Tripathi v Nepal* (Human Rights Committee, Views adopted under Article 5 (4) of the Optional Protocol, Communication No 2111/2011, 20 October 2014); *Giri v Nepal* (Human Rights Committee, Views adopted under Article 5 (4) of the Optional Protocol, Communication No 1761/2008, 24 March 2011); *Sedai v Nepal*, Views adopted under Article 5 (4) of the Optional Protocol, Communication No 1865/2009, 19 July 2013); *Maharjan v Nepal*, Views adopted under Article 5 (4) of the Optional Protocol, Communication No 1863/2009, 19 July 2012).

³²⁷ *Bhim Prakash Oli & et al. Vs His Majesty's Government and Others* (Supreme Court of Nepal, Writ No. 3384, 2061 BS, Decision of 10 February 2006); *Rajendra Prasad Dhakal & et al vs. Nepal Government and others* (Supreme Court of Nepal, Writ Nos 3575, 100, 104, 323, 500, 45, 41, 155, 162, 164, 167, 97, 110, 111, 142, 211, 250, 223, 262, 378, 418, 485, 617, 632, 635, 54(0002) 0004, 2588/0038, decision of 01 June 2007).

³²⁸ *Bhoj Raj Timilsena and others Vs Nepali Congress Party and others* (Supreme Court of Nepal, Writ No. 2063-WO-0920, Decision of 27 December, 2007).

³²⁹ *Leela Dhar Bhandari & et. al vs. Nepal Government and Others* (Supreme Court of Nepal, Writ No. 2063-WO-0920, Decision of 27 December, 2007).

address harms caused by human rights violations.³³⁰ These claims are consistent with the Basic Principles on the Right to Remedy and Reparation, which require the State to provide adequate, effective, and prompt reparation for violations of human rights, including ESCRs.³³¹ Victims and CSOs in Nepal have argued that by providing reparations that include access to education, healthcare, employment opportunities, rehabilitation, and social security,³³² the State could ensure their effectiveness in addressing their needs. If designed properly, such reparations may also help address violations of ESCRs during the conflict. Victims have also consistently emphasized the importance of being meaningfully consulted and their right to meaningful participation in the design and development of reparation programs.³³³

CESCR has made several recommendations on ESCRs relevant to the rights under discussion in this report.³³⁴ Nepal's fourth periodic report to the Committee under ICESCR was due in November 2019, but Nepal only submitted the report in February 2025, covering the period from 2015 to December 2023.³³⁵ Nepal's report highlights constitutional guarantees, various policies, as well as legal and institutional measures aimed at realizing ESCRs. It also notes efforts made to ensure that conflict-affected children receive improved access to education, health, sports, and entertainment facilities, along with increased rehabilitation and socialization services.³³⁶

However, perplexingly, Nepal's report fails to address the rights of conflict victims and does not refer to the transitional justice process. In the past, in 2011, Nepal had reported to CESCR that "Nepal is passing through a democratic transformation after over a decade-long armed conflict".³³⁷ It further noted the impact of this armed conflict on "people's ability to enjoy economic, social and cultural rights".³³⁸ Further, it updated the Committee that, "Poverty alleviation and social justice are in the process of being institutionalized by ensuring peace, security and socio-economic development".³³⁹ It is therefore surprising that Nepal's most recent report does not even attempt to link the enforcement and implementation of ESCRs in Nepal to the transitional justice process at all.

3.2 CPA's Commitment to Address the Root Causes of Conflict

The 2006 Comprehensive Peace Agreement set the foundation for transitional justice in Nepal by putting an end to the decade-long armed conflict. While the degree of its implementation remains questionable,³⁴⁰ the CPA's aims were conciliation and justice.³⁴¹ To address the armed conflict's root causes, the CPA promised economic and social reforms, including policies to establish citizens' rights to "education, health, housing, employment, and food security".³⁴² It also pledged to create an environment where "civil, political, economic,

³³⁰ Advocacy Forum and others, *Joint submission to the United Nations Human Rights Council for the 51st session of the Universal Periodic Review of Nepal* (17 July 2025) 'Coalition of Victims' and Civil Society Groups Calls for Credible TJ in Nepal's UPR Submission' *myRepublica* (18 July 2025) <https://myrepublica.nagariknetwork.com/news/coalition-of-victims-and-civil-society-groups-calls-for-credible-tj-in-nepa-19-45.html>

³³¹ UN Commission on Human Rights, *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* (19 April 2005) para 2 c.

³³² Conflict Victims Common Platform, *Reparative Needs, Rights and Demands of Victims of the Armed Conflict in Nepal* (*Advocacy Paper*, 2018) <https://www.advocacyforum.org/downloads/conflict-victims-kathmandu-declaration-2078-english-version.pdf>.

³³³ Kathmandu Declaration (n 1).

³³⁴ *Concluding observations* (n 8) paras 24(b), 27, 28(b).

³³⁵ Office of Prime Minister & Council of Ministers (Nepal) *Fourth Periodic Report on the Implementation of Covenant on Economic, Social and Cultural Rights, submitted Under Articles 16 and 17 of the Covenant* (February 2025) https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FNPL%2F4&Lang=en.

³³⁶ *Ibid* para 204.

³³⁷ Committee on Economic, Social and Cultural Rights, *Third periodic reports submitted by States parties under article 16 and 17 of the Covenant* (29 October 2012) para. 318. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FNPL%2F3&Lang=en.

³³⁸ *Ibid*.

³³⁹ *Ibid*.

³⁴⁰ 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* (2023) <https://www.advocacyforum.org/downloads/pdf/publications/tj/briefing-on-the-implementation-of-national-action-plan-II.pdf>.

³⁴¹ Interim Constitution (n 52) Schedule 4.

³⁴² CPA (n 22) art 3.9.

social and cultural rights” would be protected and not violated.³⁴³ Additionally, the agreement committed to avoiding “impunity”, and to ensuring “relief for victims of torture and disappearance”³⁴⁴ through the establishment of a Truth and Reconciliation Commission to investigate serious violations of human rights and crimes against humanity during the armed conflict.³⁴⁵

The Interim Relief Program (IRP) and Transitional Justice

While the CPA uses more generic terms such as “relief”, rather than making any commitment to provide “compensation” or “reparation”, in 2008, the Government of Nepal introduced an Interim Relief Program (IRP) to assist “individuals and their families who had suffered human rights abuses during the armed conflict”.³⁴⁶ The relief provided under the IRP was designed to take the form of cash payments and subsidies, aiming to provide some assistance to victims without acknowledging responsibility for human rights violations or fulfilling Nepal’s broader obligations relating to the right to reparations and/or ESCR obligations under international law. Victims and CSOs have taken the position that these measures should be understood as interim measures, pending full reparation for victims for the harm they suffered.³⁴⁷ This stand taken by victims’ groups and CSOs has important implications for victims’ rights: from a human rights perspective, interim relief cannot act as a substitute for full, rights-based reparations.

The definition of a “conflict victim” under IRP includes dependents of individuals who were killed, internally displaced, abducted, or disappeared, such as their spouses, children, parents, and other members of their families.³⁴⁸ The definition also encompasses individuals who were disabled, injured, or lost limbs, as well as individuals, families, or institutions that suffered property loss due to actions by parties involved in the conflict.

The testimonies shared by the participants of the FGDs reflect two crucial issues relating to IRP:

- a. *The Interim Relief Program (IRP) does not constitute a full reparative right of the victims: To implement an IRP,³⁴⁹ the government attempted to provide financial assistance to victims. However, in the absence of a unified policy on reparations, the monetary relief provided led to the political manipulation of schemes by the Ministry of Home Affairs and local governments.³⁵⁰ Victims who did not have the means or opportunity to engage or lacked political connections expressed frustration, sharing, “The government is for those who have, while we, with no hope, are left behind”.³⁵¹*

³⁴³ Ibid art 7.1.2.

³⁴⁴ Ibid art 7.1.3.

³⁴⁵ Ibid art 5.2.5.

³⁴⁶ Council of Ministers, Government of Nepal, Standards for Economic Assistance and Relief for Conflict Victims (adopted 25 April, 2008) (Interim Relief Programme)

It offered benefits such as:

- i. NPR 100,000 Nepalese rupees (approximately US \$1,400 in 2008) to the nearest beneficiary of those who were killed, or who were forcibly disappeared by parties to the conflict.
- ii. NPR 25,000 each to the widows of men who died or the wives of those who were forcibly disappeared during the conflict (in addition to the NPR 100,000 above).
- iii. “Scholarships” for children of persons killed, forcibly disappeared, or seriously disabled during the conflict.
- iv. Reimbursement of medical expenses or treatment at a government hospital for a specified level of disability or injury resulting from the conflict.
- v. Skills development training for eligible conflict victims.
- vi. Compensation for persons and institutions whose real or personal property was lost or damaged during the conflict.

³⁴⁷ Sarah Fulton and Mandira Sharma, ‘Raahat ki Aahat: Reparation in Post-Conflict Nepal’ in Carla Ferstman and Mariana Goetz (eds), *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity* (Brill Nijhoff 2020).

³⁴⁸ An extended family consists of multiple generations and branches of one family living together.

³⁴⁹ Between 2008 and 2009, the GoN introduced three key policy documents aimed at providing financial support and relief to victims of the conflict. These included the *Measures for Financial Support and Relief for Conflict Victims*, issued following the Cabinet decision on April 25, 2008; the *Guidelines for Providing Relief to the Beneficiary of a Deceased Person*, based on the Cabinet decision of October 5, 2008; and the *Guidelines for Providing Relief to the Beneficiary of a Disappeared Person*, based on Cabinet decision of January 12, 2009. These documents formed the foundation of the State’s interim relief efforts, i.e., Interim Relief Program (IRP) for individuals and families affected by the decade-long armed conflict.

³⁵⁰ Advocacy Forum, *Discrimination and Irregularities, The Painful Tale of Interim Relief in Nepal* (2010) 7 https://www.advocacyforum.org/downloads/pdf/publications/Discriminations_and_Irregularities_A_painful_tale_of_Interim_Relief_in_Nepal.pdf.

³⁵¹ S10.

- b. *Injustice in Relief Access*: Victims reported instances of fraud during the relief distribution process, including cases where certain people falsely claimed benefits that were meant for them. As one participant noted: "My brother-in-law erased my name and put his name to get relief of Nrs 1 lakh (850 USD) after the conflict".³⁵² Such incidents highlight gaps in verification and oversight within the relief system, pointing to concerns with respect of fairness and accountability.

Various compelling objections have been made to the definition of victim under the IRP and the implementation of the IRP:

- The IRP, including the definition of victim, is inconsistently applied and discriminatory.³⁵³
- Essential psychosocial support for victims and their families was not included in the IRP.³⁵⁴
- The definition fails to make any distinction between "those killed or injured as a consequence of the legitimate use of force while acting as a combatant and those killed or injured as a consequence of human rights violations".³⁵⁵
- The term "killed" used in the definition of victim also includes combatants and security personnel who may not necessarily be victims of human rights violations, or of violations of international humanitarian law.³⁵⁶
- Victims of sexual violence and the victims of torture³⁵⁷ were not included in the definition and were therefore deprived of the opportunity to receive assistance under the administrative relief program.

One such example for addressing the needs of the victims concerns the CRSV and their entitlement to reparation under a National Action Plan II (NAP II), which was launched in May 2023.³⁵⁸ NAP II provides a framework and implementation guidelines on immediate action to recognize CRSVs as conflict victims with rights to reparation and justice from the State. It also details the need for the provision of dedicated support, services and resources that allow CRSV victims to rebuild their lives with dignity. However, NAP II has yet to be fully implemented.³⁵⁹ The federal government has, to date, neither allocated the required resources for NAP II's implementation nor established a robust policy framework or the necessary institutional structures to support such implementation.³⁶⁰

3.3 Transitional Justice Mechanism and the Exclusion of ESCRs

In 2014, Nepal's Parliament passed the Truth and Reconciliation Act, providing a legal framework for the Truth and Reconciliation Commission (TRC) and the Commission on Investigation of Enforced Disappearances (CIED). However, the 2014 Act allowed the granting of amnesty for serious human rights violations.³⁶¹ In addition, it did not include reparation as a right of the victims. As a result, in 2015, the Supreme Court ruled that certain provisions of the Act, including those providing for amnesty for serious human rights violations, violated the Constitution and international law. It therefore ordered the federal government to amend the Act.³⁶² Victims

³⁵² N4.

³⁵³ Mandira Sharma and Sarah Fulton (2023), 'Aahat ki Rahat: Recognizing Domicide' (2023) 14(2) *International Law Journal of Humanitarian Legal Studies* 123-150.

³⁵⁵ Ruben Carranza (n 5).

³⁵⁶ Govinda Sharma (n 267)

; Advocacy Forum (n 350) (Under the CPA, the government was obligated to provide relief packages, including financial assistance, to individuals affected by the conflict. This encompassed those who were maimed, widows, the abducted, the internally displaced, and those who lost property during the conflict. However, survivors of rape and sexual violence (RSV) were not recognized as "conflict-affected" and, as a result, were excluded from the interim relief payment).

³⁵⁸ Ministry of Home Affairs, Government of Nepal, *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)* (2022) <https://asiapacific.unwomen.org/sites/default/files/2023-11/np-english-nap-2023-s.pdf>. The National Plan of Action on UNSCR 1325 and 1820 finalized in October 2010 provides a framework and implementation guidelines on providing relief to women victims.

³⁵⁹ Advocacy Forum (n 350).

³⁶⁰ Ibid.

³⁶¹ The Disappeared Persons Enquiry, Truth and Reconciliation Commission Act 2014 sec. 22 and 26; International Commission of Jurists (ICJ), *Justice Denied: The 2014 Commission On Investigation Of Disappeared Persons, Truth And Reconciliation Act* (May 2014) <https://www.icj.org/wp-content/uploads/2014/05/Nepal-TRC-Act-Briefing-Paper.pdf>.

³⁶² *Suman Adhikari (n 10)* (Noted Principle No. 10 of the UN Basic Principles on Right to Remedy and Reparation has clear provisions regarding the treatment of victims. The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatizing in the course

and CSOs publicly announced that they would not engage with the TRC and CIED if they were established or operated without the Act being amended in accordance with the Supreme Court's ruling.

However, despite victims' and CSOs' protestations and the express order of the Supreme Court, the federal government went ahead with the establishment of the TRC and the CIED without first amending the Act. These two Commissions, therefore, failed to fulfill their mandates.

In August 2024, sustained advocacy from victims and CSOs eventually resulted in Parliament amending the Act, paving the way for the appointment of new Commissioners for the two Commissions. However, victims' groups raised concerns over the "non-transparent" and "politically controlled appointment process" for these Commissions.³⁶³ Despite these objections, Commissioners were appointed in May 2025, prompting widespread condemnation from victims' groups and CSOs, who demand a fresh, independent, and consultative appointment process.

The amended Act recognizes reparation as the right of the victims,³⁶⁴ and includes some positive changes.³⁶⁵ However, it contains significant gaps in terms of recognizing ESCR violations and with respect to criminal accountability for serious human rights violations.³⁶⁶

The amended Act classifies human rights violations that took place during the conflict into two categories: "violations of human rights"³⁶⁷ and "serious violations of human rights".³⁶⁸ "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," targeting "unarmed individuals or communities", or committed in a "planned manner".³⁶⁹ "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".³⁷⁰

The arbitrary classification of violations as "serious" and presumably "not-as-serious", and the definitions of "violations of human rights" and "serious violations of human rights" themselves give rise to a range of concerns.³⁷¹ One such concern is the apparent overlooking of ESCR violations that occurred during the armed

of legal and administrative procedures designed to provide justice and reparation and ordered government to create commissions for reconciliation, ensure prosecution of human rights violators, and provide victim reparation; *Rabindra Prasad Dhakal on behalf of Rajendra Prasad Dhakal v Ministry of Home Affairs, Government of Nepal and Others*, Supreme Court of Nepal (1 April 2013) (directive to formulate relief programme including employment, financial, and educational assistance); *Madhab Basnet and Others v Office of the Prime Minister and Council of Ministers and Others*, Supreme Court of Nepal (1 June 2007) (ordering reparation to victims and families with adequate economic, legal, and institutional arrangements); *Liladhar Bhandari and Others v Government of Nepal and Others*, Supreme Court of Nepal (related to confiscation of property and displacement; ordering establishment of district-level property return committees, assessment of losses, restitution of property, and fund for relief).

³⁶³ Manya Humagain, 'Conflict Victims, Rights Groups Challenge Nepal's Transitional Justice at UN' *The Kathmandu Post* (18 July 2025) <https://kathmandupost.com/national/2025/07/18/conflict-victims-rights-groups-internationalise-legitimacy-question-on-transitional-justice-process>; *Republica*, 'Conflict victims' groups withdraw recommendations, condemn politicized TJ process' (7 May 2025) <https://myrepublica.nagariknetwork.com/news/conflict-victims-groups-withdraw-recommendations-condemn-politicized-tj-pro-68-26.html>.

³⁶⁴ The Disappeared Persons Enquiry, Truth and Reconciliation Commission Act (n 361) sec 22(a).

³⁶⁵ International Commission of Jurist (n 4), summarizes:

- It tries to bring major violations of conflict period to the jurisdiction of TJ commissions,
- It prohibits amnesty for "serious violations of human rights";
- It prevents mediation between victims and perpetrators without victims informed consent,
- It makes the victim's consent mandatory for amnesty in cases categorized as "violations of human rights",
- It recognizes reparation as a victims' right, unaffected by the victim's identity, mediation status, or amnesty recommendations;
- It envisions different units in the TRC and CIEDP;
- It recognises the discrimination faced by CRSV victims and prioritize them for interim relief,
- It has provision for the TJ basket fund to support the work of the commissions."

³⁶⁶ *Ibid* pp 6-9 (The Bill fails to address all crimes under international law, including war crimes and crimes against humanity, and to ensure that punishments be commensurate with the gravity of the offences for which they are imposed. Such problematic provision, which have the potential to undermine international law and perpetuate impunity).

³⁶⁷ The Disappeared Persons Enquiry, Truth and Reconciliation Commission Act (n 361) sec 2(j).

³⁶⁸ *Ibid* sec 2(j)(1).

³⁶⁹ *Ibid*.

³⁷⁰ *Ibid* sec 2(j)

³⁷¹ International Commission of Jurists (n 4).

conflict, as potentially “serious human rights violations”. This reading of the Act contrasts with international law and standards, since ESCR violations may well amount to serious violations of human rights and, in certain circumstances, to war crimes and crimes against humanity, as discussed in chapter 2.1.

If this is the way the definition is understood by implementers of the Act, the lack of compliance with international law would have important consequences. The Act prohibits the granting of amnesty only in respect of “serious violations of human rights”.³⁷² The result is that, while it is more difficult to obtain amnesty for violations of CPR, an amnesty is attainable for ESCR violations. This may result in impunity for a large range ESCR violations, some of which are detailed in this report.

Moreover, a Special Court is envisioned to prosecute those responsible for serious violations.³⁷³ If such a Court does not have jurisdiction over violations of ESCRs, because they do not amount to “serious violations”, victims of ESCR violations will be arbitrarily left without the possibility of access to it.

Understood narrowly, the Act’s definition of serious violations would fail to address the broad spectrum of ESCR violations that took place during the conflict. This would perpetuate and reflect the long-standing neglect of these predicaments by political actors, CSOs, international organizations, and donors throughout the years of negotiation of the TJ Act.

In light of the above, as this report shows, it is of critical importance for the transitional justice Commissions and all stakeholders to recognize and consider victims of ESCR violations within Nepal’s transitional justice.

With respect to reparations, the amended TRC Act reflects an expanded understanding of reparations, which is no longer limited to financial compensation alone. The TRC Act empowers the TRC to:

“make a recommendation to the Government of Nepal to provide psychosocial counselling, interim relief, relief, compensation and rehabilitation, restitution or make other appropriate arrangements for the victims as soon as conducting a preliminary investigation in accordance with this Act”.³⁷⁴

Considering the condition of victims and their families, the Commission may also recommend: “free education and medical treatment”; “skill-based training”; “interest-free loan or concessional loan facilities”; “arrangement for housing”; “employment facilities”; or “other facilities or concessions as the Commission deems appropriate”.³⁷⁵

The amended TRC Act further provides that the TRC can recommend “community reparation programs” for victims and their dependent families.³⁷⁶ The forms of such community reparation programs are yet to be described in detail, which could be achieved through the enactment of regulations.

Lessons must be learned in the transition from relief to reparations, to ensure that the victims’ rights to reparation are addressed through a comprehensive reparation program that also acknowledges the violations of economic, social, and cultural rights (ESCR) detailed in this report.

Finally, the TRC Act mandates the Commission to uncover and publicize the truth. It is also mandated to: “make recommendations on policy, legal and institutional reforms for ensuring non-recurrence of the incidents of the violation of human rights and gross violation of human rights in the future upon identifying the causes interlinked to the armed conflict”.³⁷⁷

³⁷² The Disappeared Persons Enquiry, Truth and Reconciliation Commission Act (n 361) sec 26(2).

³⁷³ Ibid sec 29 (a).

³⁷⁴ Ibid sec 23 (1).

³⁷⁵ Ibid sec 23 (2).

³⁷⁶ Ibid sec 23 (2)(a).

³⁷⁷ Ibid sec 13(a)(3).

In doing so, it should pay particular attention to examining the root causes of the conflict, including violations of ESCRs highlighted in this report, as well as identifying institutional failures and recommending measures for non-recurrence.

The ICJ notes that gaps in the amended Act, particularly the lack of explicit language recognizing ESCR violations on an equal footing with violations of CPRs. This could, in part, be addressed by adopting purposive interpretations of key definitions of the Act, including those on serious violations of rights, as well as by appointing independent and competent Commission members with knowledge of ESCRs. Such members would be capable of interpreting their mandate in light of international law and standards on ESCRs and taking into account the context of the historical neglect of ESCRs within transitional justice processes in Nepal. In addition, the Commission could also hire experts on ESCRs to assist the Commission in implementing its mandate by helping it to understand and interpret its mandate consistently with international law and standards on ESCRs. This approach would ensure that the Commission develops rules and guidelines to address ESCR violations and recommend appropriate reparations for victims of such violations.

For example, the law defines "violations of human rights" 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...". Importantly, this arguably does provide some scope to include violations of ESCRs as they are also contraventions of existing Nepali law and international human rights and humanitarian law. Furthermore, the law also defines "victim" as:

"an individual who has died or disappeared or suffered physical, mental, or sexual violation or incurred financial loss and damage, detention, or harm to family as a result of violations of human rights and serious violations of human rights in the course of the armed conflict".

The term victim also refers to:

"communities that have experienced severe adverse effects socially, humanely, or communally due to the violation of human rights or serious violation of human rights".³⁷⁸

A purposive reading of these provisions, considering international human rights law and standards, supports an inclusive understanding, recognizing all persons who suffer harm from violations of any human rights, whether they are CPRs or ESCRs, as victims.

³⁷⁸ Ibid sec 2 (h).

Chapter Four: Findings and Recommendations

This study concludes that violations of ESCRs that occurred during the armed conflict in Nepal continue to endure in the post-conflict period. The ongoing impact of such violations disproportionately affects marginalized, low-income communities, with a particularly severe gendered impact. The ongoing impact of ESCR violations restricts access to basic services, employment opportunities, land, housing, and social security, especially for women, former child soldiers, and the families of victims, leading to intergenerational social, economic and cultural consequences.

The report finds that Nepal's transitional justice (TJ) discourse has thus far neglected structural issues, such as inequality and poverty, which were both causes and consequences of the armed conflict. By focusing narrowly on individual violations of CPRs, the TJ process fails to address the deeper socio-economic exclusions that continue to fuel grievances at individual, community and societal levels. As a result, the cycle of poverty persists, and the government has largely overlooked the ongoing hardships faced by victims.

Grounded in the robust inclusion of ESCRs in Nepal's post-conflict Constitution and its binding domestic and international commitments, TJ mechanisms have a significant role to play in operationalizing these rights. Nepal's TJ mechanisms must understand and interpret the mandate entrusted by the amended TRC Act consistently with domestic and international law and standards on ESCRs. While the Act recognizes the right to reparations, this provision can and should be understood and applied in such a manner to address the socio-economic harms characteristic of ESCR violations. This entails explicitly integrating such violations into the work of the TJ bodies and designing reparations programs that effectively address them.

Recently, while reparations have been a focus of TJ discourse in Nepal, these debates have largely been about providing reparations through compensation, relief and services, rather than broader and more targeted efforts to alleviate poverty and inequality through the realization of ESCRs.³⁷⁹ Victims also continue to express concern about the portrayal of reparations as a substitute for other critical instruments of transitional justice, including criminal accountability.³⁸⁰

The provision of reparations does not absolve the State of its duty to pursue criminal accountability for serious human rights violations, nor does the pursuit of criminal accountability justify the exclusion of efforts to ensure reparations and measures to realize ESCRs more generally. A holistic TJ process requires that reparative, social and economic justice and criminal prosecutions operate synergistically, reinforcing each other to achieve a comprehensive sense of justice for victims. Siloed approaches undermine both the TJ process and the very essence of reparative justice, thereby compromising the integrity of the accountability framework. Furthermore, reparations for ESCR violations during and beyond the armed conflict should not obstruct or delay the formulation and implementation of simultaneously broader and more targeted laws and policies that are essential to fully realize Nepal's broader ESCR obligations.

³⁷⁹ Ruben Carranza (n 5).

³⁸⁰ Binod Ghimire (n 6).

Recommendations

1. Legislative Authorities

- 1.1 Reform the amended Truth and Reconciliation Commission (Third Amendment) Act, 2014
 - i. Amend Section 2 (j) 1 definition of "serious violations of human rights" to explicitly include ESCR violations, such as forced displacement, domicide, and systematic attacks on schools and educational institutions.
 - ii. Include provisions for monitoring and accountability in the Act to create a robust system to oversee the implementation of the mandates of the two Commissions as well as the design and execution of reparation policies and programs.
- 1.2 Amend the Labor Act, 2017 to include affirmative provisions for conflict victims, by:
 - i. Including provisions that encourage or mandate affirmative action, such as employment quotas and/or incentives for hiring conflict victims, to promote their inclusion in the formal workforce.
 - ii. Introducing legal requirements for regular monitoring and public reporting on the employment status of conflict victims, enabling data-driven policy-making and ensuring institutional accountability.
- 1.3 Amend the Right to Housing Act, 2018 to incorporate the following provision to address domicide by:
 - i. Defining "domicide" as the forced destruction, permanent loss, or unlawful occupation of a person's lawful home, residence, or dwelling, whether caused by government action, armed conflict, natural disaster, development projects, or private actors, resulting in the inability of the person or family to access adequate housing.
 - ii. Introducing provision for remedies for domicide that include restitution of their original housing, or provision of equivalent housing; financial compensation for loss of property and related damages; Access to social support services, including assistance for livelihoods, utilities, and relocation if required and Legal assistance to pursue claims arising from domicide.
 - iii. Including provision on "Monitoring and Reporting" such that the relevant authority shall maintain a registry of reported cases of domicide, monitor compliance with this Act, and publish annual reports on actions taken, remedial measures provided, and the status of victims' housing restoration.
- 1.4 Take the legislative measures necessary to ratify the Optional Protocol to the ICESCR and enable the filing of individual complaints alleging violations of the Covenant with the CESCR.

2. Executive Authorities

2.1 Cabinet of Ministries

- i. *Formation of the Commission*
 - Responding to the demands of victims' groups, appoint capable and independent Commissioners for the TJ mechanisms, following a transparent process.
 - Develop an analysis of Nepal's compliance with the recommendations of the CESCR³⁸¹ in respect of the rights to education, health, employment, housing, social security and cultural rights and take measures to ensure compliance with the CESCR's concluding observations.
 - Submit a follow-up report to the CESCR providing updates on the government's plans to recognize and address ESCR-related violations through the TJ mechanisms.

³⁸¹ *Concluding observations* (n 8) para 28.

"The Committee calls on the State party to adopt legislation making primary school compulsory. It further recommends that the State party:

(a) Ensure access to schooling in rural areas and for Dalit and indigenous children in the context of its "Program me of education for all 2015";

(b) Make all necessary efforts to make secondary school free;

(c) Address the high rate of school dropout of girls, including by providing adequate sanitary infrastructure in all school..."

- Take the executive measures necessary to ratify the Optional Protocol to the ICESCR and enable the filing of individual complaints alleging violations of the Covenant with the CESCR.

ii. Policy Measures addressing social and economic needs

- Ministry of Law, Justice, and Parliamentary Affairs (MoLJPA), as the line Ministry of the TJ commissions in collaboration with them to develop a separate comprehensive policy framework on reparations, outlining clear measures and implementing strategies that align with international standards. Such measures could include:
 - Lifelong support: Provide lifelong support for the victims and their families living below the poverty line, based on a thorough assessment of their situation and needs, ensuring comprehensive and sustained support.
 - Pension Scheme: Establish a pension system for conflict victims to provide a steady source of livelihood, prioritizing those with disabilities, older individuals, and other vulnerable groups, ensuring long-term support for all affected.
 - Direct Financial Aid: Provide one-time grants or phased cash assistance for victims to rebuild their lives through the State-led need assessment.
 - Sustainable Livelihood Training: Provide long-term skills and livelihood training to victims and their families, tailored to local economic opportunities.
- Adopt a new comprehensive National Housing Policy that explicitly incorporates the constitutional and internationally protected right to housing, as well as the provisions of the Right to Housing Act (2018). This policy should include special provisions for conflict victims, ensuring their access to adequate housing as part of the transitional justice framework.

iii. The TJ Commissions

- Ensure that the Commissioners develop expertise in ESCR, international human rights law, and transitional justice to ensure a broad interpretation of their mandate through training and other capacity enhancement programs.
- Ensure accurate identification of conflict victims and conduct a comprehensive needs assessment for victims and their families nationwide.
- Ensure all human rights violations, including ESCR, are actionable within transitional justice processes, with Commissions interpreting them according to international standards to include victims of economic, social, and cultural harms.
- Ensure that the Commissions interpret violations in line with international standards, avoiding arbitrary categorization that limits victims' access to justice.
- Establish a comprehensive framework to address both individual and community harms, including financial compensation, psychosocial support, housing, education, employment, and healthcare. Ensure explicit coverage of economic, social, and cultural rights violations and set clear regulations for fair and systematic delivery of community reparations.
- Involve victims and their families in the design and implementation of reparative measures, addressing the need for enhanced coordination between all three levels of the government, victims and civil society organizations in developing and implementing the reparation programs.

- iv. *Take measures to harmonize and link efforts of TJ bodies and the NAP–II implementation mechanisms to facilitate, enable and promote participation of victims of CRSV and to address their rights and needs through holistic, comprehensive reparations.*
- v. *Ensure systemic and comprehensive responses to the alleviation of poverty and inequality, which integrate the work of TJ commissions with broader poverty alleviation plans and programs;*
- vi. *Programs to implement for victims’ support and livelihood*
 - **Victim-Sensitive Land Return and Tenure Security:** Ensure that all victims living on unregistered land have their property rights officially recognized and legally protected. Implement measures to formalize land ownership through title registration for individuals displaced or affected during the conflict.
 - **Financial Assistance to support the livelihoods of victims and their families:** While conducting employment programs as provided by Right to Employment Act, 2015 ensure that priority is given to women, Dalits, those who are economically destitute, martyrs’ families and families of the persons who were victims of enforced disappearances.
 - **Social Security measures:** Social security measures and their implementation should prioritize victims, including those with disabilities, torture survivors, widows, or individuals living in poverty, who have not received such support under other relevant laws. This should be done in accordance with Section 14 of the Social Security Act 2018.
 - **Social Security Allowances:** Implement the provision of social security allowances to the wives of disappeared persons, recognizing them as single women eligible for such benefits, consistent with the Supreme Court’s ruling³⁸² and subject to detailed guidance to be provided in the full text of the judgment.
- vii. *National Action Plan II implementation*

Take measures to harmonize and link efforts of TJ bodies and the NAP–II implementation mechanisms to facilitate, enable and promote participation of victims of Conflict Related Sexual Violence (CRSV) and to address their rights and needs.

2.2 Local Government

- i. *Ensure Accessible and Equitable Delivery of Essential Services*
 - **Right to Education**
 - Local level governments, including relevant educational authorities, should ensure access to free education for all people as provided by the Right to Free and Compulsory Education Act, 2018.
 - Implement section 3(9) of the Act relating to the right to get “special opportunities for education” for the “children of the martyrs, who have sacrificed their lives in the process of popular movements, armed struggle, revolution, of the disappeared persons, of conflict victims, of the wounded, of the persons with disabilities”.
 - Ensure that, where residential educational facilities are used as a means of providing access to education, children who are placed in such facilities can live in proximity to their families and communities.
- ii. *Create a safe space for Cultural practices*
 - **Revival of Festivals and Melas**
 - Work with local communities who want to restart traditional festivals and *melas* that were disrupted during the armed conflict, fostering an environment conducive to cultural revival and community healing.
 - **Support for Cultural Preservation**
 - Provide funding and logistical support for cultural events, rituals, and local traditions to restore a sense of identity and belonging.

³⁸² Birendra Thapaliya (n 9).

iii. *Social support networks*

- Local governments should collaborate with communities to create support networks or support groups for widows of conflict victims to foster community solidarity, emotional support and combat stigma, discrimination and harmful practices against widows and single women to end stigma and discrimination against them.

2.3 Multilevel government coordination

i. Right to Comprehensive Healthcare

-Local and provincial government authorities should take all necessary measures to implement the programs for special social health security for “women, children...martyrs’ families...” as required by section 47 of the Public Health Services Act, 2018.

ii. Right to Housing

-The government of Nepal at all three levels should coordinate to provide immediate temporary housing for victims whose homes were destroyed or damaged during the conflict, ensuring safe and secure shelter in terms of section 13 of the Right to Housing Act, 2018 before making any arrangement for their resettlement pursuant to section 14 of the same Act.

3. Judicial Authorities

- 3.1 Where appropriate, initiate actions such as contempt of court proceedings, where the State fails to comply with judicial orders, decisions and rulings.
- 3.2 Follow up on the measures taken by the State to comply with the Supreme Court’s order regarding revision of the TRC Act to ensure its compliance with international law and standards.³⁸³

³⁸³ *Suman Adhikari (n 10)* (ordered government to create commissions for reconciliation, ensure prosecution of human rights violators, and provide victim reparation; *Rabindra Prasad Dhakal on behalf of Rajendra Prasad Dhakal v Ministry of Home Affairs, Government of Nepal and Others*, Supreme Court of Nepal (1 April 2013) (directive to formulate relief programme including employment, financial, and educational assistance); *Madhab Basnet and Others v Office of the Prime Minister and Council of Ministers and Others*, Supreme Court of Nepal (1 June 2007) (ordering reparation to victims and families with adequate economic, legal, and institutional arrangements); *Liladhar Bhandari and Others v Government of Nepal and Others*, Supreme Court of Nepal (related to confiscation of property and displacement; ordering establishment of district-level property return committees, assessment of losses, restitution of property, and fund for relief).

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This report is supported by OHCHR. The views and opinions expressed herein are those of the International Commission of Jurists (ICJ) and do not necessarily reflect the views of OHCHR

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