



Nepal: Transitional Justice at Crossroads

The landmark verdict of the Supreme Court (SC) of Nepal on 2 January 2014 has signaled a significant breakthrough in relation to transitional justice debates in Nepal. The verdict has addressed some of the key issues and controversies that were largely responsible for a stalled transitional justice process, which conceptually began with the Comprehensive Peace Agreement of Nov 2006¹, further re-asserted in the Interim constitution of Nepal -2007², and followed by seven years of tug-of-war between the civil society and the successor governments over contents and mandate of

the proposed mechanisms. The fundamental questions that have been a constant bone of contention between the civil society (represented by victims, national/international human rights organizations) and the successor governments in Nepal included:

- Whether the proposed commissions should be vested with wide discretionary powers to recommend amnesty even to those involved in gross human rights violations in the context of the conflict?
- Whether the proposed commissions should work as a single consolidated unit or execute their tasks separately?
- Whether the commissions should be established in line with accepted international standards?
- Whether it is necessary to have wider consultations among victims groups, civil society and other stakeholders concerned in setting up these mechanisms?

Among other things, the latest verdict of Supreme Court, which has been dubbed as the anti-amnesty verdict, has untied the Gordian knot of the stalled TJ initiatives in

¹ Article 5.2.5 of the CPA specifically calls for a Truth and Reconciliation Commission to be established in order to "probe about those involved in serious violation of human rights and crime against humanity...and develop an atmosphere for reconciliation in society and the article 5.2.4 of the CPA calls for a National Peace & Rehabilitation Commission to "carry out works...to normalize the adverse situation arising as a result of the armed conflict, maintain peace in the society and run relief and rehabilitation works for the people victimized and displaced as a result of the conflict."

² 33 (S) of the Interim constitution of Nepal -2007 provides for "[to] constitute a high-level Truth and Reconciliation Commission to investigate the facts regarding grave violation of human rights and crimes against humanity committed during the course of conflict, and create an atmosphere of reconciliation in the society."

Nepal. It has tried to clear up the general misconceptions that have been stymying the progress of TJ in Nepal. The SC has criticized the government for its 'insensitivity' and taking 'perfunctory and blithe' attitude towards addressing the past and expressed its resentment over non-implementation of its earlier directive orders. The key aspects of the verdict include:

- The court has ruled that amnesties for gross violations are impermissible and vesting the commissions of wide discretionary power to grant amnesty is unenviable. However, it has not ruled the possibility of amnesty and has directed to prescribe guidelines on amnesty in the legislation itself. On a pragmatic note, that court has further said that the decision for leniency/ amnesty or other alternative methods could be sought after considering on a number of factors including the circumstances of the incident, the status and consequence of the investigation, the perception of victims towards amnesty and perpetrators, confession of crimes with apologies by perpetrators and overall impact of amnesty in society. It has further added that the participation of the victims is mandatory in the amnesty and reconciliation process.
- The court explicitly ruled against the idea of merging both commissions as a single consolidated unit as it is against the CPA, the Interim

Constitution and its own June 1 verdict.

- The court said that the deliberate attempt to equate serious crimes and human rights violations to politically-motivated crimes only fosters impunity and negatively impacts the rule of law. The existing criminal law must, the court added, address the criminal offences committed during the conflict.
- Based on context and subject matter, criminal justice process and the reconciliation process, the court held, should proceed in a complementary manner and, as per necessary, require to be viewed in an isolated and specialized manner.
- For a comprehensive management of the TRC, the court has advised the government to: criminalize serious crimes; organize nationwide campaigns to promote reconciliation, provide adequate reparations to victims; ensure autonomy and impartiality to the commission by refraining from appointing perpetrators and those with track record of human rights violations as commissioners; ensure robust victim/witness protection mechanism; maintain confidentiality of proceedings including *in camera* hearings; ensure audio-visual dissemination of the hearings as per need
- The court further said that victims, victim/human rights activists, specialists and all stakeholders concerned should be consulted

before finalizing the legislation or preparing guidelines on issues like amnesty and others.

- The court clarified that there should not be any statutory limitations for filing complaints regarding serious violations.

In this context, the present briefing paper discusses the context of transitional justice initiatives, the checkered course of the stymied process through a series of bills, ordinances and confrontations between the civil society and the government, finally leading to the recent intervention by the Apex court. The briefing also recommends for some ways forward to restart the already delayed transitional justice process in Nepal.

The Context

Both the warring parties, i.e. state security forces and the Maoist rebels, were involved in serious human rights abuses during the decade-long (1996-2006) internal armed conflict in Nepal. It is estimated that the conflict claimed around 17,265 lives, 4305 disabled, 78,675 dispossessed and displaced³, thousands of civilians tortured and hundreds of women/girls became victims of rape and other forms of sexual violence. The whereabouts of 1302 is still not known. A recent report by the United Nations Office of the High Commissioner of Human Rights (OHCHR) states that "there

³ Media Foundation, *Healing the Wounds: Stories from Nepal's Transitional Justice Process*, Kathmandu, 2011, page 72-75.

exists a credible allegation amounting to a reasonable basis for suspicion that a violation of international law has occurred" in Nepal and" . . . these cases merit the prompt, impartial, independent and effective investigation by competent judicial authorities."⁴

Establishing accountability mechanisms to deal with the human rights violations committed in the past is itself a tough ask, and it is more challenging in the context of a negotiated political transition like that of Nepal. The Nepali political transition was a direct consequence of a military stalemate and the basis was a *cautiously optimistic* pact between two erstwhile antagonistic political forces, i.e. mainstream political parties represented by the Seven Party Alliance (SPA) and the warring CPN-Maoists, who banded together to oust a third political force, the autocratic monarchy. Owing to the very nature of the transition, there was an ample room for concessive settlements of issues and controversies.

Most importantly, the negotiated nature of the transition resulted in turning the characteristic '*peace v Justice*'⁵ dilemma

⁴ United Nations Office of the High Commissioner for Human Rights, *Nepal Conflict Report: An Analysis of Conflict-Related Violations of International Human Rights Law and International Humanitarian Law between February 1996 and 21 November 2006*, Geneva, 2012 p. 28

⁵ Teitel poses the following characteristics of such a dilemma:

'Whether to punish or to amnesty? Whether punishment is a backward-looking exercise in retribution or an expression of the renewal of the rule of law? Who properly bears responsibility for past repression? To what extent is responsibility for repression appropriate to the individual, as opposed to the collective, the regime, and even the

more acute. On the one hand, any attempt to hold Maoist leaders and cadres accountable for serious abuses could cost the entire peace process, and granting them blanket amnesty might suggest legitimizing their reprehensible armed tactics during the conflict; while, on the other, letting the rebels scot-free and solely targeting the state security apparatuses not only would have been unjustifiable but the Seven Party Alliance, apparently both wary and apprehensive of the Maoists' avowed ambition of state capture, was against the very idea. Therefore, the signatories to the CPA agreed to 'withdraw accusations, claims, complaints and cases under consideration' leveled against each other.⁶

However, both the parties were not in a position to readily dismiss the human rights agenda and addressing the violent past by justice and reparations. By most accounts, the increased monitoring presence of the United Nations and other national and international human rights agencies and unwavering support of donor agencies to the human rights cause⁷ played a substantial role in decreasing the incidences of serious human rights violations, and helping to create an environment conducive to the negotiation of a ceasefire and 'space for national actors to push a human rights and pro-democracy agenda culminating in the

entire society? (see Rudi G. Teitel, *Transitional Justice*, Oxford University Press, 2002, p. 28)

⁶ CPA, Clause 5.2.7

⁷ See Jorg Frieden, "A Donor's Perspective on Aid and Conflict," Sebastian Von Einsiedel, David M. Malone, and Suman Pradhan (ed.), *Nepal in Transition: From People's War to Fragile Peace*, Cambridge University Press, 2012, p. 100-113

April 2006 People's Movement,⁸ and eventually, the CPA.

The CPA refers to human rights altogether 18 times, provides for separate provisions on a number of rights and makes references to international human rights instruments. With provisions on the formation of transitional justice mechanism and promises of rooting out impunity and establishing accountability, the CPA represents an express commitment of the signatories to deal the violent past with peace and justice. Furthermore, providing justice, addressing all kind of discrimination and making everyone equal before law was very much the agendas of Maoist which received broad support in rural Nepal. Also the rebels during the conflict had reiterated their commitments to abide by the Geneva Conventions and other relevant international human rights law⁹ and the government was bound to adhere to national laws and international treaty obligations to prosecute serious offences. Ethically, circumstantially and legally, the signatories to the CPA were not in a position to condone human rights atrocities committed during the conflict.

Aftermath of the CPA, national and international human rights organizations including the UN-OHCHR and the National Human Rights Commission (NHRC), however, shifted their attention from prevention of civilian casualties to transitional justice and accountability for

⁸ Frederick Rawski & Mandira Sharma, "A comprehensive Peace? Lessons from Human Rights Monitoring in Nepal," p. 175

⁹ See Human Rights Watch, *Between a Hard Rock and a Hard Place : Civilians Struggle to Survive in Nepal's Civil War*, October 2004, p. 22-23

conflict-related violations. Victims were more united and were more vociferous in their demands for justice and reparations. A number of cases were brought before the Supreme Court which in turn issued a series of directive orders to the government to initiate immediate measures to establish transitional justice mechanisms, criminalize serious violations and provide reparations to victims.¹⁰ Cases were also brought to international levels to exert pressures and to establish jurisprudences in dealing with the crimes of human rights violations.¹¹ In responding the cases submitted, international treaty monitoring bodies directed the government to provide effective remedies and take appropriate legislative measures to prevent and remedy the future commissions of crimes.¹² Apparently, the successor governments were also not in a position to be completely indifferent to these calls thereby intensifying the dilemma.

The Transitional Justice Process

Coursing along such a dilemma, the transitional justice process in Nepal staggeringly meandered forward. The process formally started in June 2007 when the Ministry of Peace and Reconstruction unveiled the draft TRC bill. Underlining the rhetoric of national reconciliation, the bill attempted to introduce blanket amnesty via a controversial clause in the draft bill for the establishment of the TRC.¹³ However, the national and international human rights organizations in Nepal foiled the government's plan. Through a series of reports, submissions¹⁴ and lobbying, these organizations were able to persuade government to withdraw the provision. Cornered, the government then started fresh consultations with victims and relevant stakeholders.

After nineteen rounds of consultations, the government produced a revised version of the TRC bill that stated that amnesty cannot be recommended for five categories of gross human rights violations : "1) Any kind of murder committed after taking control; 2) Murder of an unarmed person; 3) Torture; 4)

¹⁰ See AF and Human Rights Watch series on impunity: *Waiting for Justice*(2008), *Still Waiting for Justice* (2009), *Indifference to Duty* (2010) and *Adding Insult to Injury* (2011) available at <http://www.advocacyforum.org/publications/impunity-reports.php>;

¹¹ See UN-HRC submissions @ <http://advocacyforum.org/hrc-cases/index.php>; the prosecution of Nepali Colonel Kumar Lama's under universal jurisdiction in London, see @ <http://advocacyforum.org/news/2013/01/victim-welcomes-arrest-of-suspected-torturer.php>

¹² See views of UN Human Rights Committee in communications like : *Yasoda Sharma v Nepal*, Communication No. 1469/2006, CCPR/C/94/D/1469/2006 (2008), para. 9 ; *Yuvraj Giri v Nepal*. Communication No. 1761/2008, CCPR/C/101/D/1761/2008 (2011), para.9

¹³ Section 25 of the TRC Bill: Notwithstanding anything contained in the Section 24, if any person is found to have committed gross violations of human rights or crime against humanity in course of abiding by his/her duties or with the objective of fulfilling political motives, the Commission may make recommendations for amnesty to such person to the Government of Nepal.

¹⁴ For the collection of the comments from various organizations please see : British Council, *TRC Draft Bill Report of the Workshop on Transitional Justice*, Kathmandu, 2007

Rape; 5) Disappearance of person, abduction and hostage taking).¹⁵ Nevertheless, another clause that provisioned that the Office of the Attorney General, a political appointee, would have the final say on whether or not to prosecute cases recommended by the commission remained problematic. This left a loophole where the AG's Office may decide not to prosecute persons who have committed gross human rights violations.

Along with the TRC, the government also tried to deal separately the issue of enforced disappearances in Nepal. Although agreed to publicize the whereabouts of the disappeared within sixty days of the signing of the CPA,¹⁶ both the signatories of the conflict did not make public the status of the disappeared. However, the Interim Constitution -2007 held that it was the duty of the state "[t]o provide relief to the families of the victims, on the basis of the report of the Investigation Commission constituted to investigate the cases of disappearances made during the course of the conflict."¹⁷

Initially, an apparently unwilling government attempted to criminalize disappearance by registering a Disappearance and Abduction Bill to amend the existing Civil Code on 20 April 2007. The government claimed that the

introduction of the amendment bill was on a par with the international treaty obligations of Nepal and was also consistent with the recommendations made by the UN Working Group on Enforced or Involuntary Disappearance (WGEID) during its mission in 2004. Releasing a comprehensive commentary on the bill, the International Commission of Jurists (ICJ) pointed out that the bill was not in line with the directive of the Supreme Court and the recommendations of the WGEID.¹⁸ Besides victims groups and civil society organizations,¹⁹ some members of the parliament expressed resentment over the bill forcing the government to withdraw the amendment proposal.

Meanwhile on 1 July 2007, the Supreme Court of Nepal directed the government to introduce legislation criminalizing disappearances as a non-amnestible offence and to ensure the establishment of a "credible, competent, impartial and fully independent commission to address the issue of the disappeared during the conflict."²⁰ The directive order was issued in relation to 83 writs of habeas corpus pending in the Supreme Court. The writs were separately submitted to the court on behalf of individuals allegedly detained and disappeared by the security forces between 1999 and 2004. However, the government, instead of making attempts to establish a

¹⁵ All versions of the TRC bill available at the official website of Ministry of Peace and Reconstruction (see www.peace.gov.np)

¹⁶ 5.2.3 of the CPA stated: "Both sides agree to make public the information about the real name, surname and address of the people who were disappeared by both sides and who were killed during the war and to inform also the family about it within 60 days from the date on which this Accord has been signed."

¹⁷ Article 33(q)

¹⁸ See Advocacy Forum, *Bepatta Ko Kanoon ma Ke Hudaichha*, Advocacy Forum, Kathmandu, 2009

¹⁹ Accountability Watch Committee, "Position Paper on Civil Code Amendment", Advocacy Forum, *Bepatta Ko Kanoon Ma Ke Hudaichha*,"

²⁰ *Rajendra Prasad Dhakal et.al v the Government of Nepal*, writ no.3575, registered on Jan 21, 1999, decision June 1, 2007

commission in line with the verdict, formed a three-member "High Level Investigation Commission on Disappeared Persons" headed by ex-justice Narendra Bahadur Neupane on 26 June 2007 as per the Inquiry Commission Act -1969. However, the commission was rendered defunct before starting its task after widespread criticisms. Further, a high-level task force under the Ministry of Peace and Reconciliation recommended that the government establish a Truth and Reconciliation Commission (TRC) and a Commission on Disappearances via two separate ordinances in January 2008. Again, the government abandoned the idea after widespread condemnations.

On 15 November 2008, the government finally unveiled the draft bill on Enforced Disappearances (Charge and Punishment) Act -2008. The bill was regarded more effective as compared to the TRC bill as it had clear provisions of prosecution of the perpetrators involved. Although, questions were raised regarding the definition of disappearance (which was not in line with the United Nations Convention for the Protection of All Persons from Enforced Disappearances -2006), leniency in punishment (five years of imprisonment and a fine of \$ 1180 for perpetrators), no mention of command responsibility and 6-month statute of limitation for filing of cases. Sidelineing the bill, the cabinet, however, maliciously and surprisingly passed yet another disappearance ordinance on 5 Feb 2009, which was duly promulgated by the President five days later. The backdoor approach was taken during the parliamentary recess, yet it could not

materialize after relentless campaigning and lobbying by victims and human rights organizations.

Eventually on 4 December 2009, the government, after making some cosmetic amendments,²¹ tabled the bill in the parliament on 4 December 2009, followed by registering the TRC bill on 17 Feb 2010. Altogether 23 lawmakers submitted 90 different amendment proposals with regard to the TRC and 24 lawmakers put forward 77 amendment proposals in relation to the CoID. The bill was finally sent to the Legislative Committee for further deliberation.

After the completion of section-wise discussion in April 2011 at the Legislative committee of the Legislature Parliament, the bill was supposed to have been tabled for adoption; however, differences of opinion regarding some provisions in the bill including amnesty, reconciliation and definitions of human rights violations prevailed among the committee members. To iron out differences and to resolve problematic clauses in the Disappearance bill, a five-member sub-committee was formed. The Sub-Committee was expanded with two additional members in May 2011. Initially provided with a ten-day time limit to finalize the bill, the Sub-Committee failed to meet the deadlines even after repeated extensions. A standoff between the UCPN-

²¹ The punishment was increased to 7 years and a fine up to half million Nepalese rupees and under reparations all five types of reparations (restitution, compensation, rehabilitation, satisfaction and guarantee of non-repetition) were added

Maoist and the Nepali Congress²² stalled the process.

In November 2011, the political parties signed a 7-point agreement and agreed to form the commission without further ado. As a result, a high-level political Task Force consisting of representatives from the three main parties was formed to finalize the bill. In January 2012, the Task Force submitted a 'Suggestion Paper' proposing a merger of the Disappearance commission and TRC and an emphasis on truth-seeking. Regarding amnesty, the paper offered contradictory views in that it stressed the ruling out of amnesty for crimes of serious nature and mentioned the need for granting amnesty at the same time.

In May 2012, the government submitted a motion in the parliament to withdraw both the draft bills with a proposal to merge the two commissions. With the dissolution of the parliament on 28 May, the process stalled. However, the caretaker government, with obvious malafied intention, forwarded a single ordinance for the formation of a Disappearance, Truth and Reconciliation Commission to the President for promulgation in August 2012. In fact, some dramatic developments spurred the government into action, which include:

- 1) The publication of the “Nepal Conflict Report” by the UN-OHCHR with clear suggestions that there

²² The issue of the standoff was which commission should be established first: the UCPN-Maoist were rooting for Disappearance commission as most of the victims were their cadres and the Nepali Congress was in favor of prioritizing the TRC as this would ensure return of the property confiscated by the Maoists during the conflict.

have been serious violations of human rights and humanitarian law during the internal armed conflict in Nepal;

- 2) The arrest of a serving Nepal Army (NA) Colonel in the United Kingdom under universal jurisdiction for torture of two civilians during the conflict followed by the NA's public acknowledgement that it is willing to cooperate with the proposed truth commission as the outstanding allegations against army personnel has tarnishing effects on the image of the institution with an expression of doubt that the UCPN-Maoist, the party leading the caretaker government, is deliberately dillydallying to establish the commissions to protect its leaders and cadres from being prosecuted²³;

- 3) The nationwide protests and uproar against the deliberate attempt of the government to stop criminal investigations of the murder of a journalist during the conflict;

- 4) The nationwide protests against the widespread impunity for human rights abuses (especially sexual violence) spearheaded by a spontaneous public movement called “Occupy Baluwatar” which lasted

²³ Ekantipur.com, "Nepal Army to Help Set up TRC", available at <http://www.ekantipur.com/2013/03/04/top-story/nepal-army-to-help-set-up-trc/367908.html>

for three and half-month outside the prime minister's official residence.

5) The prospects of forthcoming polls necessitated the political parties to start the process to facilitate their election campaign

Therefore, the passage of the ordinance with cosmetic changes in its earlier versions did not seem to issue forth from a genuine political will to address the past but a mere political stratagem under duress. Still, the President, despite protests by the victim groups and civil society, ultimately endorsed the bill on 14 March 2013. However, the victims groups and Human Rights defenders filed public interest litigations, challenging the process and some of the contents of the ordinance in the SC.

After the successful conduction of the second constituent assembly elections in 19 Nov 2013, the UCPN-Maoist, which initially decided to defy the polls results citing systematic ballot-rigging and other malpractices after their humiliating and humbling defeat, put the immediate establishment of the TRC in line with the ordinance as one of the pre-conditions to join the CA. Finally the SC delivered a historic verdict on 2 January 2014. Despite the SC ruling, the government tabled the ordinance in the parliament on 28 January, 2014.

Transitional Justice: Sovereign Remedy or Sorcerer's Apprentice?

Despite all good intentions involved, transitional justice has continued to remain in suspended animation because of a couple of factors. Foremost, it has been hyped as a sovereign remedy to address the past human rights violations and break the cycle of impunity. As discussed earlier, the civil society's is adamant that these commissions should not act as a vehicle to amnesty for gross violations and should be established as per the relevant international standards to ensure their independence, competency and impartiality. Their stance is based on the failure of earlier commissions of inquiries, especially the much-hyped Mallik Commission and Rayamajhi Commission formed after the democratic movement of 1990 and 2006 respectively, to prosecute those responsible for human rights violations and other abuses. On the contrary, the political parties (especially the UCPN-Maoist), despite recognition of transitional justice as an integral part of the CPA, seem to have lurking doubt that the TJ process might prove to be a "sorcerer's apprentice", and the ultimate writing on the wall for the entire peace process. As a result, they are inclined to use transitional justice as a vehicle to amnesty and reconciliation.

Besides, the excessive insistence on TJ as a sovereign remedy for past violations has negatively impacted the regular justice process. The successor governments in Nepal are deliberately inclined to give a

message that cases dating back to the conflict cannot proceed in the courts as they will be dealt with by the proposed commissions. Citing similar reasons, even the recommendations of prosecution after field investigations by the National Human Rights Commission (NHRC) were not implemented. Instead, the government started pursuing the path of de facto amnesties via case withdrawals.²⁴ This has further severed the gap, which has gradually been widening after the CPA of November 2006, between victim's demand for justice and reparations and the authorities' stance in favor of pardons, amnesties and reconciliation.

However, both positions are fundamentally flawed. Transitional justice is not synonymous with prosecutions of past violations but have wide-ranging objectives which include: finding the root causes of the conflict, addressing and attempting to heal, divisions within society; truth-seeking, providing justice and reparations to a victim, holding those responsible accountable for their acts; ending the culture of impunity; deterring future human rights violations; restoring the rule of law, etc. Also, the worldwide experience shows that TJ mechanisms are specifically focused on unraveling truth about human rights and policies/practices that triggered those violations rather than on initiating prosecutions at its disposal.²⁵ Besides, a truth commission operates within a stipulated period of time and fundamentally

²⁴ Advocacy Forum, *Evading Accountability by Hook and By Crook*, Kathmandu, 2010

²⁵ OHCHR Rule of Law Tools for Post-Conflict Countries: Truth Commissions (2006), p. 27.

inclined to reveal the patterns of violations and deal with selected emblematic cases rather than focusing on individual cases. Further, it does not foreclose amnesties except for gross human rights violations.²⁶ Moreover, prosecutions are carried out after detailed investigation and taking into consideration a lot factors including individual criminal responsibility, circumstances and gravity of the crime, etc. Not only sentencing but vetting, monetary fine and even amnesty can be the end of such prosecution measures.

In this context, the verdict of the Supreme Court has tried to clear up the general misconceptions and has provided the much-needed headway towards addressing the past

²⁶ A research conducted by Amnesty International to analyze the practice of criminal prosecutions and amnesty of the 40 truth commissions established around the world between 1974 and 2010 concluded that the practice of truth commissions:

1. [R]ejects the granting of amnesty for crimes under international law (only three were given the power to recommend or grant amnesty or immunity)
2. [A]llows the granting of amnesty in connection with truth-seeking processes only when the amnesty excludes crimes under international law (five were allowed to recommend or grant amnesty)
3. [S]trongly supports the prosecution of crimes under international law (more than half of the 38 truth commissions recommended and/or actively contributed to the prosecution of all crimes under international law.

See Amnesty International, *Commissioning Justice: Truth Commissions and Criminal Justice*, Amnesty International Publications, London, 2010.

by establishing the long-awaited mechanisms.

The Way Forward

AF likes to recommend the government the following to rev up the TJ process:

- Set up a *High-level TJ Task Force*, comprising of relevant government officials, NHRC, political parties, human rights activists and victim representatives, should be immediately set up to have detailed operational calendar for the TJ process. Such a timeline for action should be published and made public. This is especially important because a clear relationship between the TRC and the CoID disappearance is crucial towards achieving any of the goals for both the commissions. Lack of clarity regarding this would endanger the functioning of both the commission due to the risks of overlaps and duplication.
- Give exclusive mandate to the task force to prepare plan of action to implement all the relevant SC decisions and draft legislation for two commissions in line with them, and prepare grounds for the eventual setting up of the TRC and CoID.
- Start expert consultations to discuss develop legal/ policy framework for vetting and amnesty

- Establish a team to investigate and implement reforms of the currently dysfunctional system for dealing with complaints by victims of politically motivated crimes and violations.
- As government has been failed to implement the court orders, implementation of the recommendations of the previous commissions of enquiries, victims and civil society organizations have lost confidence and have well-founded doubts whether TRC and COID are set up and their recommendations will be implemented. To further victims' confidence on the process and to established TRC and COID, initiate prosecutions on emblematic cases where court has issued arrest warrants and mandamus [cases like Bal Krishna Dhungel (alleged perpetrator in the murder of Ujjan Kumar Shrestha case) and army officers involved in the murder of Maina Sunuwar, etc.]²⁷ Also start credible investigation and prosecution regarding Krishna Prasad Adhikari's case.

²⁷ For a list of emblematic cases see <http://advocacyforum.org/emblematic-cases/index.php>