

Kathmandu Declaration – 2078 (2022)

Endorsed by the National Interaction on Transitional Justice for General Conflict Victims' Community

Kathmandu, 2078 Chait 24 (April 7, 2022)

Fifteen years have passed since the signing of the Comprehensive Peace Agreement. The main task of this agreement, as evident to all, was to investigate the truth and facts of incidents of serious violations of human rights that took place during the armed conflict, ensure justice and reparation to the victims and penalty/punishment to the perpetrators, identify the causes and effects of the conflict and ensure that the conflict does not recur. The peace agreement includes provisions that stipulate that both sides to the conflict will make public the status of the disappeared within 60 days, provide relief and compensation and rehabilitation to the conflict victims, and investigate incidents of serious human rights violations through a Truth and Reconciliation Commission and Commission for the Investigation of the Disappeared Persons and return the seized property, among others.

But the Truth and Reconciliation Commission and the Commission for the Investigation of Disappeared Persons, which should have been formed within six months, were formed **eight** years later due to partisan pressure, influence and self-interest. It is a shame that these commissions formed for a term of two years have not been able to take any concrete action even after a long period of seven years, where not even a single victim could feel satisfied. On the other hand, the government and political parties have been delaying the amendment of the amnesty law, as per the mandamus order of the Supreme Court, since the past seven years. The Truth and Reconciliation Commission has asked the victims of serious crimes to choose between compensation or a detailed investigation. This testifies that the government and political parties are not sincere in their commitment to human rights, transitional justice and the rule of law, and serious questions have to be raised about the legitimacy, credibility and functional ability of the commissions.

The members of the victims' families, whose loved ones have disappeared, are seeking for their loved ones, to find them alive or their mortal remains. More than 15 years have passed since individuals and families who have fallen victim to extrajudicial killings, torture, mutilation and injuries, sexual violence and displacement have been demanding justice and medical treatment, including identification and reparation. However, the Commission, which is said to have been formed to find the 'breathing or dead body' of the

disappeared person, has been distributing identity cards without even mentioning the name of the disappeared person seven years after its formation. Both the commissions are distributing purposeless identity cards which do not even contribute to identification and service benefits. Similarly, the commissions are inflicting more pain on the victims under the pretext of collecting complaints, evidence and recording statements.

Many of the victims who were mutilated and became disabled due to the conflict have lost their lives for lack of medical treatment. Issues such as identification, medical treatment, rehabilitation, justice, and return of forcibly confiscated property of victims of conflict-time, rape and sexual violence are yet to be addressed. All the political parties leaders and cadres have benefited in the republic that was established on the foundation of the pain, tears and blood of the conflict victims. But millions of victims have been neglected.

At present, there are 761 third-tier governments in the country. Efforts are being made by the local and provincial governments to formulate some programs for the victims in economic, social, education, health sectors and for memorials. However, due to lack of participation of and discussion with the victims in formulating such programs, these programs have not been able to meet the needs of the victims on the one hand while on the other, the budget allocated for the programs has been frozen due to absence of sufficient information, notice and access to the victim community about such programmes.

In the backdrop of the aforementioned references, a two-day national interaction of the conflict victims held in Kathmandu on April 6 and 7, 2022, representing the conflict victims from all over the country, has unanimously passed the following demands, with a conclusion that these are the basic demands of the victim community.

Related to transitional justice (truth, justice, reparation, ensuring non-repetition of crimes that took place in the past)

1. As the victim community has no trust in the existing commissions formed without any meaningful consultation with the victims and without their participation, and since they have failed to complete investigation of even a single incident of conflict-time human rights violation, we appeal to implement the transitional justice process along with a timeline and clear action plan based on the experience gained so far and the jurisprudence set by the Supreme Court and on the basis of international values, norms and standards, by reassessing the government- and political party-controlled existing ineffective commissions and transitional justice process.

2. With meaningful consultation with the victim community and stakeholders and ensuring that pardon, amnesty and reconciliation are not made in the case of serious human rights violations and abuses, we appeal for the amendment of the Investigation of the Disappeared Persons, Truth and Reconciliation Commission Act and development of other necessary policies and laws to make the transitional justice process effective in accordance with the Supreme Court rulings and international standards,
3. We request for formation of an Act amendment task force comprising subject matter experts as per the mandamus order issued by the Supreme Court on 2070 Poush 18 (January 2, 2014) to amend the Investigation of the Disappeared Persons, Truth and Reconciliation Commission Act, and make amendments on the basis of the report of the task force.
4. We strongly demand immediate dissolution of the Truth and Reconciliation Commission, and the Commission on Investigation of the Enforced Disappeared Persons that were formed against the spirit of transitional justice and that which have been completely unsuccessful, and demand the formation (following amendment of the Act) of competent, independent and credible commissions by selecting individuals (in a transparent and credible manner) who are competent, experienced and have the determination and a clear roadmap to successfully carry out their mandates provided in the Act.
5. For the independence and effectiveness of the commissions, we appeal to make legal arrangements whereby the commissions are provided with the necessary physical resources by the government but for the staff and expert human resources to be managed by the commissions themselves.
6. We request that necessary and appropriate arrangements be made for the reconstitution of the commissions and to ensure that the functioning of the reconstituted commissions and the entire transitional justice process are victim-centered and victim-friendly, and gender-friendly.
7. We request that necessary and appropriate policies, rules and laws be formulated to ensure the legal rights of the conflict victims to reparation. In formulating such policies, rules and laws, we demand that the guiding principles of the United Nations Reparation Policy and the decisions of the Supreme Court regarding reparation be followed.
8. We demand that short-term (interim relief) and long-term (reparation) programs and necessary and appropriate policies, rules and laws be formulated after meaningful consultation and collaboration with the victim community about ways to ensure

education, health, employment, rehabilitation, compensation, livelihood, social security, identity card, honor, memorials, cultural, economic, psychosocial and legal aid to the victims.

9. We demand that the incidents of sexual violence that took place during the conflict be documented and the victims identified, while protecting their confidentiality and security, with provision of free education, health and psychosocial counseling and livelihood.

10. We request for identification of the children born out of conflict-era rape and for their immediate and long-term needs including birth registration and citizenship to be addressed.

11. We strongly demand the formulation and implementation of long-term, dignified, convenient and accessible reparation policies and programs in mutual collaboration between the federal, provincial and local governments.

12. We appeal to the Government of Nepal and the political parties to implement the "vetting" process in the appointment, promotion and career development of those in public positions and in the security agencies.

13. We request the Government of Nepal, the National Human Rights Commission and other agencies to ensure the security and confidentiality of documents and evidence related to transitional justice. We also request for implementing of the recommendations made by the National Human Rights Commission following investigation, and to take note of it during the selection of candidates for the local level elections.

14. We request the provision of identity cards for the conflict victims with clear identification, dignity, respect and benefits in public services.

15. We request to make arrangements for transfer of ownership and title of immovable property by the family members of the disappeared persons in the name of the rightful heirs and also to provide social security allowance to the wives of the disappeared persons on a par with the single woman allowance.

16. We urge that conflict-era human rights violations and atrocities be brought to justice under the regular criminal justice system in the context where the transitional justice process is not reaching a conclusion.

Upcoming election and concerns of the victim community

17. After a review of the failures to implement the commitments made in past election manifestos, policies and programs and those made in various forums, we heartily appeal to the political parties and candidates participating in all tier elections to include as a priority the aforementioned concerns and demands for truth, justice and reparation of the conflict victims in the upcoming local, provincial and federal election manifestos, and to make commitments for their full implementation.

18. We appeal to the federal, provincial and local governments to formulate necessary and appropriate policies and programs with priority, including on the following issues to address the concerns including the rights of the victim community related to transitional justice and the needs, desires and satisfaction of the victims:

- Provision of free education, health and medical treatment,
- Provision of one employment per conflict victim family,
- Provision of free and regular psychosocial counseling, vocational and skill-based, self-employment training, concessional loans, ensuring service, goods and markets as required,
- Provision of regular and effective medical treatment and subsistence allowance to the people who were injured and became disabled during the conflict, including prostheses and support materials,
- Recognize the people who were injured and became disabled after the Comprehensive Peace Agreement (November 2006) due to explosives and landmines abandoned in the course of the conflict, and provide them with all the benefits, relief, treatment and subsistence allowance received by a conflict victim,
- Identify and define persons who died as a result of injuries or disability incurred due to the conflict as deceased conflict victim,
- Provision of reservation for the conflict victims in technical education and government services,
- Provision for reservation in shares of companies such as hydropower,
- Free legal aid and legal services,

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- Every municipality to prepare data and profiles of the conflict victims within its jurisdiction, construct memorial building in the memory of the victims by installing photographs of all the conflict victims,
- Build and name monuments, memorial parks, gardens, roads, schools, museums and parks at the federal, provincial and local levels,
- Provision to commemorate the day of the signing of Comprehensive Peace Agreement in memory of the conflict that took place in Nepal and in honor and remembrance of the conflict victims,
- Organizing of Conflict Victims Felicitation Ceremony,
- Arrangements to be made to provide reparation in an accessible place,
- Arrangement of special programs, including healthcare, maintenance and social security for women, orphans, the physically challenged, senior citizens and victims with other special needs,
- Provision of conflict-affected community targeted collective reparation (drinking water, hydropower, irrigation, agriculture, income generating programs, cooperative group formation, etc.)

19. *We appeal to all the political parties and candidates participating in the forthcoming elections to include the aforementioned demands of the conflict-affected community in their respective manifesto, policies and programs, along with a commitment to their effective implementation.*

20. We heartily appeal to all political parties and their leadership not to nominate as candidates in the upcoming local, provincial and federal elections persons involved in human rights violations.

21. We make a public appeal for the boycott of those involved in human rights violations if they are nominated as candidates.

22. We request all political parties and leaders to provide reservation (quota) for the conflict-victim community in the nomination of candidates for the upcoming local, provincial and federal elections.

Therefore, we urge all stakeholders, including the Government of Nepal, the political parties and the party leadership, to take seriously, prioritize and address as soon as

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possible the basic demands mentioned in this Declaration. We also heartily request all stakeholders including civil society, the human rights community, the media, and the international human rights community and diplomatic corps to take responsibility from their respective side, take initiative and support, co-ordinate and collaborate with the general conflict-victim communities to ensure transitional justice, including truth, justice, reparation, identity and respect.

April 7, 2022 Kathmandu

Appellant Conflict Victims Affiliated Organizations:

1. Conflict Victims' Common Platform
2. Conflict Victims National Network
3. Conflict Victims Women's National Network
4. National Network of Conflict Victims with Disabilities
5. Conflict Victim Orphans Society
6. Conflict-Victim Society for Justice
7. Conflict Victims Committee, Bardiya
8. Network of the Families of the Disappeared (NEFAD)
9. Nepal Maoist Victims Association
10. Conflict Victims Farmers' Rights Protection Society, Kailali
11. Disabled Victims Struggle Association, Dolakha
12. Conflict-Affected People's Concern Society, Dang
13. Bandarmudhe Incident Victims Committee
14. Conflict Victims Teachers Society
15. Conflict Victims Self-Employment Training Center Nepal
16. National Society of Conflict Victims

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17. Conflict Management and Displaced Persons Concern Centre
18. Conflict Victims Rights Forum, Myagdi
19. Guru Luitel Academic and Development Center
20. Muktinath Adhikari Memorial Foundation
21. Maina Child Development Committee
22. Reena Arpan Memorial Foundation
23. Ganesh Ujjan (Bhuvan) Memorial Foundation
24. Bhairav Memorial Foundation, Gorkha
25. Lakshmi Acharya Memorial Fund, Jajarkot
26. Martyr Bashishta Koirala (Suresh Chandra) Memorial Foundation
27. Manilal Memorial Foundation, Myagdi
28. Nandalal Koirala Memorial Foundation, Gorkha
29. R.C.P. Memorial Foundation, Arghakhachi
30. Conflict Victims Women's Network, Banke
31. Shiv Prasad Bhatt Memorial, Gorkha
32. Martyr Jai Bahadur Rawal Memorial Foundation, Jajarkot
33. Martyr Tikraj Aran Memorial Foundation, Ramechhap
34. Hari Bhakta Memorial Foundation, Rukum
35. Martyrs and Disappeared Warrior Children's Foundation
36. Martyr Dasharath Thakur Memorial Fund, Rajbiraj
37. Bhupendra Memorial Foundation Nepal
38. Martyr Ajab Lal Yadav Memorial Foundation, Dhanusha
39. Bhupendra Memorial Foundation Nepal, Banke
40. Women for Human Rights, Single Women Group, Surkhet

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41. Conflict Victims' Society for Justice, Surkhet

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