

## **Response of Government of Nepal (GoN)**

### **On**

#### **The impact of people and victim centered transitional justice measures on progress made towards the SDGs in post authoritarian and post conflict settings**

**1. Please indicate how measures of truth, justice, reparation, memorialization and guarantees of non-recurrence have contributed to Goal 16, such as on preventing violence and ensuring peace, equal access to justice, accountable institutions and inclusive and participatory decision-making. Please provide examples, indicate challenges and opportunities, and inform whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective has been adopted.**

The concept of transitional justice entered Nepal after the signing of the Comprehensive Peace Accord (CPA) in November 2006. The Peace process including transitional justice was provisioned in the Interim Constitution of Nepal 2006. Based on the Comprehensive Peace Accord 2006 and the then Interim Constitution, 2007 Enforced Disappearance Inquiry, Truth and Reconciliation Commission Act, 2014, has been passed by Parliament. The Commission for the Investigation of Enforced Disappeared Person and The Truth and Reconciliation Commission has been established by Nepal Government for the truth, justice, reparation, memorialization, and guarantees of non-recurrence under the provision of Enforced Disappearance Inquiry, Truth and Reconciliation Commission Act, 2014. These two commissions are fulfilling their responsibilities accordingly.

There is a special provision for the investigation and prosecution of Sexual and Gender-Based Violence including gender-friendly procedures that have been adopted for investigation, statement taking, victim and witness protection, and other activities of the Commissions. In addition, the Rights to Justice are provisioned in the constitution as fundamental rights of people, which ensured equal access to justice in post-conflict settings. Legal framework elaborating the above mentioned provision are highlighted below:

## **Legislative Framework**

1. **Constitution of Nepal:** - Article 20 has guaranteed right to justice, article 21 has guaranteed right to victim of crime and article 42(5) has provision about right to social justice where the families of the martyrs who have sacrificed their life, persons who were forced to disappear, and those who became disabled and injured in all popular movements, armed conflicts and revolutions that have been carried out for progressive democratic changes in Nepal, democracy fighters, conflict victims and displaced ones, persons with disabilities, the injured and victims shall have the right to get a prioritized opportunity, with justice and due respect, in education, health, employment, housing and social security, in accordance with law.
  
2. **The Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2014(2071)**

The Act provides relief to the families of the victims who were subjected to disappearance during the course of armed conflict and to constitute a high level truth and reconciliation commission to investigate the facts about those involved in gross violations of human rights and crimes against humanity during the course of armed conflict, and create an environment of reconciliation in the society.

These are Functions, Duties and Powers of the Commission as provisioned in Section 13 of the Act: (a) to investigate into the incidents of the gross violation of human rights, and find out and record the truth and bring it out for the general public,

(b) To ascertain victims and perpetrators,

(c) To endeavor to bring about reconciliation between the perpetrators and victims, and to bring about reconciliation,

(d) To make recommendation on reparation to be provided to the victims or their families,

(e) To make recommendation for legal action against those perpetrators to whom amnesty is not granted and in the case of whom reconciliation has not been reached,

(f) To provide the victims with identity cards as prescribed and also provide them with information after completion of investigation.

(g) To carry out, or cause to be carried out, other functions as specified in this Act.

**15<sup>th</sup> Plan (fiscal year 2019/20-2023/24)** has internalized Sustainable Development Goals

The overall national goals, destination, indicators, and expected achievements including the sector-wise policies, strategies, and working policies of the Fifteenth plan have been formulated aligning them with the goals of sustainable development.

**2. Please indicate how measures of truth, justice, reparation, memorialization and guarantees of non-recurrence have contributed to other targets in the SDGs that directly pertain to peace, justice and inclusion, particularly Goal 4 on education, Goal 5 on gender equality, Goal 8 on economic growth and jobs, and Goal 10 on reducing inequality. Please provide examples, indicate challenges and opportunities, and inform whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective has been adopted.**

Gender sensitivity is the most important issue in Transitional Justice. The government has been making every possible efforts to mainstreaming Gender perspective so that inequality can be eliminated through educational, legal and political consciousness. There is progress in the participation in the economic growth in each and every sector of the government for the job inclusion and capacity building. Economic development has also been placed at the center to make sustainable development meaningful. Emphasis has been accorded on technical and practical education for economic development and job creation.

The legal mechanism such as the Constitution of Nepal and other relevant Acts have addressed and ensured gender sensitivity, gender equality, women's participation in all positions of decision-making positions, and the process of inclusiveness in a post-conflict setting. Rights to Women, Child Rights, and Victim Rights have been established in Constitutional Provision as Fundamental Rights for citizens.

**Further, Section 23 of The Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2014** states the provision of recommendation for reparation as, upon completion of an investigation under this Act, the Commission shall

make recommendation to the Government of Nepal to provide compensation to the victim, to make restitution or to rehabilitate or to make other appropriate arrangement. The Commission may, if it considers appropriate, make recommendation to the Government of Nepal to provide the following facility and concessions to the victim or any member of his/her family as per his/her condition:

- (a) Free education and medical treatment,
- (b) Skill oriented training,
- (c) Loan facilities without interest or with concessionary interest,
- (d) Arrangement for settlement,
- (e) Facility of employment,
- (f) Other facility or concession as the Commission deems appropriate.

The interim relief/ treatment/scholarship / compensation etc. provided the victim or victims' families significant impact in their lives.

**3. Please indicate any initiatives and processes that are used to enhance data collection to measure impact and progress of truth, justice, reparation, memorialization and guarantees of non-recurrence in their contribution to the Sustainable Development Goals framework. Please provide examples, indicate challenges and opportunities, and inform whether victims and affected communities have been effectively consulted in the design and implementation of these indicators, and whether a gender perspective has been adopted.**

Ensuring truth, justice, fulfillment, remembrance and non-repetition requires sustainable development through sustainable peace. In order to run the government smoothly and continuously, the government has established good recording system in government mechanisms for memorialization. Legal procedure has been based on the due process and victim centric. These positive responses can be taken as opportunities.

**4. Please inform about approaches, initiatives and processes that adopt a people and victim centered approach and a gender perspective to transitional justice with a view to helping achieve inclusion, access to justice and the**

**empowerment of victims and communities, thus advancing SDGs 4, 5, 8, 10 and 16. Please provide examples of both short and long-term measures, as well as challenges and opportunities. Please indicate examples of participatory approaches, public consultations and other ongoing processes that are geared to make a difference in people's lives, including victims, both at the local and global level.**

**The Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2014** provides the following:

Section 13 of the Act has a provision of Functions, Duties and Powers of the Commission which are as:

- (a) To investigate into the incidents of the gross violation of human rights, and find out and record the truth and bring it out for the general public,
- (b) To ascertain victims and perpetrators,
- (c) To endeavor to bring about reconciliation between the perpetrators and victims, and to bring about reconciliation,
- (d) To make recommendation on reparation to be provided to the victims or their families,
- (f) To provide the victims with identity cards as prescribed and also provide them with information after completion of investigation.

Similarly, Section 17 laid a provision of protection of witness and other persons stating as- If a person, victim or his/her family member who is present to make statement or testimony or provide information requests the Commission for his/her security or if it appears necessary to provide security to such a person even though he/she does not so request, or to provide security to a person assisting in the Commission or working for the Commission, the Commission must make appropriate arrangement for the security of that person.

Also, sub-section (8) stipulates security and protection of mental and physical welfare, privacy and dignity of the witness, victim and the person assisting in the act of the Commission shall be as prescribed.

Section 19 defines the transparency of the Commission by publicizing the statement relating to its activities from time to time for information to the general public including the victims.

In addition to this, in achieving the SDGs through people and victim centered

transitional justice measures in post authoritarian and post conflict settings the following initiatives have been adopted:-

1. Legal:

- National Gender Equality Policy, 2021
- The Act relating to children, 2018
- Sexual Harassment at Workplace (Control) Act, 2014
- Domestic Violence (Offence and punishment) Act, 2009
- Human Trafficking and (Control) Act, 2007
- Senior Citizen Protection Act, 2006
- Social Security Act, 2018

2. Activities:

- Emergency children rescue fund
- Children helpline number
- Gender based violence (control) fund
- Women employment program
- Installation of sanitary pad vending machine to promote safe hygiene
- Conducting dignified menstruation campaign
- Community Police partnership (CPP) since 2018- a comprehensive program approved by GoN and MoU signed with 753 local bodies
- Citizens help desk, Public audit and service with smile program with concept of women participation
- Establishment of more than 6000 Gender based violence controls networks throughout the country in collaboration with civil societies, governmental authorities, social organizations, youth and child clubs, school/colleges.
- Hotline numbers-100 for all emergencies, 104 for Children, 1177 for trafficking victims and mobile application for reporting and easy access to information.

Thus, these approaches, initiatives and programs have created the opportunities for quality education and protection of children, access to justice, establishment of gender equality/equity, eliminate discrimination, fight against domestic violence and GBV and prompt service to the affected persons with a view to achieve inclusion, access to justice and the empowerment of victims and communities.

**5. Please inform how past sensitive approaches, such as TJ initiatives, have specifically contributed to efforts aimed at achieving sustainable peace and development. Please provide examples of initiatives that have in specific contexts promoted participation and inclusion, built trust and created social cohesion, helped empower victims and communities, as well as promoted agents of change, thus advancing SDGs 4, 5, 8, 10 and 16.**

The role played by the transitional justice system in the post conflict setting makes sustainable peace and sustainable development possible. The mechanism to establish a procedure on reconciliation with forgive and forget principle is being adopted and established for the possibility of sustainable development through sustainable peace in post conflict setting. These positive responses can be taken as opportunities. The legislative framework and institutional framework are also in place to take measures to address the victims concerns which further will have positive implication in achieving the relevant goals of the sustainable development goals.